



Authorize increase in contract with Best, Best & Krieger LLP for legal services related to Surface Mining and Reclamation Act

Legal & Claims Committee Meeting

Item 8-3

May 12, 2020

Current Action

- Authorize an increase in the maximum amount payable under contract with Best, Best & Krieger LLP (BBK) for legal services related to the Surface Mining and Reclamation Act (SMARA) by \$150,000 to a maximum amount payable of \$250,000

Background

- Metropolitan uses earth, stone, sand, gravel, and other materials for critical operations and maintenance activities along the Colorado River Aqueduct
- In 2017, County of San Bernardino notified Metropolitan of earth moving activities subject to SMARA
- Shortly after, County of Riverside followed suit
- Metropolitan agreed to comply with SMARA at approximately 20 sites where native soils are impacted



Compliance with SMARA

- Requires preparation of two SMARA reclamation plans
 - One for sites in San Bernardino County
 - One for sites in Riverside County
- MWD obtaining technical assistance for preparation of the plans (concurrently per Item 7-1 on the Board agenda)
- Outside counsel will work with staff and technical experts for preparation of compliant plans

Location Map



Special Counsel

- Case of first impression
- No prior SMARA claims
- Retained expert special counsel, Andrew Skanchy, in BBK's Sacramento office to assist staff counsel in July 2017
- BBK has extensive experience with SMARA

Board Options

- Option #1
 - Authorize an increase in the maximum amount payable under contract with Best, Best & Krieger LLP for legal services related to the Surface Mining and Reclamation Act by \$150,000 to a maximum amount payable of \$250,000
- Option #2
 - Do not authorize the contract increase

Staff Recommendations

- Option #1

