

BOARD MEETING DATE: June 2, 2017

AGENDA NO. 9

**PROPOSAL:** Appropriate Funds and Authorize Amending 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, including on-going litigation. This action is to appropriate \$250,000 from Undesignated Fund Balance to Legal's FY 2016-17 Budget and amend contracts to expend these funds with prequalified counsel approved by the Board as well as specialized legal counsel and services.

**COMMITTEE:** Administrative, May 12, 2017; Recommended for Approval

**RECOMMENDED ACTIONS:**

1. Appropriate \$250,000 from Undesignated (Unassigned) Fund Balance to Legal's FY 2016-17 Budget, Services and Supplies Major Object, Professional and Special Services.
2. Authorize the Chairman or the Executive Officer, depending on whether the amount exceeds \$75,000, to amend or initiate contracts with legal counsel handling existing matters, as well as prequalified counsel approved by the Board, and specialized legal counsel and services, as the need arises. This action will bring the total amount of outside counsel costs approved by FY 2016-17 to \$1,529,500.

Wayne Natri  
Executive Officer

**Background**

The FY 2016-17 Budget for Legal included \$279,500 for litigation expenses in environmental law cases and specialized legal counsel and services. Periodically, the Board has authorized additional amounts. However, the total amount currently allocated will not cover current and anticipated costs of legal counsel and specialized counsel and services.

Due to the complexity of certain cases and the number of matters handled by specialized legal counsel and related services, the SCAQMD will require an additional amount of up to \$250,000 for these services. Monies will be expended on lawsuits and legal proceedings, including the civil penalties claims against Exide; defending an appeal filed by Communities for a Better Environment to a CEQA challenge of a project by Phillips 66 at its Los Angeles/Carson Refinery that will reduce ship emissions; retaining expert witnesses to assist with an abatement proceeding involving the PBF Refinery in Torrance; defending environmentalists' challenge to the December 2015 RECLAIM amendments; and assisting with responses to comments on the Environmental Impact Report (EIR) for the Tesoro Los Angeles Refinery Integration Project and defending litigation if this project is approved. In the Phillips 66 case we will be reimbursed for litigation costs once the case is closed. Through March of this year, litigation costs on the Phillips 66 matter have totaled \$303,463.58. Also, any litigation expenses to defend the Tesoro EIR, if it is approved will be reimbursed. However, at the current rate of expenditures, an additional \$250,000 will be needed to cover costs in April through June 2017. Accordingly, Legal is requesting an appropriation of funds in the amount of \$250,000, for a total expected expenditure of \$1,529,500 this fiscal year, which is approximately \$1.2 million less than last fiscal year.

**Proposal**

In order to defend on-going and threatened litigation, it is necessary to appropriate additional funds for expenditure by outside counsel. It is expected that on-going lawsuits as well as matters requiring specialized legal counsel will require an additional \$250,000 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 2016-17 Budget upon approval of this Board letter.