

Requested Action:

Review and comment on the next steps for financing and transitioning from Phase 2 to Phases 3/4/5.

Detailed Description/Background:

In anticipation of successfully completing the Water Right hearing process and concluding Phase 2 activities, including completing those actions needed to secure commitments from the Storage Partners, the following sequence of steps (in this order) are expected to acquire funding and transition from cash call/reimbursed funded Phase 2 to loan/reimbursed funded Phases 3 and 4.

1. **Close Phase 2.** This step includes closing the financials for Phase 2, reconciling all Participant Contributions, including accounting for credits to Participants/Project Agreement Members that have withdrawn from the Project or reduced their respective interests in the Project. This reconciliation would be approved by the Board. The 2023 Audited Financial Statement identifies the current remaining credit balance to be \$9.04 million. The Funding and Credit Reimbursement Policy establishes rules and procedures related to the equitable contribution of funds for Project development and exchanges in participation levels between Participants. The policy plays an important role in the rebalancing process. It should be noted, the Funding and Credit Reimbursement Policy does not apply to state or federal participation. In March 2022, the Authority Board and Reservoir Committee authorized revising the Funding and Credit Reimbursement Policy to include implementation of an Opportunity Cost Fee, which is set to \$56.17 per acre-foot (average annual releases basis, \$9.01 per acre-foot on a storage basis) in 2024, to apply to new participants coming to the project after that date only. To date, there have been no new participants subject to this fee.
2. **Capacity Offer.** The Board and Reservoir Committee resolve to offer 100% of the capacity to Storage Partners. Staff feels the Authority's offering needs to add to 100% (including State and Federal participation). Without this, the project is not financially complete. The Capacity Offer would include the approved Phase 2 reconciliation amounts (above in step 1) and estimated project cost shares based on the then current participation shares established in Table A of the Amendment 3 Project Agreement.
3. **Investor Commitment Escrow.** The Capacity Offer would be followed by consideration and action by home boards to determine the Participant's Committed Capacity Interest and approve executing the Benefits and Obligations Contract (B&O Contract). It is assumed that each Board makes its

authorization contingent on the total Committed Capacity Interest adding to 100% after all of the Storage Partners authorizations are complete. To the extent that any of the existing Participants' Board authorizes a lesser amount of Committed Capacity Interest than is shown in Table A, the Sites Authority would extend the escrow period to tally the total shortfall when known. The Authority would then need to work with waitlisted entities to identify new Storage Partners to achieve 100% Capacity Interest. If new Participants are involved, these Participants would be assessed fees as described in the Funding and Credit Reimbursement Policy. This illustrates how disruptive and time consuming it will be if Participants and their Board's are not well prepared in advance of the Capacity Offer. Staff reiterates that Participants come forward early if there is a probability that a lesser Committed Capacity Interest is envisioned so that proper adjustments can occur in advance of adopting the Capacity Offer.

4. **Short and Long-term Financing.** Once 100% of Capacity Interest is accounted for, Sites Authority would countersign the B&O Contracts and receive the State and Federal contracts. This milestone binds all the parties to the specified benefits and obligations and provides the necessary commitments for the Authority to proceed into Phase 3/4/5. The Board and Reservoir Committee would then consider and approve needed financing, including approval of interim financing (e.g., short-term notes, commercial paper, etc) and consider long-term takeout options including WIFIA and tax-exempt revenue bonds. Part of this consideration is the approach to be taken to capitalizing interest, as applicable. Cash secured under these means will be the primary source of funding to pay start-up and ongoing costs of Phase 3/4/5. Parties that are self-funding or reimbursing costs will also provide cash to fund reimbursement and ongoing costs.
5. **Rebalance and Fund Credits.** As part of initiating Phase 3/4/5, the interim financing would include the payback of credit balances remaining to those Participants/Project Agreement Members who are no longer participating in the Project. As part of this process, remaining Participants would fund their share of development costs through Phase 2 based on their respective Base Capacity Interests as shown in their approved B&O Contracts. As a result of this final reconciliation, some Participants may see increases in their respective shares and changes in credits, depending on their Committed Capacity Interest. Credits will be funded by those Participants without credits in two different ways.
 - a. Go-forward (Remaining) Participants. These Participants would receive a reduction in their share of Fixed Project Costs (which could include some or all of the development costs included in Phases 1 and 2) equal to their accumulated credit. As such, their share of the next phase of funding (final design and construction) would be less than their Committed Capacity Interest.

- b. Former Participants: Participants who are no longer in the Project would receive payments equal to their credit from the initial financing proceeds and any Opportunity Cost Fees collected.

This process would complete Phase 2 and extinguish all obligations under the Funding Credit and Reimbursement Policy. The Policy would then no longer be in effect.

- 6. **Long-Term Financing Evaluation**. The Sites Authority is in active discussions with the Environmental Protection Agency on the terms and conditions for a WIFIA Master Loan Agreement and evaluating alternative long-term financing tools such as tax-exempt revenue bonds. To date, negotiations have been guided by the Authority's policy direction as set forth in the adopted Master Resolution and the in-process draft of the Benefits and Obligations Contract (consistent with the adopted Guiding Principles and Preliminary Terms). As the negotiations go into greater detail and specificity, Staff will discuss the terms and conditions and cost considerations with the WIFIA Ad Hoc and will come back to the RC/AB to provide additional updates with more specific information regarding options in the coming months. It is anticipated that decisions on negotiating parameters will need to be made before the end of 2024. As part of the process, it is expected that discussions with Participant key finance personnel may be needed and will be coordinated through Participants. This coordination will begin in October 2024.

Board and Reservoir Committee approval will be required for any financing, including interim financing. The terms and conditions of such loans, including interest rate, term, flexibility and financial covenants will be evaluated to confirm the most effective financing structure is utilized.

Prior Action:

March 18, 2022: Authorized revisions to the Funding and Credit Reimbursement Policy.

March 17, 2023: Authorized submittal of the WIFIA application

Fiscal Impact/Funding Source:

The Amendment 3 Work Plan includes a sufficient budget to cover required resources, activities, and fees in support of the WIFIA Loan and Master Agreement development.

Future financing will be required to fund activities in Phase 3 of the Project.

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Attachments: None.