

BOARD MEETING DATE: December 4, 2015

AGENDA NO. 6

PROPOSAL: Appropriate Funds from Designation for Litigation and Enforcement and Authorize Amending/Initiating Contracts with Outside Counsel and Specialized Legal Counsel and Services

SYNOPSIS: Legal is currently being assisted in environmental lawsuits by outside law firms and in other matters requiring specialized legal counsel and services, principally ongoing litigation with Exide Technologies, Inc. This action is to appropriate \$750,000 from the Designation for Litigation and Enforcement, to FY 2015-16 Legal Budget and amend or initiate contracts to expend these funds with prequalified counsel approved by the Board as well as specialized legal counsel and services.

COMMITTEE: Administrative, November 13, 2015; Recommended for Approval

RECOMMENDED ACTIONS:

1. Appropriate \$750,000 from the General Fund Designation for Litigation and Enforcement to Legal's FY 2015-16 Budget, Professional and Special Services Account;
2. Authorize the Chairman or the Executive Officer, depending on whether the amount exceeds \$75,000, to amend or initiate contracts with prequalified counsel approved by the Board as well as specialized legal counsel and services in a total amount not to exceed \$1,779,500 in FY 2015-16, as the need arises.

Barry R. Wallerstein, D.Env.
Executive Officer

KRW:vmr

Background

The FY 2015-16 Budget for Legal included \$279,500 for litigation expenses in environmental law cases and specialized legal counsel and services. At the September 2015 Board meeting this amount was augmented by \$750,000. However, this total will not cover current and anticipated costs of legal counsel and specialized counsel and services. Due to the complexity of certain cases, particularly the Exide Technologies case, it is expected that expenses in these matters, and the other matters handled by specialized legal counsel and services, will require an additional amount up to \$750,000. Reimbursable expenses totaling \$185,000 have been incurred, consisting of \$148,000 to defend a lawsuit challenging the permitting of a tank-storage project at the Phillips 66 refinery in Carson and \$37,000 for a consultant in a Tesoro refinery project. Phillips 66 and Tesoro have been invoiced to reimburse those payments; however, the reimbursed amounts will go to the General Fund. Accordingly, Legal is requesting the transfer of additional funds in the amount of \$750,000 to Legal's FY 2015-16 budget, for a total expected expenditure of \$1,779,500 this fiscal year, of which approximately \$185,000 is to be reimbursed to the General Fund.

Proposal

In order to defend ongoing and threatened litigation, it is necessary to appropriate additional funds for expenditure by outside counsel. It is expected that ongoing lawsuits as well as matters requiring specialized legal counsel will require an additional \$750,000 to be appropriated to prequalified counsel approved by the Board and with specialized legal counsel and services, as the need arises.

Resource Impacts

Sufficient funds will be available in Legal's FY 2015-16 Budget upon approval of this Board letter.