



● **Board of Directors**

1/9/2018 Board Meeting

7-3

Subject

Adopt CEQA determination, report on status of outside counsel's review of the policies and procedures of Metropolitan's Ethics Office; and authorize an increase in maximum amount payable under contract for legal services with Wilmer Cutler Pickering Hale and Dorr LLP by \$400,000 to an amount not-to-exceed \$650,000

Executive Summary

In July 2017, at the request of the Chairman of the Board, the General Manager entered into a contract for legal services with Wilmer Cutler Pickering Hale and Dorr LLP (Wilmer Hale) to review the policies and procedures of Metropolitan's Ethics Office and provide recommendations for consideration by Metropolitan's Board. Wilmer Hale is completing this review and the preparation of its report to the Board. This letter recommends an increase in the amount payable under the firm's contract to \$650,000.

Details

In July 2017, at the request of the Chairman of the Board, the General Manager entered into a contract for legal services with Wilmer Hale to review the policies and procedures of Metropolitan's Ethics Office and provide recommendations for consideration by Metropolitan's Board. A copy of the contract and engagement letter were provided to the full Board by the General Manager on July 27, 2017.

In conducting the review, the firm has interviewed members of the Metropolitan staff and Board including the General Manager, General Counsel, the former Ethics Officer, and the staff of the Ethics Office. The firm has reviewed the language and legislative history of SB 60, the legislation that amended the Metropolitan Water District Act to establish, among other things, the requirement for Metropolitan to have an Ethics Officer. Other documents reviewed include applicable sections of Metropolitan's Administrative Code, Metropolitan's Operating Policies, a 2004 State Audit Report relating to the Ethics Office, board and committee minutes relating to the Ethics Office, internal and external communications relating to the Ethics Office and specific ethics matters, and recent investigations conducted by the Ethics Office.

The firm has also researched literature and laws relating to ethics, and to ethics and compliance offices, including best practices and examples of highly regarded ethics and compliance programs in a variety of governmental, quasi-governmental and private entities. The firm also conducted legal research on various laws and legal issues relating to the function of the Ethics Office and its place within Metropolitan.

The General Manager's contracting authority is limited to \$250,000. The work required to complete Wilmer Hale's review and its report to the Board will require additional funds.

Requested Contract Amendment

Due to the number of interviews required, the volume of documents reviewed, and the research and analysis required, it is requested that the Board authorize \$400,000 in addition to the General Manager's \$250,000 authority for a not-to-exceed amount of \$650,000. It is anticipated that this will be adequate to complete the scope of work of the contract.

Policy

Metropolitan Water District Administrative Code Section 8121: General Authority of the General Manager to Enter Contracts.

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 does 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 defined as a project and 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

Option #1

Adopt the CEQA determination that the proposed action is not defined as a project and is not subject to CEQA, and

Authorize an increase in the maximum amount payable under contract for legal services with Wilmer Cutler Pickering Hale and Dorr LLP by \$400,000 to an amount not-to-exceed \$650,000.

Fiscal Impact: Additional legal costs of up to \$400,000

Business Analysis: Continued engagement of highly qualified counsel to assist the Metropolitan Board in the review of the policies and practices of Metropolitan's Ethics Office and the provision of recommendations.

Option #2

Do not authorize the General Manager to amend the contract with Wilmer Hale.

Fiscal Impact: None

Business Analysis: The Board would not have the benefit of the completed review and recommendations of outside counsel.

Staff Recommendation

Option #1


 Jeffrey Knightlinger
 General Manager

1/3/2018
 Date