

**MWD**

METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

June 25, 1993

(Legal & Claims Committee--Info.)  
 (Engineering & Operations Committee--Info.)  
 (Finance & Insurance Committee--Info.)  
 To: Board of Directors (Special Committee on Legislation--Action)  
 (Executive Committee--Action)  
 From: General Manager and General Counsel  
 Subject: Legislation to Accommodate Owner-Controlled Insurance Program  
 (OCIP)

Report

In anticipation of construction of the Domenigoni Reservoir, staff has been examining the risk financing alternatives to support the project. It appears that an Owner-Controlled Insurance Program (commonly referred to as a "wrap up") has the potential to save \$10-20 million in this project's costs.

Customarily, construction projects shift the risk expense related to third party liability, workers compensation, and builders risk to the contractors, within the limits of California law. The contractors are required to obtain specified forms of insurance and maintain them during the term of the project. The insurance cost factor varies with the contractors' casualty experience, but typically ranges between 8% and 12% of the project cost. The general experience indicates that with a "wrap up," this cost can be reduced by 20-40%.

A "wrap up" is designed to protect all work performed at the jobsite under one insurance program. It is purchased and controlled by the owner (District) and provides coverage for the owner, general contractors and subcontractors of any tier, and construction managers. It consists of a single program of insurance with high limits and broad uniform coverage which provides near total protection.

A "wrap up" has many advantages:

1. Uniform insurance coverage with adequate limits through sound insurers at lower deposit premiums than would be required of individual contractors.

2. MBE/WBE or small contractors can compete on an equal footing by having an insurance program that is equal to the largest contractor.

3. Project safety management is uniform.

4. Integrated loss control and claims experience keeps ultimate costs down.

Under existing California law (attached w/revision), a public agency is precluded from instituting an owner-controlled insurance program (wrap up) unless it is granted an exemption through legislation. Time being a critical factor, the issue is submitted to the Board for action on this legislative aspect of the project only. Subsequent to the granting of an exemption, the matter will return with a more detailed description of all facets of this proposed program.

#### Board Committee Assignments

This letter is referred for information to:

The Legal and Claims Committee because of its authority to study, advise, and make recommendations with regard to policy considerations concerning District contracts, pursuant to the provisions of the District's Administrative Code Section 2461;

The Engineering and Operations Committee because of its authority to study, advise, and make recommendations with regard to the initiation, scheduling, contracting, and performance of construction programs, pursuant to the provisions of the District's Administrative Code Section 2431;

The Finance and Insurance Committee because of its authority to study, advise, and make recommendations with regard to the financial aspects of the District's risk management program and questions pertaining to insurance coverage and self-insurance, pursuant to the District's Administrative Code Section 2441, subdivisions (g) and (h).

This letter is referred for action to:

The Executive Committee because of its authority to study, advise, and make recommendations with regard to legislation sponsored by the District, pursuant to the provisions of the District's Administration Code Section 2417; and

The Special Committee on Legislation because of its role in advising on legislative matters.

Recommendation

**EXECUTIVE COMMITTEE AND SPECIAL COMMITTEE ON LEGISLATION FOR ACTION.**

It is recommended that the Board of Directors authorize the introduction of legislation amending Government Code section 4420, in order to facilitate the development of owner-controlled insurance program for the Domenigoni Reservoir Project.

  
for General Manager

  
General Counsel

LPG:gld  
Atch.  
OCIP

# ATTACHMENT

## CHAPTER 6

### 4420 PROHIBITION AGAINST OBTAINING SURETY BOND OR FROM PARTICULAR COMPANY OR BROKER; EXEMPTIONS

No officer or employee of this state, or of any public agency or of any public agency or authority created pursuant to agreement or compact with another state, shall, with respect to any public building or construction contract which is about to be or which has been competitively bid, require the bidder to make application to, or furnish financial data to, or to obtain or procure any surety bond or contract of insurance specified in connection with the contract, or specified by any law, ordinance, or regulation, from a particular surety or insurance company, agent or broker. No officer or employee, or person, firm, or corporation acting or purporting to act on behalf of any officer or employee, shall negotiate, make application for, obtain, or procure any such surety bond or contract of insurance (except contracts of insurance for builder's risk or owners' protective liability) which can be obtained or procured by the bidder, contractor, or subcontractor.

This chapter shall not apply to any project under design or construction on August 4, 1967, by or on behalf of a public agency or authority if the agency or authority was then engaged in insurance activity with respect to the project that otherwise would be prohibited by this chapter.

This chapter shall not apply to the construction of any exclusive public mass transit guideway project in any county with a population exceeding 6,000,000, or in the County of Santa Clara, or in the City and County of San Francisco, to any exclusive public mass transit guideway project undertaken by the San Francisco Bay Area Rapid Transit (BART) District or the Sacramento Regional Transit District or to any airport expansion project undertaken at the San Francisco International Airport, or to any exclusively public water storage or conveyance facility undertaken by a metropolitan water district which was organized under the provisions of The Metropolitan Water District Act, Statutes 1969, chapter 209, as amended.

**ADD**

As used in this section, "public agency" means any city, county, city and county, district, municipal or public corporation, or any agency or instrumentality thereof.