

- **Board of Directors**
Legal, Claims and Personnel Committee

March 11, 2003 Board Meeting

8-2

Subject

Authorize negotiation and execution of contracts for special bond counsel and co-special bond counsel

Description

Metropolitan retains outside law firms that are nationally recognized bond counsel to assist Metropolitan with the issuance of its debt obligations. Historically, the contracts for lead special bond counsel and co-special bond counsel have been executed for three-year terms to enable Metropolitan to efficiently access the credit markets. As the need for bond counsel arises, Legal Department staff will assign the bond counsel responsibilities among firms within the pool, based upon fees quoted for the upcoming transaction or other projects, availability of attorneys, expertise with particular transaction structures and other factors. The current contracts for special bond counsel and co-special bond counsel expired on December 31, 2002.

To establish a pool of pre-qualified law firms to serve as special bond counsel and co-special bond counsel for Metropolitan for future bond issuances, Metropolitan issued a Request for Proposals for Special Counsel (RFP), dated December 20, 2002. Metropolitan received timely responses from 16 firms, including twelve proposals for lead bond counsel and four co-counsel firms.

Members of Metropolitan's Legal Department and the Office of the Chief Financial Officer evaluated the proposals and concurred on three firms to serve in the lead special bond counsel pool for the next three years. The Review Team recommended that the law firms of Hawkins, Delafield & Wood, O'Melveny & Myers LLP and Sidley Austin Brown & Wood LLP form the pool to serve as lead special bond counsel for the next three years. The Review Team also recommended the small business enterprise law firms of The Law Offices of Marilyn L. Garcia, McFarlin & Anderson, Quateman & Zidell LLP and Robinson & Pearman LLP to form the pool to serve as co-special bond counsel for the same term.

It is proposed that Metropolitan enter into contracts with these firms through December 31, 2005, to act on a rotating basis as the General Counsel deems appropriate during the contract term.

The firms were ranked according to experience with Metropolitan; experience involving tax-exempt bond issues, commercial paper and taxable bonds; expertise in related financial representation of government agencies, including legislative and regulatory matters; qualifications, staff to be assigned to Metropolitan; cost; adequacy of insurance; and other relevant factors.

The hourly rates and fees of special bond counsel and co-special bond counsel will be capped on a transaction-by-transaction basis, as negotiated for each transaction. Fees for special projects not included within a particular bond issue will be billed on an hourly basis. Indicative hourly rates of senior attorneys from each of the above firms are listed on [Attachment 1](#).

Policy

Metropolitan Water District Administrative Code § 6430—General Counsel's employment of attorneys to render special counsel services

California Environmental Quality Act (CEQA)

CEQA determination for Option #1:

The proposed action is not defined as a project under CEQA because it involves continuing administrative activities (Section 15378(b)(2) of the State CEQA Guidelines). In addition, the proposed action is not subject to CEQA because it involves other government fiscal activities, which do not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment (Section 15378(b)(4) of the State CEQA Guidelines).

The CEQA determination is: Determine that the proposed action is not subject to the provisions of CEQA pursuant to Sections 15378(b)(2) and 15378(b)(4) of the State CEQA Guidelines.

CEQA determination for Option #2:

None required

Board Options/Fiscal Impacts

Option #1

Adopt the CEQA determination and authorize the General Counsel to retain the firms listed on **Attachment 1** as special bond counsel for the three years ending December 31, 2005, at maximum fees negotiated on a transaction-by-transaction or project basis.

Fiscal Impact: Variable, depending on number of bond transactions


Option #2

Do not retain special bond counsel.

Fiscal Impact: Inability to issue bonds. Special bond counsel must participate in bond issues sold in the tax-exempt bond markets.

Staff Recommendation

Option #1


Jeffrey Kightlinger
General Counsel

2/14/2003
Date

Attachment 1 – Special Counsel Fees

BLA #2182

INDICATIVE HOURLY RATES FOR SPECIAL BOND COUNSEL*

Firm Name	Category	Hourly Rate
Hawkins Delafield & Wood	Special bond counsel (Large firm)	\$382.50 ¹
O'Melveny & Myers LLP	Special bond counsel (Large firm)	\$350.00 ²
Sidley Austin Brown & Wood LLP	Special bond counsel (Large firm)	\$395.00 ³
Law Offices of Marilyn L. Garcia	Co-Special bond counsel	\$200.00
McFarlin & Anderson	Co-Special bond counsel	\$270.00
Quateman & Zidell LLP	Co-Special bond counsel	\$275.00
Robinson & Pearman LLP	Co-Special bond counsel	\$250.00

*All fees are subject to cap on a transaction or project basis.

¹ Regular hourly rate of \$450 for lead partner, less 15% discount.

² Average rate for attorneys on typical financing transaction.

³ Proposed blended rate for attorneys.