



Meeting: **Authority Board Agenda Item 3.1**

**July 27, 2022**

Subject: **Overview of Proposition 1 Benefit Agreement Process and Contract Contents**

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**Requested Action:**

Review and comment on the process for the development, content, and schedule for the Sites Project's Proposition 1 (Prop 1) benefit agreements.

**Detailed Description/Background:**

To encumber Prop 1 construction funds, a number of actions must occur including the development and execution of benefit agreements with the authorizing agencies for the Project's public benefits funded under Prop 1. For Sites, these benefits include ecosystem, flood reduction, and recreation benefits. Staff has been meeting with the authorizing agencies to begin developing benefit agreements. This is a report on Staff's understanding of the process and schedule for completion of these agreements.

***Content***

The Prop 1 benefit agreements will provide contractual terms identifying how each of the three benefits will be committed and administered. It is anticipated that the administration of flood control and recreation will be together in one contract with the Department of Water Resources (DWR). The third agreement for ecosystem benefits will be executed with the California Department of Fish and Wildlife (CDFW). The required information included in the agreements can be summarized as follows:

- A description of the public benefit that will be provided, including details such as quantity and timing of each benefit being contracted.
- How the benefit will be implemented, including activities and operations, required agreements, and discussion of processes that are needed for the benefit to occur.
- What must be reported to the administering agencies and how often these reports must be provided.
- The thresholds, triggers, monitoring metrics, and possible other indicators that will be used for the adaptive management of each benefit as well as the decision making process if the benefit is not being achieved. The adaptive management outline will also be shared with the round table, as part of the contract.

- What steps the Authority will take if there is a failure to comply with the agreement, or if unforeseeable events occur.

CDFW has worked with DWR and the State Water Resources Control Board (for water quality benefits, which the Sites Project does not have) to prepare an outline for the agreements. All agreements are expected to follow an analogous outline and the State agencies will be working together to develop standard terms for some sections that ensure congruity across all agreements. Authority staff is also working with the other Prop 1 Projects to develop consistency around the approach for specific sections of the agreements, with an emphasis on consistency in the approach to describing and providing ecosystem benefits.

Each of the Prop 1 Storage projects is required to reach similar benefits agreements with each of the “beneficiary” state agencies prior to receiving the final award of Prop 1 funds. The projects regularly convene roundtables as a group to coordinate common approaches and considerations related to Prop 1 implementation. These forums will continue to serve as an efficient means to effectuate the benefits agreements where terms and conditions cut across all projects. Staff envisions that the ecosystem area will be where most of the coordination will occur as this group is already engaging with CDFW on several common topics.

### ***Process***

The Public Benefit Agreements process is broken down with estimated times for completion as follows:

- Draft Contract Development (anticipated minimum 3 months).
- Draft Contract Review Process (anticipated minimum 2 months).
- California Water Commission Contract Review and Public Review Process (anticipated minimum 2 months).
- Final Contract Review (anticipated minimum 2 months).
- Contract Execution (anticipated minimum 2 months).
- WSIP Execution (when all required permits and agreements have been completed. Occurs concurrently with release of final Prop 1 awards).

The two Project’s agreements will go through the California Water Commission Contract Review and Public Review Process and will be executed at the same time. While we are drafting these with two separate agencies (DWR and CDFW) and are at slightly different stages in the process, the schedule for the Project’s two agreements will be synched up later in the process.

### **Prior Authority Board Action:**

In Fall 2021, the Authority Board approved submittal of the Project’s Feasibility Study to the California Water Commission. The Feasibility Study identified and quantified the benefits being funded under Prop 1.

**Fiscal Impact/Funding Source:**

The staff time associated with developing the benefit agreements for Prop 1 is included in the Amendment 3 Work Plan.

**Staff Contact:**

Ali Forsythe

**Primary Service Provider:**

HDR

**Attachments:**

None