



Meeting: **Reservoir Committee/Authority Board**
Agenda Item 2.1

March 22, 2024

Subject: **Construction Legal Services Contracts**

Requested Action:

Reservoir Committee and Authority Board consider approval of Construction Legal Services contracts for the performance period ending December 31, 2025, with:

- 1) Best, Best, & Krieger, LLP (BBK) for Civil Works with a total contract authority of \$228,000 for the performance period through 12/31/25 and an initial total authority of \$136,600 through the end of 2024.
- 2) Cox, Castle & Nicholson, LLP (Cox Castle) for Environmental Mitigation, with a total contract authority of \$400,000 for the performance period through 12/31/25 and an initial total authority of \$200,000 through the end of 2024.

Detailed Description/Background:

The Construction Legal Services scope of work is primarily focused on legal services providing advice and assistance related to the procurement and development of the Sites Reservoir and all associated infrastructure, which is anticipated to contract under delivery methods, including, but not limited to, CMAR, design-build, and design-bid-build for delivery and construction of physical infrastructure. The scope of work also includes supporting the Sites Authority with development and implementation of construction related Project Labor Agreements. Additional legal services and opinions may also be requested as they relate to construction coordination between the various Project components and packages, construction related requirements established as a condition to project financing and funding including but not limited to Proposition 1, WIFIA, and USDA Rural Development, and consistency with public works contracting and construction delivery laws in California. This legal support will be required to coordinate with the other specialty legal counsels as needed.

In December 2023, Sites Authority staff hosted an informational pre-RFP briefing for prospective respondents to the Construction Legal Services Request for Proposals (RFP) for the Sites Reservoir Project. Eleven firms attended the briefing. On January 5, 2024, the Sites Authority released the Construction Legal Services Civil Works and Environmental Mitigation RFP No. 24-01 to thirteen firms and the RFP was also posted on the Sites Authority's website. Respondents could submit on one or both legal services - Civil Works and/or Environmental Mitigation. The Sites Authority received eight proposals.

Staff evaluated and ranked the 8 proposals received (Atkinson, Andelson, Loya, Ruud & Romo, Aleshire & Wynder, LLP, Best, Best & Krieger LLP, Burke, Williams & Sorensen, LLP, Cox, Castle & Nicholson LLP, Hanson Bridgett LLP, Meyers/Nave and Nossaman LLP) based on the selection criteria listed in the RFP and invited the top-ranked firms to interview as follows: BBK and Nossaman LLC for civil works services and BBK, Nossaman, and Cox Castle for environmental mitigation services.

Selection Panel Members consisted of Reservoir Committee members Randall Neudeck, Bob Tincher, and Paul Weghorst and staff Jerry Brown, JP Robinette and Jeff Kivett. Non-voting Panel Members consisted of the Authority's General Counsel (Alan Doud), Metropolitan Water District of Southern California's construction legal counsel (Mark Parsons) and Authority Staff (Joe Trapasso and Cheyanne Harris).

Interviews were conducted with the 3 firms on February 28, 2024. Based on the proposals and interviews, the Selection Panel Members recommend contracting with BBK for Construction Legal Services for Civil Works and Cox Castle for Construction Legal Services for Environmental Mitigation. All three firms were impressive, high qualified, and capable of performing the work, however the unique approaches offered for implementing this project, and the breadth of relevant, directly applicable experience of the firms and individuals involved were the differentiators in the offerings and caused the panel to come to the recommended conclusion.

The O&E Workgroup concurred with the Selection Panel's recommendation.

Prior Action:

October 20, 2023: Informational update on preparations for Phase 3/4/5 implementation related to contracting.

Fiscal Impact/Funding Source:

No fiscal impact as the Civil Works and Environmental Mitigation Construction Legal Services are included in the Amendment 3 budget.

Staff Contact:

Joe Trapasso/JP Robinette (Civil Works)/Ali Forsythe (Environmental Mitigation)

Primary Service Provider: Brown & Caldwell – Project Controls

Attachments: None