

Source: 1/24/2011 Meeting of
Monterey County Water Resources Agency.

Submitted by Director
Lelman at 1/27/2011
Board meeting
Item 16

**MONTEREY COUNTY WATER RESOURCES AGENCY
BOARD OF DIRECTORS**

MEETING DATE:	January 24, 2011	AGENDA ITEM:	
AGENDA TITLE:	CONSIDER APPROVAL OF AMENDMENT NO. 8 TO THE LEGAL SERVICES AGREEMENT WITH DOWNEY BRAND ATTORNEYS, LLP WHICH INCREASES THE HOURLY RATES EFFECTIVE JANUARY 1, 2011; AND, AUTHORIZE THE GENERAL MANAGER TO EXECUTE THE AMENDMENT UPON COUNTY COUNSEL APPROVAL AS TO FORM		
Consent () Action (X) Information ()			
SUBMITTED BY:	David Kimbrough 755-4861	PREPARED BY:	David Kimbrough 755-4861
PHONE:		PHONE:	
DEADLINE FOR BOARD ACTION:	January 24, 2011		

RECOMMENDED BOARD ACTION:

Approve Amendment No. 8 to the legal services agreement with Downey Brand Attorneys, LLP which increases the hourly rates effective January 1, 2011; and, authorize the General Manager to execute the Amendment upon County Counsel approval as to form.

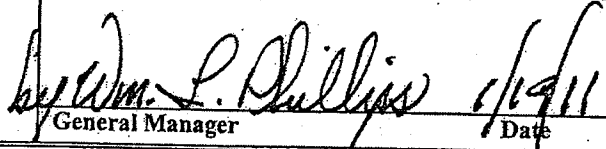
PRIOR RELEVANT BOARD ACTION:

- Agreement with Downey Brand Attorneys, LLP was approved by the Board of Directors on June 22, 2009;
- Amendment No. 1 to the agreement was approved by the Board of Directors on November 23, 2009;
- Amendment No. 2 was approved by the BOD on January 25, 2010;
- Amendment No. 3 was approved by the BOD on March 22, 2010;
- Amendment No. 4 was approved by the BOD on April 26, 2010; and,
- Amendment No. 5 was approved by the BOD on June 28, 2010
- Amendment No. 6 was approved by the BOD on August 23, 2010
- Amendment No. 7 was approved by the BOD on December 13, 2010

DISCUSSION/ANALYSIS:

The legal agreement with Downey Brand Attorneys, LLP, as approved by the Board of Directors on June 22, 2009, was for \$100,000 for legal expenses in the Administration Fund 111 and Zone 2C Administration Fund 116 Program ADMN. The agreement was established in order to provide the necessary legal services associated with pending and potential future litigation. Amendment No. 1 added an additional \$100,000 to the agreement for legal expenses in Administration Fund 111, Amendment No. 2 totaled \$100,000 for legal expenses in Administration Fund 111, Amendment No. 3 totaled \$100,000 for legal expenses in Administration Fund 111, Amendment No. 4 totaled \$100,000 for legal expenses in Administration Fund 111, and Amendment No. 5 totaled \$200,000 for legal expenses in Administration Fund 111, and Amendment No. 6 totaled \$300,000 for legal expenses in Administration Fund 111, Countywide Fund 113, Zone 2C Administration Fund 116 Program ADMN, and Reclamation Ditch Fund 122, and Amendment No. 7 totaled \$150,000 for legal expenses in Administration Fund 111 and Countywide Fund 113.

The rates in the original Agreement were approved in June 2009. The proposed increases will increase the hourly billing rates approximately 7.7%.

FINANCIAL IMPACT:	YES (X) NO ()
FUNDING SOURCE:	Fund 111 and Fund 113
COMMITTEE REVIEW AND RECOMMENDATION:	The Agency BOD Finance Committee recommended Amendment No. 8 of the Downey Brand Agreement to the Board of Directors on January 14, 2011.
ATTACHMENTS:	<ol style="list-style-type: none"> 1. Board Order 2. Amendment No. 8 3. Fees and Expenses (revised 1/1/2011)
APPROVED:	<div style="text-align: center;">  </div> <div style="display: flex; justify-content: space-between;"> General Manager Date </div>

**Monterey County Water Resources Agency
Monterey Bay Regional Water Project Costs**

November 2004 thru December 2009

Downey Brands Attorneys - Legal costs	\$333,547.96
Monterey County County Counsel costs	111,708.62
Raines, Melton & Carrella consulting costs	117,133.99
MCWRA labor costs (654 hours)	142,805.67
Travel & Meeting Expense	16,494.51
Other Costs	442.54
Total November 2004 thru December 2009 (Will be reimbursed from bonds)	<u>\$722,133.29</u>

January 1, 2010 thru March 9, 2010

Downey Brands Attorneys - Legal costs	\$186,228.18
Monterey County County Counsel costs	37,433.14
MCWRA labor costs (151 hours)	33,546.73
Travel & Meeting Expense	2,839.34
Total January 1, 2010 thru March 10, 2010 (May be reimbursed from bonds)	<u>\$260,047.39</u>

March 10, 2010 thru June 30, 2010

Downey Brands Attorneys - Legal costs	\$308,057.20
Monterey County County Counsel costs	55,466.14
MCWRA labor costs (332 hours)	72,125.25
Travel & Meeting Expense	17,791.06
Total March 10, 2010 thru June 30, 2010 (Reimbursed monthly from Cal-Am)	<u>\$453,439.65</u>

**Monterey County Water Resources Agency
Monterey Bay Regional Water Project Costs**

July 1, 2010 thru September 30, 2010

Downey Brands Attorneys - Legal costs	\$62,404.38
Monterey County County Counsel costs	1,441.26
MCWRA labor costs (148 hours)	32,219.60
Travel & Meeting Expense	2,152.35
Total July 1, 2010 thru September 30, 2010 (Reimbursed monthly from Cal-Am)	<u>\$98,217.59</u>

October 1, 2010 thru November 30, 2010

Geoscience - Geohydrologic services	\$364,922.00
Downey Brands Attorneys - Legal costs	67,180.63
Monterey County County Counsel costs	4,157.82
MCWRA labor costs (176 hours)	38,315.20
Travel & Meeting Expense	1,292.69
Total October 1, 2010 thru November 30, 2010 (Reimbursed monthly from Cal-Am)	<u>\$475,868.34</u>

<u>Total costs to date</u>	<u>\$2,009,706.26</u>
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<u>Total reimbursed from Cal-Am</u>	<u>\$810,297.58</u>
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