

BOARD MEETING DATE: September 4, 2015

AGENDA NO. 15

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, July 17, 2015; Less than a quorum was present; the Committee Members concurred that this item be approved by the Board.

RECOMMENDED ACTIONS:

1. Appropriate \$750,000 from the Designation for Litigation and Enforcement to Legal's FY 2015-16 Budget.
2. Increase Legal's FY 2015-16 Services and Supplies Major Object, Professional and Special Services account by \$750,000.
3. 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 \$1,029,500 in FY 2015-16, as the need arises.

Barry R. Wallerstein, D.Env.
Executive Officer

Background

The FY 2015-16 Budget for Legal included \$279,500 for litigation expenses in environmental law cases and specialized legal counsel and services; however, this 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. In addition, monies will be expended on other lawsuits and legal proceedings, including a challenge to permitting a tank storage project at the Phillips 66 refinery in Carson—which will be reimbursed by Phillips 66 pursuant to Rule 301(aa) once the matter is completed. Accordingly, Legal is requesting the transfer of additional funds in the amount of \$750,000, for a total expected expenditure of \$1,029,500 this fiscal year.

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.