



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

12/9/2024 Board Meeting

7-3

Subject

Authorize an increase of \$250,000, to a maximum amount not to exceed \$500,000 for workers' compensation legal services contract with the law firm Hanna, Brophy, MacLean, McAleer Jensen, LLP; the General Manager has determined that the proposed action is exempt or otherwise not subject to CEQA

Executive Summary

This action authorizes an increase of \$250,000 to the existing contract with the law firm Hanna Brophy, MacLean, McAleer, Jensen, LLP ("Hanna Brophy") for workers' compensation legal services to a maximum amount not to exceed \$500,000. Metropolitan retained Hanna Brophy on June 1, 2023, under the General Counsel's authority of \$100,000, to provide advice, assistance and representation on workers' compensation matters, including workers' compensation claims, subrogation claims, and representation in litigation.

On November 14, 2023, the Board increased the Legal Department's delegated contracting authority to \$250,000. Thereafter, on January 1, 2024, Legal executed Amendment 1 to increase the contract maximum from \$100,000 to \$200,000. On September 1, 2024, Amendment 2 increased the contract maximum by \$50,000 to \$250,000. Costs for outside attorneys fees now total approximately \$224,000, and Metropolitan continues to need workers' compensation representation. Therefore, the Legal Department requests authorization to increase the contract maximum to \$500,000.

Under California law, workers' compensation is a "no fault" system and Metropolitan is required to provide certain benefits to injured employees. When disputes arise, claims can become subject to litigation. It is a highly specialized area of law with its own court system, including administrative law judges and an appeals board. Under this contract, the firm provides expertise on all workers' compensation matters, from advice on claims to representation in litigation.

While the rate of expenditure is subject to the nature of the matters and the number of litigated cases, it is anticipated that the increase will be adequate for one additional year. Metropolitan receives cost-efficient services for the amount of cases that are handled by Hanna Brophy. On average, Metropolitan may have seven to eight new litigated cases a year. The firm currently represents Metropolitan in 47 matters.

Staff requests authority to increase the amount under this contract in order to continue obtaining expert advice, assistance and representation for ongoing workers' compensation matters.

Proposed Action(s)/Recommendation(s) and Options

Staff Recommendation: Option #1

Option #1

Authorize an increase of \$250,000, to a maximum amount not to exceed \$500,000 for the workers' compensation legal services contract with the law firm Hanna, Brophy, MacLean, McAleer, Jensen, LLP.

Fiscal Impact: \$250,000 is added to this agreement for the provision of the authorized legal services budgeted from labor costs through the additive rate.

Business Analysis: Metropolitan will retain the expertise needed for advice, assistance and representation in workers' compensation matters.

Option #2

Do not authorize the contract increase.

Fiscal Impact: Unknown

Business Analysis: Metropolitan will not have access to the expertise needed to have adequate representation in workers' compensation matters.

Alternatives Considered

Not applicable.

Applicable Policy

Metropolitan Water District Administrative Code Section 6430: Authority to Obtain Expert Assistance

Metropolitan Water District Administrative Code Section 11104: Delegation of Responsibilities

Related Board Action(s)/Future Action(s)

Not applicable.

California Environmental Quality Act (CEQA)

CEQA determination for Option #1:

The proposed action is not defined as a project under CEQA because it will not result in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment. (State CEQA Guidelines Section 15378(a).)

CEQA determination for Option #2:

None required.



Marcia Scully
General Counsel

12/3/2024
Date