



Topic: **Reservoir Committee Agenda Item 2.11 2020 October 16**

Subject: **Somach Simmons & Dunn Task Order No. 1**

Requested Action:

Authorize execution of a contract amendment to incorporate Task Order No. 1 which describes the water rights legal service support and consolidating with modeling efforts related to water rights acquisition to the Somach Simmons & Dunn (Somach) contract in an amount not to exceed \$845,000 which brings the total contract authority up to \$845,000.

Detailed Description/Background:

A \$195,000 contract was approved by the Authority Board on September 17, 2020 and executed on September 28, 2020 to Somach for water rights legal services. The contract stated the scope of services would be task based, with individual task orders being issued to Somach's agreement. This is the first task order to the Somach contract.

Additionally, a conflict waiver has been executed with Somach under the original contract terms that establishes conditions and terms for identifying and avoiding conflicts with the Somach firm in its new representation of the Authority versus their existing representation of GCID. Legal counsel was involved with developing the conflict waiver and has approved the executed document.

This task order provides for legal services to assist the Authority in the development and submittal of a water rights application to the State Water Resources Control Board no later than December 31, 2021. Activities could include but would not be limited to the following:

- Preparation and implementation of a water rights strategy receiving the concurrence of the Authority Board and Reservoir Committee.
- Preparation of the water rights application submittal and necessary documents supporting that submittal such as a Water Availability Analysis.
- Ensuring water rights matters of a legal nature are properly analyzed in the revised and recirculated Draft EIR/EIS and in relevant other permit and approval applications (i.e., Biological Assessment and State Incidental Take Permit application).
- Representing the Authority in pre-application discussions with the State Water Resources Control Board staff and Board members.
- Representing the Authority in discussions with potential protestants.

This task order also includes adding MBK Engineers (MBK) as a subconsultant to Somach to support water rights legal services. MBK is currently an approved consultant to the Authority as a subconsultant to Young Woolridge. However, Young Woolridge, Somach, MBK and staff have determined that for Amendment 2 work plan activities, MBK support would be best served under the Somach contract and this task order. Upon Authority approval of MBK as a subconsultant

to Somach, MBK's agreement with Young Woolridge will be removed and a subcontract agreement executed between Somach and MBK.

Prior Action:

September 17, 2020: Awarded legal services contract in a form approved by legal general counsel and in an amount not to exceed \$195,000 to provide initial assistance in securing water rights approvals for the project.

July 22, 2020: Approved 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.

Fiscal Impact/Funding Source:

No impact. The Authority approved Amendment 2 Work Plan includes budgets for these work activities. This amendment does not change the budgets in the Amendment 2 Work Plan for either firm.

Staff Contact:

Jerry Brown/Ali Forsythe

Attachments:

None.