



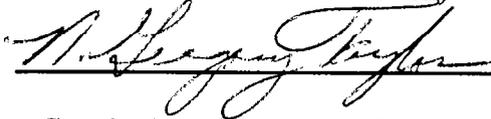
**MWD**

METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

7-10

June 29, 1998

**To:** Board of Directors (Budget and Finance Committee--Action)  
(Legal and Claims Committee--Action)  
(Organization and Personnel Committee--Action)

**From:** General Counsel 

**Subject:** Amendment to Contract with Harkins Cunningham for Rate Analysis and Legal Advice with Respect to Wheeling Charges

**RECOMMENDATION(S)**

It is recommended that your Board authorize the General Counsel to amend an existing agreement with the law firm of Harkins Cunningham for rate analysis and legal advice with respect to wheeling rates, to increase the maximum amount payable (including expenses) by \$250,000.

**EXECUTIVE SUMMARY**

In October 1997, the General Counsel retained Paul Cunningham of the law firm of Harkins Cunningham to provide legal advice with respect to water rates and charges. In late November, Mr. Cunningham's work under the contract was expanded to include advice on wheeling charges and participation in Metropolitan's negotiations with the San Diego County Water Authority (SDCWA). In January 1998 your Board authorized the General Counsel to increase the maximum amount payable, including expenses, to \$500,000, due to the ongoing course of those discussions and Mr. Cunningham's integral involvement. Mr. Cunningham's continuing involvement in these negotiations is key as the parties near agreement in concept and begin the drafting process.

It is anticipated that Harkins Cunningham's fees and expenses could exceed the current maximum amount of the contract by the end of July. Consequently, it is necessary to seek your Board's approval of a contract amendment to increase the maximum payable under the contract. The General Counsel recommends that your Board authorize an amendment to the agreement with Harkins Cunningham to increase the maximum amount payable by \$250,000, including expenses, to a total of \$750,000.

**DETAILED REPORT**

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In October 1997, the General Counsel retained the law firm of Harkins Cunningham, located in Washington, D.C., to provide legal advice with respect to water rates and charges. Paul Cunningham, a principal of Harkins Cunningham, provided rate advice in the first phase of the Rate Refinement Process last year. He was retained again last October to provide advice on water rate issues. In December, Paul Cunningham was requested to analyze options for "wheeling" charges for the transportation of non-Metropolitan water through Metropolitan's system, with such analysis and legal advice to be provided to Metropolitan's negotiating committee in connection with the negotiations with SDCWA. In January 1998 your Board authorized an increase in the amount payable under the Harkins Cunningham contract to a maximum of \$500,000, to permit Mr. Cunningham to participate in negotiations with SDCWA, as well as provide research and analysis on behalf of Metropolitan on wheeling and water rate issues.

Mr. Cunningham has held a key role in these negotiations, with frequent participation in person and as well as work provided from his office in Washington. Due to the amount of legal work provided by the firm and expenses incurred, it is estimated that Harkins Cunningham's fees and expenses could exceed the current maximum amount of the contract by the end of July. His continued involvement in the negotiations is key to finalize discussions and help draft the agreement. Consequently, it is necessary to seek your Board's approval of a contract amendment to increase the maximum payable under the contract.

The General Counsel recommends that your Board authorize an amendment to the agreement with Harkins Cunningham to increase the maximum amount payable to \$750,000, which represents an increase of \$250,000 over the existing contract amount.

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