



● **Board of Directors**

3/24/2020 Special Board Meeting

8-1

Subject

Waive Metropolitan Water District Administrative Code Sections 8122(b)(2) and (3) for emergency contracts necessitated by the current COVID-19 emergency for the purchase of equipment, materials, or supplies, or the performance of services, while the Governor's March 4, 2020 Proclamation of a State of Emergency remains in effect; the General Manager has determined that the proposed action is exempt or otherwise not subject to CEQA

Executive Summary

After notifying the Board, Metropolitan's General Manager declared a state of emergency regarding coronavirus or COVID-19 on March 17, 2020 based on the threat of the spreading pandemic. The impacts of this emergency are impacting Metropolitan's operations. In an effort to help reduce the spread of the virus, all non-essential staff whose work can be completed remotely have been authorized to telework. The General Manager has determined that in order to accommodate social distancing and facilitate the ability of Metropolitan staff to work remotely, there is an immediate need for Metropolitan to purchase additional laptop computers and related equipment. It is anticipated that during the COVID-19 emergency there will be additional critical operational needs requiring equipment, materials, supplies, or services on short notice. In order to ensure that Metropolitan has the flexibility to meet all operational needs during this emergency, the General Manager is requesting that the Board waive certain provisions of the Metropolitan Water District's Administrative Code pertaining to emergency contracting during the duration of the state of emergency declared by the Governor on March 4, 2020, in order to expeditiously address these needs and provide assurance to vendors that emergency contracts will be legally binding.

Details

Background

In December 2019, an outbreak of respiratory illness due to a novel coronavirus (a disease now known as COVID-19), was first identified in Wuhan City, Hubei Province, China, and has spread to the United States and over 100 other countries. Since January 2020, emergency declarations have been adopted by each of the counties within Metropolitan's service area, by the State of California, and by the federal government. Many public agencies have issued executive orders calling for residents to "shelter in place," closing schools, restaurants, and other businesses. The COVID-19 emergency has also impacted the availability of goods and services due to disruptions in the supply chain and increased demand. On March 4, 2020, Governor Gavin Newsom issued a "Proclamation of a State of Emergency," which included a suspension of applicable provisions of the Government Code and Public Contract Code relating to competitive bidding requirements "to the extent necessary to address the effects of COVID-19."

Due to the need for social distancing, and the recommendation that Board members attend Board and committee meetings telephonically, non-essential Board and committee meetings will be streamlined or cancelled. On March 16, the General Manager initiated emergency procedures to place Metropolitan employees into three groups: 1) employees performing critical and essential functions who need to report to work at a Metropolitan facility; 2) employees who perform important functions that lend themselves to working remotely or "telework"; and 3) employees who are directed to stay at home and will be on paid administrative leave. On March 17, after consulting with the Chairwoman and informing the Board, the General Manager issued a Declaration of a State of Emergency Regarding COVID-19.

Approximately 45 percent of Metropolitan's workforce is in the "telework" group. Metropolitan currently does not have sufficient laptop computers for all staff in the telework category. On March 13, 2020, the General Manager determined that in order to accommodate social distancing and facilitate the ability of Metropolitan staff to work remotely, Metropolitan should purchase additional laptop computers and related equipment if available. To facilitate this purchase, the General Manager is authorizing the waiver of competitive bid requirements for the acquisition pursuant to Administrative Code Section 8122(b).

It is anticipated that during the COVID-19 emergency there will be additional situations when Metropolitan may need to act quickly to obtain equipment, materials, supplies, or services. Section 8122(b) of Metropolitan's Administrative Code currently permits the General Manager to waive competitive bidding requirements and enter into contracts exceeding \$250,000, contingent upon the Board's 4/5 vote to continue the emergency action at each regularly scheduled meeting (Section 8122(b)(2)) and the Board's subsequent ratification of contracts exceeding \$250,000 (Section 8122(b)(3)).

In order to ensure that Metropolitan has sufficient flexibility to obtain essential equipment, materials, supplies, and services during the emergency, the General Manager is requesting that the Board waive Sections 8122(b)(2) and (3) of Metropolitan's Administrative Code with respect to contracts for the procurement of equipment, materials, supplies, and services related specifically to the COVID-19 emergency, subject to the requirement under Section 8122(b)(1) that the General Manager report all such emergency contracts to the Board within seven days. Waiving these requirements will facilitate the procurement of necessary equipment, materials, supplies, and services during the emergency by ensuring that emergency actions will be uninterrupted and vendor contracts will be legally binding. This waiver does not expand the emergency authority already granted to the General Manager under the Administrative Code, but it will provide more flexibility by waiving Board ratification of emergency actions within certain times. Scheduling Board meetings remotely if there are technical challenges to communication networks could become problematic. The waiver request is limited to the current COVID-19 emergency, does not extend to public works contracts, and will not extend beyond the state of emergency proclaimed by the Governor on March 4, 2020.

Policy

Metropolitan Water District Administrative Code Section 6410. Powers and Duties.

Metropolitan Water District Administrative Code Section 6412. Delegation of Executive and Administrative Powers.

Metropolitan Water District Administrative Code Section 8122. General Manager's Contracting Authority in Specified Circumstances.

Metropolitan Water District Administrative Code Section 11104: Delegation of Responsibilities.

Operating Policy A-06, Emergency Management and Business Continuity

California Environmental Quality Act (CEQA)

CEQA determination(s) for Option #1:

The proposed action is exempt under the provisions of CEQA and the State CEQA Guidelines. The proposed action consists of specific actions necessary to prevent or mitigate an emergency. This does not include long-term projects undertaken for the purpose of preventing or mitigating a situation that has a low probability of occurrence in the short-term. The proposed actions are consistent with the Governor's Proclamation of a State of Emergency of March 4, 2020. Accordingly, the General Manager determined the proposed action qualifies under a statutory exemption (Sections 21080(b)(3) and 21080(b)(4) of the California Public Resources Code and Section 15269(c) of the State CEQA Guidelines).

CEQA determination(s) for Option #2:

None.

Board Options

Option #1

Waive Metropolitan Water District Administrative Code Sections 8122(b)(2) and (3) for emergency contracts necessitated by the current COVID-19 emergency for the purchase of equipment, materials, or supplies, or the performance of services, while the Governor’s March 4, 2020 Proclamation of a State of Emergency remains in effect

Fiscal Impact: Unknown

Business Analysis: This extraordinary authority is necessary to ensure a continued safe and reliable source of water during the state of emergency, and to reduce potential disruptions in drinking water supplies.

Option #2

Do not waive the indicated provisions of the Administrative Code

Fiscal Impact: Unknown

Business Analysis: Without this waiver, disruptions in drinking water supplies are more likely.

Staff Recommendation

Option # 1

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|  | 3/19/2020 |
| _____ Marcia L. Scully General Counsel | _____ Date |

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|--|---------------|
|  | 3/19/2020 |
| _____ Jeffrey Kightlinger General Manager | _____ Date |