

Requested Action:

Authorize the Executive Director to enter into a reimbursable agreement with the California Department of Fish and Wildlife (CDFW) for staff support to the Sites Project for a total of \$2,850,000 thru June 2023 with not to exceed \$1,500,000 thru December 31, 2021.

Detailed Description/Background:

CDFW's funding for pre-permit application consultations and issuing permits is generally provided by the State Legislature. Due to historical and recent budget cuts, CDFW has a backlog of permit applications and does not have sufficient funding (and thus staff resources) to timely process all applications. On a project as large and complicated as Sites Reservoir, CDFW would likely not be able to participate substantially in the preapplication development process and may not be able to process our application and issue permits in a timely manner to achieve the Project's schedule and goals in the Authority's Strategic Plan.

CDFW has approached the Authority for a reimbursable agreement for its staff support to the Sites Project. Authority staff worked with CDFW staff to develop and refine a scope of work, budget and schedule for the reimbursable agreement. The resulting agreement would have CDFW staff provide preapplication consultations, permit development and post permit consultations, as well as technical assistance in other specific topics areas such as resolution of CDFW's comments on the 2017 Draft EIR/EIS, review of the Revised EIR, technical assistance and coordination on the Authority's water right application, technical assistance and coordination with other permitting agencies and non-governmental organizations.

Under the agreement, CDFW would dedicate staff to the Sites Project. These staff members would either be working full time on Sites or, if less than full time, would make Sites a priority in their workload. Their time working on the Sites Project would be reimbursed by the Authority. A range of approximately 3 to just over 5 full-time equivalents (FTEs) are the anticipated need to achieve the Project schedule depending on the permitting effort underway. Dedicated staff from CDFW would be comprised of environmental scientists, scientific staff, hydraulic engineer and a senior environmental scientist. In addition, an environmental program manager would manage the effort of the CDFW team, provide senior level guidance and communicate with CDFW Executive Management. Due to the size, complexity and short schedule for the Project, staff have determined the level of effort by CDFW is reasonable.

The reimbursable agreement will not cover CDFW's staff time for analyses and agreements related to execution and use of Proposition 1 Funds. Nor will it cover CDFW's legal costs, including legal counsel staff time.

The agreement with the Authority would reimburse for CDFW's staff time thru June 30, 2023. CDFW would be authorized to proceed with work thru December 31, 2021 for a total not to exceed \$1,500,000. A second Notice to Proceed would be given for activities starting January 1, 2022, should the members choose to continue efforts on the Project. Staff has reviewed CDFW's budget proposal and have determined the costs and overhead rates are reasonable.

Staff believes that the reimbursable agreement offers the following benefits to the Authority:

- Stability of CDFW staff working on the Sites Project reduces the Authority costs in having to re-educate and build relationships with new CDFW staff members as they change.
- Quality and seniority of CDFW staff working on the Sites Project. Having qualified and more senior CDFW staff on the project brings experience and creativity.
- CDFW staff will have extensive knowledge of the Project and will have worked out many of the issues/challenges before permit submittal – resulting in less permit processing time and more certainty in the permitting outcomes.

For these reasons, staff is recommending that the Authority enter into a reimbursable agreement with CDFW to reimburse for CDFW's staff support to the Sites Project.

Prior Action:

None.

Fiscal Impact/Funding Source:

No impact. The Amendment 2 Work Plan included \$1,500,000 for early mitigation actions. These early mitigation actions included geotech mitigation costs (as needed) or initial payment on contract for early biological mitigation actions. Geotech efforts are being formulated to avoid impacts and no mitigation costs are expected for the currently planned efforts. Staff believe that achieving the Project's schedule and goal in the Authority's Strategic Plan of permitting certainty is a higher priority than beginning early mitigation actions in 2021. No long-term schedule implications would result from beginning early mitigation actions in 2022. Staff propose to use the \$1,500,000 for early mitigation actions in the Amendment 2 Work Plan to fund the CDFW reimbursable agreement.

Staff Contact:

Ali Forsythe

Attachments:

Attachment A - Summary of CDFW Reimbursable Agreement

Summary of Key Components of the CDFW Reimbursable Agreement October 9, 2020

Under the agreement, the Authority would reimburse CDFW for staff time worked on the Sites Project and CDFW would agree to the following:

- Support the Authority in the development permit applications, including providing technical assistance the following permits for the construction and operation of the Sites Reservoir Project:
 - Incidental Take Permit Application for terrestrial species;
 - Incidental Take Permit Application for aquatic species;
 - Incidental Take Permit for terrestrial species;
 - Incidental Take Permit or aquatic species; and,
 - Lake and Streambed Alteration Agreement(s).
- Support the Authority through participating in and / or providing technical assistance for efforts that support the above permit applications (such as the operations modeling, development of an Adaptive Management Plan, and similar efforts).
- Support the Authority through participating in and / or providing technical assistance for other related permitting efforts including the Clean Water Act Section 401 permit application and the Authority's water right application.
- Work with the Authority to address CDFW's comments on the 2017 Draft EIR/EIS and provide technical input and assistance to the development of the Authority's Revised EIR.
- Provide technical assistance and coordination with other governmental agencies through the development of the above permit applications and with non-governmental organizations.

As part of these efforts, CDFW will provide comments on deliverables within 10 business days of receipt unless otherwise agreed upon between the Department and the Authority. Draft key permits listed are to be available for the Authority's members to review by August 25, 2021, with permit applications being submitted by the Authority to the Department in December 2021. CDFW will also work with the Authority to determine priorities and balance workload throughout execution of the agreement.