



**MWD**

METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

**REVISED 7-2**

January 12, 1998

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

**From:** General Counsel N. Gregory Taylor

**Subject:** Amendment of 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 and other matters related to Metropolitan's negotiations with San Diego County Water Authority, Imperial Irrigation District and on the California Colorado River Plan, and to increase the maximum amount payable to \$500,000, including expenses.

### **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 as principal spokesman for the Board negotiating team in Metropolitan's negotiations with the San Diego County Water Authority (SDCWA) as well as a legal advisor on matters relating to the California Colorado River Plan. Due to the ongoing course of those discussions and Mr. Cunningham's integral involvement, it is anticipated that Harkins Cunningham's fees and expenses will exceed the General Counsel's contracting authority of \$100,000 under Administrative Code Section 6431. 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 \$500,000. Reports of expenditures under this contract will be provided to your Board monthly.

### **DETAILED REPORT**

---

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 early 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.

Mr. Cunningham worked with the General Manager's Office, Planning and Resources Division and Legal Department staff to develop strategies for the negotiations, met with the negotiating committee and assisted in the negotiations with the Authority on December 5-6 and December 13. He was asked to return to Sacramento for a meeting with David Kennedy on December 30. The General Counsel anticipates that Mr. Cunningham will be involved in assisting Metropolitan's negotiating team in future negotiations with San Diego and on related Colorado River issues as well as providing ~~and related meetings~~, as well as research and analysis on behalf of Metropolitan on ~~wheeling and water rate issues~~ issues related to those matters. His involvement also may extend to legislative analysis and strategy, ~~if the current discussions extend to the Legislature.~~

The maximum amount billable under the contract with Harkins Cunningham is \$99,500. Harkins Cunningham incurred \$25,580 for legal work performed under the contract through October 31, 1997. With the expansion of the contract to include involvement in the negotiations with the Authority, the firm will reach the contract maximum by early January 1998. Consequently, it is necessary to seek your Board's approval of a contract amendment to increase the maximum payable under the contract.

It is difficult to estimate the amount of time and expenses Mr. Cunningham will be requested to devote to the negotiations with the Authority, which could continue for some time into the future, and which could include other arenas such as the Legislature. The General Counsel will provide monthly reports of expenditures under this contract to your Board.

The General Counsel recommends that your Board authorize an amendment to the agreement with Harkins Cunningham to increase the maximum amount payable to \$500,000, which represents an increase of \$400,500 over the existing contract amount.

sbb/#8342

SBB:mg