

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

September 9, 2003 Board Meeting

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8-5

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**Subject**

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Approve amendment to increase by \$300,000 the contract for legal services with Harkins Cunningham and report on Colorado River negotiations. [**Conference with real property negotiators; property is Colorado River water rights; agency negotiators: Dennis Underwood and Jeffrey Kightlinger; negotiating parties: U.S. Department of the Interior, State of California, Imperial Irrigation District, Coachella Valley Water District and San Diego County Water Authority; under negotiation: price and terms of agreement; to be heard in closed session pursuant to Gov. Code § 54956.8**]

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**Description**

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A contract with Harkins Cunningham, specifically for the services of Paul Cunningham and Carl Kaseman, has been in effect since November 1998 to assist with the negotiation and documentation of the Quantification Settlement Agreement (QSA) and other documents relating to the California Colorado River Water Use Plan. Because the contract funds previously authorized have been exhausted, it is necessary to amend the contract with Harkins Cunningham.

Colorado River negotiations continue in Sacramento at the Governor's request. The continued services of Harkins Cunningham will be needed to provide the necessary representation and support until the completion of the settlement process. Metropolitan's legal staff has budgeted for this effort in the 2002/03 fiscal year budget and will budget for continued efforts to its next year's fiscal plan.

Mr. Cunningham's services are presently billed at \$400 per hour. This amendment will increase the maximum payable by \$300,000 to a total of \$2.7 million. Approximately \$2.4 million has been expended over the last four years on this contract.

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**Policy**

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Prior board direction to continue Colorado River settlement negotiations

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**California Environmental Quality Act (CEQA)**

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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**

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**Option #1**

Adopt the CEQA determination and authorize the amendment of the contract with the law firm of Harkins Cunningham to increase the maximum compensation payable for \$300,000 to continue Colorado River settlement negotiations.

**Fiscal Impact:** Maximum of an additional \$300,000 in budgeted funds

**Option #2**

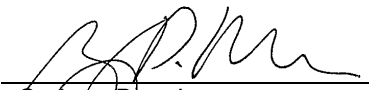
Terminate contract with Harkins Cunningham and complete negotiations and documents utilizing staff only.

**Fiscal Impact:** Unquantifiable impacts from loss of key negotiator with significant expertise; staff time considerations

**Staff Recommendation**

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Option #1

  
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*Sydney Bennion*  
*for Jeffrey Kightlinger*  
*General Counsel*

8/14/2003

*Date*