



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

11/9/2021 Board Meeting

7-15

Subject

Authorize an increase of \$150,000, to a maximum amount not to exceed \$250,000 for the workers' compensation legal services contract with the law firm Kegel, Tobin & Truce A.P.C.; the General Manager has determined that the proposed action is exempt or otherwise not subject to CEQA

Executive Summary and Details

This action authorizes an increase of \$150,000 to the existing contract with the law firm Kegel, Tobin & Truce A.P.C. ("Kegel Tobin") for workers' compensation legal services to a maximum amount not to exceed \$250,000. Metropolitan retained Kegel Tobin on June 12, 2019, 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. Work since June 2019 has expended the initial contract amount, and Metropolitan continues to need workers' compensation representation.

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 at least an additional year. Metropolitan receives cost-efficient services for the amount of cases that are handled by Kegel Tobin. On average, Metropolitan may have five to six new litigated cases a year. The firm currently represents Metropolitan in 26 litigated cases.

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.

Policy

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

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 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 CEQA Guidelines). In addition, the proposed action is not defined as a project under CEQA (Public Resources Code Section 21065, State CEQA Guidelines Section 15378) because the proposed action will not cause either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment and involves continuing administrative activities, such as general policy and procedure making (Section 15378(b)(2) of the State CEQA Guidelines). Finally, it can be seen with certainty that there is no

possibility that the proposed action in question may have a significant effect on the environment; therefore, the proposed action is not subject to CEQA (Section 15061(b)(3) of the State CEQA Guidelines).

CEQA determination for Option #2:

None required

Board Options

Option #1

Authorize an increase of \$150,000, to a maximum amount not to exceed \$250,000 for the workers' compensation legal services contract with the law firm Kegel, Tobin & Truce A.P.C.

Fiscal Impact: The sum of \$150,000 is added to this agreement for the provision of the authorized legal services.

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.

Staff Recommendation

Option #1



Marcia Scully
General Counsel

11/4/2021

Date