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METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

OCT 13 1998

Dave Clark September 25, 1998
EXECUTIVE SECRETARY

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

From: General Counsel *[Signature]*

Subject: Revision of Contract with Selzer, Ealy, Hemphill & Blasdel to Recognize Work Performed for Ag/Urban Coalition

RECOMMENDATION(S)

It is recommended that the Board approve an amendment to the contract with Selzer, Ealy, Hemphill & Blasdel to increase the maximum amount payable by an additional \$95,000 to \$255,000, reflecting work performed on behalf of the Ag/Urban Coalition.

EXECUTIVE SUMMARY

At its June 1998 meeting the Board authorized the General Counsel to amend his existing contract with Paul Selzer, Esq. of Selzer, Ealy, Hemphill & Blasdel to increase the amount payable to \$160,000 per calendar year. Mr. Selzer provides assistance on a range of Endangered Species Act and environmental permitting issues. As part of its participation in the "Ag/Urban" process, Metropolitan has made Mr. Selzer available to the Ag/Urban Coalition to develop CALFED assurance and no surprise protections. In return, the Ag/Urban Coalition, through the Association of California Water Agencies, has agreed to reimburse Metropolitan \$95,000 for his work on these issues during 1998. As a result of this arrangement, Mr. Selzer could bill Metropolitan for as much as \$255,000 during 1998 (\$160,000 for Metropolitan only and \$95,000 for Ag/Urban), but the net cost to Metropolitan of Mr. Selzer's services (less reimbursement from ACWA) will be \$160,000. Even though Metropolitan's net payments under the contract will be within the current contract limit, the General Counsel, after consulting with the Auditor, believes that it would be appropriate to increase the contract maximum to \$255,000 to reflect the gross amount that Mr. Selzer may bill Metropolitan. The relationship among Metropolitan, ACWA and Mr. Selzer will be reviewed in 1999, and the necessity for any additional Board action with regard to Mr. Selzer's contract determined at that time.

DETAILED REPORT

Mr. Paul Selzer, Esq. of the law firm of Selzer, Ealy, Hemphill & Blasdel has provided Metropolitan legal advice and assistance from time to time on a range of Endangered Species Act and environmental permitting issues related to the Colorado River, the Bay-Delta and Metropolitan's Eastside Reservoir Project. Most recently, Mr. Selzer has been heavily involved in development of a strategy for obtaining the assurances, approvals and permits necessary in the CALFED process. At its June 1998 meeting the Board authorized the General Counsel to amend

his existing contract with Mr. Selzer's firm to increase the maximum amount payable thereunder to \$160,000 per calendar year.

As part of its participation in the "Ag/Urban" process Metropolitan has made Mr. Selzer available to assist the parties involved to develop a joint position and strategy on CALFED assurances. In return, the Ag/Urban Coalition has agreed to reimburse Metropolitan for \$95,000 of Mr. Selzer's billings to Metropolitan for work on behalf of the Ag/Urban Coalition. Members of the Coalition have contributed to a fund managed by the Association of California Water Agencies for that purpose.

As a result of this arrangement Mr. Selzer may bill Metropolitan for as much as \$255,000 in calendar 1998; that is \$160,000 for work on behalf of Metropolitan only and \$95,000 on behalf of the Ag/Urban Coalition. Consequently, while Metropolitan's **net** payments to Mr. Selzer (after accounting for reimbursement from ACWA) will be within the current \$160,000 contract limit, Metropolitan's **gross** payments will appear to be above the contract limit.

The General Counsel believes that it would be most appropriate to raise the maximum amount payable under the contract to reflect the gross payments anticipated--\$255,000--even though Metropolitan's net payments will remain under \$160,000. The Auditor agrees that this approach is most appropriate. The relationship among Metropolitan, ACWA and Mr. Selzer will be reviewed in 1999, and the necessity of any additional Board action with regard to Mr. Selzer's contract determined at that time.

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