



Topic: **Reservoir Committee Agenda Item 2.2** **2020 July 16**

Subject: **Water Rights Attorney Procurement**

Requested Action:

Recommend approval of release of a Request for Qualifications to initiate the procurement of legal services to support the acquisition of the water rights permits and approvals needed to support the project.

Detailed Description/Background:

As part of the Amendment 2 work plan, a team of technicians, engineers and an attorney are needed to secure the necessary permits and approvals related to the water rights for the project. Previously, the Authority competitively procured the services of the technicians and engineers but has not yet secured an attorney of the water rights team.

Staff recommends issuing a Request for Qualifications (RFQ) to competitively procure a water rights attorney at this time. A short list of specialized water rights attorneys (see attached) known to have the qualifications to complete the assignment has been created and these firms will be invited to provide a statement of qualifications. Having a short list does not preclude other statements of qualifications. The RFQ will be publicly advertised on the website. The objective will be to select the best qualified firm for the assignment and an individual that can work effectively with the existing team. Also, since the number of qualified attorneys practicing in this area within California is limited, consideration of potential conflicts will be a key factor for selection. A summary of the scope, schedule, budget and the short list of firms is attached.

The selection panel will consist of the Executive Director, the EPP Manager, and the Chairs of the Reservoir Committee and Authority Board. Other Reservoir Committee members interested in participating can do so. We would like to keep the panel manageable at 6-8 participants.

Prior Action:

None.

Fiscal Impact/Funding Source:

The Amendment 2 work plan includes approximately \$200,000 for legal services associated water rights acquisition during this initial phase of planning and preparation of an administrative draft water rights application by the end of 2021. Subject to acceptable performance, the services would be continued through acquisition of all water rights permits and approvals expected to occur by 2024.

Staff Contact:

Jerry Brown/Ali Forsythe

Attachments:

Attachment A: Summary of the scope, schedule, budget and short list of firms.



Water Right Legal Services For the Sites Project authority

Scope: To assist the Authority in securing all necessary water rights for the Sites Reservoir Project. This initial stage of work involves working with the water right team to complete the water right strategy, ensuring water right matters are properly analyzed in the revised and recirculated Draft EIR/EIS, and lead the preparation of a water right application to the State Water Resources Control Board to be submitted in early 2022. Depending upon performance, future stages of work may involve serving as legal representative for the Authority to the State Water Resources Control Board in their proceedings to issue a water right permit and approvals for the Project which is expected no later than Spring 2024.

The current primary water right team members consist of the following firms: MBK Engineers, ICF International, CH2MHill/Jacobs Engineering and Authority Agents.

Schedule:

Activity	Date (2020)
Release of RFQ	July 22
Submission of Written RFQ Questions	July 28 Noon
Response to Written Questions Emailed to Respondents	July 31
Proposals Due to Authority	August 20 Noon
Authority Review of Qualifications/Firms Selected for Interview	August 23
Notification of Interviews, if Appropriate	August 28
Interviews, at Authority's Discretion	September 3-4
Reservoir Committee Reviews and Recommends Approval to the Authority Board	September 17
Authority Board Reviews and Approves Contract Award	September 23
Execution of Contract Completed	September 30

Budget: There is \$200,000 for water right legal services in the current Amendment 2 Work Plan which is intended to cover the initial stage of work. However, the proposer is encouraged to identify any other work products and budget needs they feel would be advantageous to the Project in regard to acquisition of water



rights. Future stages of work will include sufficient funds and the provider will assist in developing the scope and budget.

The selection panel will involve the Executive Director, and 4-6 members of the Reservoir Committee and Authority Board Coordinating Committees. The selection criteria will generally involve the following elements:

- Results of the proposers comprehensive conflict check must reasonably demonstrate the attorney and the firm are sufficiently cleared of material conflicts with any Reservoir Committee and Authority Board participating member agencies, or conflicts with any other parties that may be interested in the Sites Reservoir Project water right process.
- Level of demonstrated experience (attorney and firm) providing similar legal services and successfully completing a water right proceeding of a nature and magnitude similar to that of the Sites Reservoir Project.
- Capability to work effectively with the water right team and deliver an end product meeting the requirements of the Authority.

Invited Firms: The following list of firms will be invited to propose for the water right legal services:

Bartkiewicz, Kronick & Shanahan
1011 22nd Street, Sacramento, CA 95816

Best, Best & Krieger
500 Capitol Mall, Sacramento, CA 95814

Downey Brand LLP
621 Capital Mall 18th Floor, Sacramento, CA 95814

Ellison Schneider Harris & Donlan LLP
2600 Capital Ave, Suite 400, Sacramento, CA 95816

Kronick Moskowitz Tiedemann & Girard
400 Capital Mall, 27th Floor, Sacramento, CA 95814

Somach Simmons & Dunn
500 Capital Mall, Suite 1000, Sacramento, CA 95814