



Legislation Text

File #: 20-317, Version: 1

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Adopt a resolution approving a revenue agreement with the State Department of Water Resources (DWR) in accordance with the Lookout Slough Memorandum of Understanding, providing \$750,000 to the County for the development of a Cache Slough Habitat Conservation Plan; Authorize the County Administrator, with the concurrence of County Counsel, to execute an Agreement with DWR and any subsequent amendments within budgeted appropriations for the period of July 1, 2020 through June 30, 2023; and Authorize the County Administrator, with concurrence of County Counsel, to execute an agreement with ICF Jones & Stokes, Inc. and any subsequent amendments within budgeted appropriations for the period of July 1, 2020 through June 30, 2023

Published Notice Required? Yes No
Public Hearing Required? Yes No

DEPARTMENTAL RECOMMENDATION:

The Department of Resource Management recommends that the Board of Supervisors:

1. Adopt a resolution approving a revenue agreement with the State Department of Water Resources (DWR) in accordance with the Lookout Slough Memorandum of Understanding providing \$750,000 to the County for the development of a Cache Slough Habitat Conservation Plan (HCP); and
2. Authorize the County Administrator, with the concurrence of County Counsel, to execute an agreement with DWR and any subsequent amendments within budgeted appropriations for the period of July 1, 2020 through June 30, 2023; and
3. Authorize the County Administrator, with concurrence of County Counsel, to execute an agreement with ICF Jones & Stokes, Inc. (ICF) and any subsequent amendments within budgeted appropriations for the period of July 1, 2020 through June 30, 2023

SUMMARY:

As part of the Lookout Slough settlement, the County and DWR agreed to a Memorandum of Understanding (MOU) on January 14, 2020, that, among other things, committed DWR to provide \$750,000 to the County for development of a stand-alone HCP. Habitat restoration projects such as Lookout Slough have the potential of rendering the existing water diversion infrastructure for municipal, agricultural and industrial uses noncompliant with the federal Endangered Species Act (ESA) and the California Endangered Species Act (CESA). The HCP, by addressing and mitigating for the potential impacts to threatened and endangered species associated with such diversions, is a common way to ensure compliance with those environmental laws. If approved by the respective state and federal agencies "incidental take permits" would issue to permit the continued use of such diversions, with any requisite mitigation measures. Moreover, the HCP would help to coordinate the plethora of conservation projects proposed in the Cache Slough area and identify other beneficial uses in relationship to the conservation projects.

Based on biological opinions to continue large-scale water exports operations, State and Federal agencies are required to create more fish habitat with the primary focus in the Delta region. Due to its elevation and location

at the confluence point between the Yolo Bypass and the Delta, the Cache Slough Complex, located in the southeastern portion of Solano County, is the focus of large-scale habitat restoration and flood control projects. These habitat restoration projects will have significant impact on agriculture as low-lying farmland is flooded and taken out of production. Habitat improvements may also limit future use of existing water intakes for farming, municipal and industrial uses located in these areas in order to comply with federal and state laws protecting endangered species. To date, there has been no region-wide analysis of the conservation projects.

FINANCIAL IMPACT:

The contract with DWR provides up to \$750,000 to develop the HCP based on a scope of work developed jointly with the County, DWR, and ICF over a three-year timeline. The amount includes 10% in administrative costs to the County. The exact amount allocated for each year is still under negotiation but estimated to range from \$86,000 to \$396,000 per year. The County would then subcontract with ICF to perform the services under the scope of work at the same amount (less the administrative costs). The contract amounts are not included in the FY2020/21 requested budget but will be included in the supplemental budget for Board consideration during the budget adoption process in June 2020. Once the Agreement is in place any necessary revenue and appropriations will be reflected in the FY2020/21 Recommended Budget.

Pursuant to the MOU, DWR is responsible for justifiable costs above \$750,000 to develop the HCP. Once completed and approved, the MOU commits DWR to provide \$200,000 to Solano County per year for 10 years to administer the HCP.

The costs associated with preparing the agenda item are nominal and absorbed by the department's FY2019/20 Adopted Budget.

DISCUSSION:

The development of the HCP is a three-phased effort, the first of which is nearing completion by ICF Jones & Stokes, Inc., (ICF) pursuant to a separate agreement with the County, the Sacramento Area Flood Control Agency (SAFCA), and the Solano County Water Agency (SCWA). The revenue agreement between the County and DWR will fund the second and third phases to complete development of the HCP. This includes drafting the HCP itself, completion of the associated environmental documents, and the preparation of the applications to the appropriate state and federal agencies for approval. The work is scheduled to take 32 months and to be completed by June 30, 2023. As part of the agreement, the County would subcontract with ICF to complete the HCP and prepare the necessary environmental documents.

Large-scale restoration projects totaling over 8,000 acres that are planned or are currently under development in the Cache Slough region of Solano County include Prospect Island, Lookout Slough, and Little Egbert Tract. These and other restoration projects, while improving fish habitat, will significantly impact other uses in the area. As an example, the Lookout Slough Project alone affects 3,400 acres of, farmlands, roads, levees, recreation and other facilities in the Cache Slough region.

In November 2018, an association of local, state, and federal agencies collectively referred to as the Yolo Bypass/Cache Slough Partnership (Partnership) worked to identify and provide a coordinated approach to address the multiple habitat and flood projects within the region. One of the management actions identified by the Partnership is to establish and implement acceptable methods to ensure the continued cost-effective delivery of water in the Cache Slough Complex. In support of this management action, and after discussions with regulatory and other agencies and stakeholders throughout the area, development of an HCP specifically focused on intake impacts, was the agreed approach to providing needed protections from land conversion to tidal habitat and potential entrapment of rare or endangered fish species in the area where water intakes occur.

ICF was selected as the consultant as part of a cost share agreement between Solano County, SCWA, and SAFCA, executed on October 11, 2019, to complete the first phase of the HCP process. This initial Phase 1 includes a detailed scope, cost and detailed chapter outline for the full HCP effort. Phase 1 is nearing completion. Phase 2 is to prepare the public draft of the HCP and draft environmental documents, and Phase 3 is to finalize the HCP and the environmental documents, as well as to prepare the 2081(b) permit application.

On January 14, 2020, the County and DWR entered a MOU whereby, DWR agreed that it would fund and the County would lead (in concert with DWR and other Partnership agencies) the effort to complete Phases 2 and 3 of the development of the HCP through a subcontract with ICF as the consultant to do the work.

In order to authorize funding, DWR requires a resolution from Board of Supervisors, attached. Once funding is authorized, contracts between DWR and the County and between the County and ICF can be executed beginning in July 2020.

ALTERNATIVES:

The Board of Supervisors can choose to not to approve the resolution and not authorize the County Administrator to execute agreements to receive and expend the funds to develop the HCP. This is not recommended since it would prevent the County from meeting its obligation to develop the HCP.

OTHER AGENCY INVOLVEMENT:

In preparing this report and the first phase of the HCP, the County worked collaboratively with SCWA and SAFCA, the Partnership, RD 2068, DWR, and other stakeholders to identify issues within the Cache Slough region and to create the agreement for the development of the HCP. In addition, County Counsel has worked closely on the agreements and the resolution.

CAO RECOMMENDATION:

APPROVE DEPARTMENTAL RECOMMENDATION