



- Board of Directors
Legal and Claims Committee

12/10/2019 Board Meeting

7-3

Subject

Approve write-off of \$1,446,292.60 in uncollectible costs; the General Manager has determined that the proposed action is exempt or otherwise not subject to CEQA

Executive Summary

This letter seeks board approval for the write-off of costs for four projects. The project costs total \$1,446,292.60 and, if approved, will be written off in the current fiscal year. These projects need to be written off because they are not collectible and the amounts exceed the General Counsel's authority to approve write-offs. The Administrative Code authorizes the General Manager, after receiving the advice of the General Counsel, to determine that claims or accounts receivable of \$125,000 or less are not collectible and to direct the write-off of such items in order to properly adjust Metropolitan's accounts. For items in excess of \$125,000, such action requires approval by the Board of Directors.

These projects were originally categorized as "reimbursable" projects when it was believed that a third party was responsible for the costs. However, in these few instances, either no third party was found despite careful investigation, or the claim was reduced because the full amount of the claim could not be proven. For these reasons, the General Manager and General Counsel have determined these project costs are uncollectible.

Details

When reviewing expenditure records for reimbursable projects, staff determined that the costs for two cleanup projects and two repair projects exceeding \$125,000 could not be recovered from third parties. These projects were originally set up as reimbursable projects with the goal that third-party liability and eventual cost recovery would be established. However, as noted, it has been determined that approximately \$1.4 million cannot be collected from third parties. This letter provides details about the projects, requests board concurrence that the costs cannot be collected and authorization to write-off the uncollectible costs in the current fiscal year. This action is consistent with accounting standards that require project costs be written off when determined to be uncollectible.

Project No. 1 – Orange County Feeder leak investigation and repair (\$488,512.46) [Project No. 760853]

In June 2004, a Metropolitan patroller noticed surfacing of water above the Orange County Feeder in a street intersection in the city of Costa Mesa. Metropolitan's own forces conducted the inspections, shutdowns, and necessary repairs at a cost of \$488,512.46.

Investigations concluded a horizontal directional boring drill struck the pipeline during construction of underground telecommunications conduits circa 1993, thereby damaging the pipeline's protective coating. It can take several years for a leak to develop as a result of oxidation and corrosion of the exposed steel. In January 2007, Metropolitan initiated litigation against a telecommunications company for damages and repair costs arising from the leak. During discovery and a careful investigation, it became clear that there was insufficient proof to hold the telecommunications or any other third party responsible for the full amount of the claim. As reported to the Board in March 2009, the parties settled Metropolitan's claim for \$12,000, which reduced operating and maintenance expenses. The outstanding balance should have been written off at that time, but was not. It should be written off now, so the matter may be closed.

Project No. 2 – Arroyo Seco contaminated soil removal (\$381,920.66) [Project Nos. 701316 & 750022]

In 1989, Metropolitan removed an underground fuel storage tank from its Arroyo Seco property in Pasadena. The tank had been installed prior to Metropolitan's purchase of the property. The surrounding soil evidenced petrochemical contamination, and Metropolitan retained a contractor to perform the cleanup. The total cost of the work was \$381,920.66 and was initially categorized as reimbursable based on an expectation of collection from a liable third party.

Staff searched and reviewed site history documentation with Environmental Health and Safety, Real Property, Risk Management, and the Legal Department. The research indicated that multiple lessees and/or trespassers may have contributed to the contamination. Based on information retrieved from previously prepared property appraisals, environmental assessments, and confidential Legal Department analyses, staff determined that there was insufficient evidence to identify a party liable for the cleanup costs. The project was completed but with outstanding unreimbursed costs, its accounts cannot be reconciled and closed until these costs are written off as uncollectible.

Project No. 3 – Eagle Valley West cleanup of oil released from storage tank (\$354,958.62) [Project No. 760058]

In 1995, over 5,000 gallons of oil were released from a storage tank on the Eagle Valley West property near Lake Mathews. Metropolitan retained a contractor to perform the cleanup and categorized the project as reimbursable based on an expectation of collection from a liable third party. The total cost of the work was \$354,958.62. Later, records could not be located regarding the origin or use of the tank. Staff determined it was impossible to identify a responsible third party. The project has been completed, but with outstanding unreimbursed costs, its accounts cannot be reconciled and closed until these costs are written off as uncollectible.

Project No. 4 – Orange County Feeder leak investigation and repair (\$220,873.86) [Project No. 701777]

In February 2009, a Metropolitan patroller discovered water surfacing above another apparent leak in the Orange County Feeder in the city of Newport Beach. Metropolitan's own forces conducted the inspections, shutdowns, and necessary repairs at a cost of \$220,873.86.

Similar to the 2004 incident, investigations indicated that directional drilling of underground conduit borings caused the initial damage to the pipeline, possibly from construction performed by telecommunication firms in 1996. In June 2009, Metropolitan submitted payment demands to the two telecommunications companies believed to be liable for the damages. Metropolitan later determined that recovery of the costs was not feasible from the two corporations. The project was completed, but with outstanding unreimbursed costs, its accounts cannot be reconciled and closed until these costs are written off as uncollectible.

Summary

This action finds that certain costs incurred under four reimbursable projects are uncollectible and authorizes the write-off of those costs totaling \$1,446,292.60. The expenditures will be written off in the current fiscal year, and the projects will then be reconciled and closed.

To reduce the likelihood of similar actions in the future, procedures for characterizing projects as reimbursable have been modified. Going forward, project costs will only be classified as reimbursable when there is a reimbursement agreement in place or a responsible party has been identified with sufficient basis to hold them legally responsible. Costs incurred to make repairs that are not pursuant to an existing reimbursement agreement or consistent with Metropolitan's capitalization criteria will be expensed. District staff will continue to assess repair projects to determine if third-party liability can be established and, if so, take appropriate steps to recover costs.

Policy

Metropolitan Water District Administrative Code Section 6434: Writing Off Uncollectible Claims

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).

CEQA determination for Option #2:

None required

Board Options

Option #1

Approve the determination that the four reimbursable projects discussed in this letter are not collectible; and approve the write-off of such claims in the current fiscal year

Fiscal Impact: For accounting purposes, approximately \$1.4 million written off to expense in current fiscal year. Since funds were expended in prior years, there is no cash flow impact.

Business Analysis: Writing off uncollectible claims is in conformance with generally accepted accounting principles and allows reconciliation and closure of open accounts.

Option #2

Do not authorize write-offs.

Fiscal Impact: None, because costs were expended in prior years.

Business Analysis: Deferring write-off of these amounts would be inconsistent with generally accepted accounting principles.

Staff Recommendation

Option #1



 Marcia Scully
 General Counsel

11/14/2019

 Date



 Jeffrey Kightlinger
 General Manager

11/21/2019

 Date