



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

10/11/2022 Board Meeting

7-10

Subject

Authorize a \$300,000 settlement of Metropolitan claims against the federal government for the recovery of costs resulting from damages to Metropolitan infrastructure due to the crash of a military helicopter; the General Manager has determined that the proposed action is exempt or otherwise not subject to CEQA [Conference with legal counsel - potential litigation (1 case); may be heard in closed session pursuant to Gov. Code Section 54956.9(d)(4)]

Executive Summary

The Board previously authorized filing claims against the federal government in the amount of approximately \$315,000 to recover costs incurred as a result of damage to Metropolitan's infrastructure caused by a military helicopter crash near Parker Dam. This action is to authorize a settlement of those claims in the amount of \$300,000.

Details

At the December 2019 board meeting, the Board authorized filing claims with the federal government to recover the costs resulting from damages caused by a military helicopter striking Metropolitan's high-voltage transmission ground lines about 10 miles northwest of Gene and Intake Pumping Plants. As a result of the incident, Metropolitan had to make emergency repairs to damaged transmission ground lines, a transmission line conductor, and steel tower components. In addition, the crash caused a power outage at Iron Mountain Pumping Plant, resulting in approximately 50.2 acre-feet of water being spilled from the Colorado River Aqueduct.

Metropolitan filed claims under the Federal Tort Claims Act and the Military Claims Act in January 2020 in the amount of \$315,693.58. The claimed costs included the emergency contract with Henkels and McCoy, costs of Metropolitan labor used in making repairs, costs of materials used to make repairs, the cost of the spilled water, and other minor administrative costs. After submitting the claims, the federal government took over one year to investigate the claims. The first settlement offer was made in February 2022, in the amount of \$100,000. The federal government agreed that there was no dispute as to the cause of the incident, but they did dispute the contractor costs as excessive, and the cost of the water spilled. After multiple offers by the federal government, Metropolitan counteroffered with \$300,000, and it was accepted.

Policy

By Minute Item 51825 Authorized filing claims with the federal government for the recovery of damages to Metropolitan in the amount of approximately \$315,000 as set forth in Agenda Item 7-4 board letter.

Metropolitan Water District Administrative Code Section 6433: Authority to Litigate, Compromise and Settle Claims By and Against the District

Metropolitan Water District Administrative Code Section 11104: Delegation of Responsibilities

California Environmental Quality Act (CEQA)

CEQA determination for Option #1:

The proposed action is not defined as a project under CEQA (Public Resources Code Section 21065, State CEQA Guidelines Section 15378) because it involves continuing administrative activities, such as general policy and procedure making that will not cause either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment (Section 15378(b)(2) of the State CEQA Guidelines). In addition, the proposed action is not defined as a project under CEQA because it involves the creation of government funding mechanisms or 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 of CEQA Guidelines).

CEQA determination for Option #2:

None required

Board Options

Option #1

Authorize a \$300,000 settlement of Metropolitan claims against the federal government for the recovery of costs resulting from damages to Metropolitan infrastructure due to the crash of a military helicopter.

Fiscal Impact: Metropolitan will recover \$300,000 in damages and will write off \$15,693.58.

Business Analysis: Settling the claims will avoid litigation costs and uncertainty associated with litigation.

Option #2


Do not authorize settlement and authorize initiating litigation to recover the full amount claimed.

Fiscal Impact: Metropolitan would forgo collecting \$300,000 and, if authorized by the Board, file a lawsuit to recover the full amount claimed of \$315,693.58 and incur additional costs to litigate.

Business Analysis: Uncertainty with litigation and costs associated with litigation could result in a net recovery of less than \$300,000.

Staff Recommendation

Option #1



Marcia Scully
General Counsel

10/5/2022

Date