

- **Board of Directors**
Legal and Claims Committee
Recreation Committee

May 23, 2006 Committee Meeting

7-2

Subject

Authorize increase of \$250,000 in maximum amount payable under contract with Keyser Marston Associates, Inc. and increase of \$150,000 in maximum amount payable under contract with Richards, Watson & Gershon for services related to negotiations for the Diamond Valley Recreation and Land Development Project

Description

In November 2005, the Board of Directors authorized staff to commence negotiations with the top candidate, Shopoff Group/Centex Homes, for the Diamond Valley Recreation and Land Development Project. The General Counsel retained the law firm of Richards, Watson & Gershon to provide legal assistance in the negotiations. The firm was selected based on its experience and reasonable rates. In addition, the General Counsel retained the real estate consulting firm of Keyser Marston Associates, Inc. to provide advice on the financial aspects of the transaction. Again, Keyser Marston was selected for its experience and rates from among the four firms interviewed.

In March 2006, the Board of Directors approved the execution of an exclusive negotiating agreement with Shopoff Group/Centex Homes. This agreement establishes a year-long process for reviewing the development and business plan proposed by the developer and negotiating the terms for an agreement to construct and operate Metropolitan's recreation facilities and convey surplus property to the developer for residential/commercial use. This process of negotiations requires an increase in the contract amounts payable for the services of Richards, Watson & Gershon and Keyser Marston. It is estimated that the cost incurred for legal services provided by Richards, Watson & Gershon will require an increase in the contract limit from \$100,000 to \$250,000. The work to be performed by Keyser Marston will include subcontractors to provide specialized expertise in cost estimating for particular developments, such as golf courses and hotel/conference centers. The estimated cost to be incurred for Keyser Marston's services requires an increase in the contract limit from \$100,000 to \$350,000.

The exclusive negotiating agreement provides that Shopoff Group/Centex Homes will deposit up to \$750,000 to cover Metropolitan's costs incurred in the negotiation process. Therefore, the increase in the contract limits for these consultants will be reimbursed by the developer and will not impact the project budget.

Policy

Metropolitan Water District Administrative Code Section 6431: Authority to Obtain Expert Assistance

California Environmental Quality Act (CEQA)

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 increase the maximum amount payable under the contract with Keyser Marston Associates, Inc. by \$250,000, and increase the maximum amount payable under contract with Richards, Watson & Gershon by \$150,000 for services related to negotiations for the Diamond Valley Recreation and Land Development Project.

Fiscal Impact: A \$400,000 increase in the authorized expenditure for the services provided; however, the amount expended is reimbursable by the developer in accordance with the exclusive negotiating agreement.


Option #2

Do not authorize the increases in the maximum amounts payable and direct staff to negotiate with the developer without the legal and financial consulting services.

Fiscal Impact: No direct fiscal impact

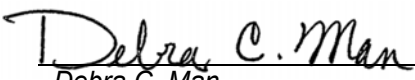
Staff Recommendation

Option # 1



Sydney B. Bennion
Interim General Counsel

5/11/2006
Date



Debra C. Man
for Jeffrey Kightlinger
General Manager

5/17/2006
Date