



Requested Action:

Consider approval of a legal services agreement in the amount of \$750,000 with Nossaman LLC to provide Real Estate and Inter-Agency Agreements Legal Services for the period of May 1, 2022 through December 31, 2024.

Detailed Description/Background:

A Request for Qualifications (RFQ) was released for Real Estate and Inter-Agency Agreements Legal Services. The RFQ was posted on the Authority's website on February 11, 2022. The RFQ allowed law firms to submit one or both of the legal services. Statement of Qualifications (SOQs) was received from four law firms. Two firms submitted SOQs for both services and two just for Real Estate.

Staff reviewed the SOQs for compliance with RFQ requirements for SOQs and all were compliant. The SOQs were distributed to a six-person interview panel consisting of Agents, Reservoir Committee and Authority Board members for review. The Interview Panel conducted interviews with all four firms on April 6, 2022. All of the firms proposed teams with excellent qualifications and strong offerings, but after careful evaluation of the materials presented and lengthy discussions with each team, the interview panel unanimously recommends Nossaman LLC to the Reservoir Committee and Authority Board to perform both legal services. Nossaman has strong relevant experience in both areas of service and the individual attorneys proposed to perform the direct work demonstrated knowledge and experience that would be complementary to the Sites team and are expected to fit well with the organizational culture and values of the Sites Authority.

Authority General Counsel reviewed Nossaman's proposed legal contract and found it acceptable for use as the basis for the contract for these services. The Authority standard long-form agreement does not suffice for this contract because Legal services have to incorporate specific California laws and requirements. However, these contracts generally do not address important Authority requirements that are in the Authority's Standard Long Form Agreement. Therefore, staff and General Counsel developed an addendum to the proposed legal services contract to add necessary Authority Standard Agreement provisions. These provisions include Services, Term of Agreement, Conflict Of Interest Compliance, Independent Contractor Status, Indemnity, Compensation,

and Dispute Resolution. Nossaman and Staff have reached an agreement on the incorporation of these additional provisions in the final contract.

Prior Action:

Fiscal Impact/Funding Source:

The Phase 2, Amendment 3 Work Plan included funding for both of the subject legal services. The Real Estate legal services are budgeted at \$300,000 and the Inter-Agency Agreement legal services are budgeted at \$450,000.

Staff Contact:

Joe Trapasso

Primary Service Provider:

None.

Attachments:

Attachment A – List of firms submitting SOQs

Attachment B – Scope of Work Breakdown and Billing Rates

ATTACHMENT A

Four firms submitted Statement of Qualifications (SOQ) in response to the Authority's Request for Qualifications for Real Estate and Inter-Agency Agreement Legal Services. Firms were allowed to submit SOQs for both legal services or for only one service. The four legal firms that submitted SOQs are noted below along with the services they were pursuing.

Best Best & Krieger LLP - Real Estate Services

Downey Brand LLP - Real Estate Services

Hansen Bridgett LLP – Real Estate and Agreements

Nossaman LLP – Real Estate and Agreements

Real Estate and Inter-Agency Agreements

Scope and Budget:

On September 22, 2021, the Reservoir Committee approved a work plan for the Amendment 3 period of performance from January 1, 2022 through December 31, 2024 which included legal activities related to real estate and the development of inter-agency agreements. The below summary of the scope of services is recommended to achieve the required deliverables and milestones for Amendment 3 and will be included in the first task order with Nossaman, the firm selected for these services through a competitive procurement (RFQ 22-01). The total budget for this task order will be \$750,000. The proposed task order contains the following subtasks with estimated costs as shown:

- **Real Estate Legal:** Under the leadership of the Authority's Real Estate and External Affairs Manager, support the Authority by providing legal advice and strategic policy input on issues associated with real estate acquisition and land management. Draft real property acquisition contracts, temporary access agreements, option agreements, temporary/permanent easement agreements, escrow agreements, and other agreements as required to support the Authority's real estate and land management activities. Assist the Authority with landowner coordination and negotiations. Provide legal advice on issues associated with condemnation / eminent domain actions, including analysis of legal risks associated with various strategies. On behalf of the Authority, provide comprehensive real estate legal services including condemnation / eminent domain actions if needed. (\$300,000)
- **Inter-Agency Agreements:** Under the leadership of the Authority's Engineering and Construction Manager, support the Authority by providing legal advice and strategic policy input on issues associated with inter-agency agreements. Support lead negotiators for the various inter-agency agreements to draft, negotiate and execute inter-agency agreements including Sites Reservoir benefits and obligations contracts with local and federal partners, agreements for the administration of public benefits with appropriate state agencies, state and federal operations agreements, facilities use agreements and other local agreements as required. Support standardization of agreements and develop strategies to aid in implementation and future interpretation. (\$450,000)

Hourly Rates:

Hourly rates have been negotiated for the Authority's task order with Nossaman. Nossaman will utilize a discounted and blended rate that has been determined to be comparable and competitive with rates for similar services with water districts in California. The discounted and blended rate is \$595 per hour for both partners and associates. This rate is fully burdened and includes all administrative and overhead costs, such as secretarial assistance, word processing and telephone charges. Travel, filing, and other charges will be passed through at cost. Rate adjustments will occur annually in accordance with the Authority's policies and procedures.

Annual Notice to Proceed:

The Board is reminded that this contract will be managed to the total authority and annual authorized expenditures (by calendar year) reflected in the approved annual budget. An annual Notice to Proceed will be issued to the consultant reflecting these conditions.