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**CONSIDERATION OF A RESOLUTION AUTHORIZING THE DIRECTOR, OR
DESIGNEE, TO SIGN AN INTERAGENCY AGREEMENT WITH CALIFORNIA
DEPARTMENT OF JUSTICE FOR LEGAL SERVICES
Agenda Item 10**

Meeting Date: 8-14-03

Summary: This resolution would authorize the Director, or designee, to sign an interagency agreement with the California Department of Justice to provide legal services.

Recommended Action: Adopt Resolution 03-08-11.

Staff Recommendation: Staff recommends the Authority adopt the attached resolution, which would allow the Authority to obtain from the State Attorney General's Office legal representation in litigation and day-to-day legal services in coordination with the Authority's Chief Counsel.

Background

The California Department of Justice has provided legal representation to the CALFED Bay-Delta Program since 1995, when State/Federal efforts to prepare the Bay-Delta plan commenced. After completion of the Bay-Delta plan in August 2000, the Department of Justice has represented the Resources Agency and other CALFED agencies in litigation challenging the Bay-Delta plan and its Programmatic Environmental Impact Statement/Environmental Impact Report, which are currently on appeal. The Department of Justice has also provided legal advice related to the CALFED Bay-Delta Program's coordination efforts, and the various CALFED agencies' implementation of the Bay-Delta Plan. On January 1, 2003, the California Bay-Delta Authority was established as a State agency to provide a governance structure to oversee coordinated implementation of the California Bay-Delta Program. The proposed interagency agreement would allow the Authority to continue to use the services of the State Attorney General's Office in litigation and with regards to in-house matters in coordination with the Authority's new Chief Counsel.

Fiscal Information

Funding source: General Fund
Term: July 1, 2003 through June 30, 2006
Total Amount: \$3,310,200.00

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List of Attachments

Proposed Scope of Work

Contact

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CALIFORNIA BAY-DELTA AUTHORITY
RESOLUTION NO. 03-08-11

CONSIDERATION OF A RESOLUTION AUTHORIZING THE DIRECTOR, OR DESIGNEE, TO SIGN AN INTERAGENCY AGREEMENT WITH THE CALIFORNIA DEPARTMENT OF JUSTICE FOR LEGAL SERVICES

WHEREAS, the California Department of Justice has provided legal representation to the interagency cooperative effort called the CALFED Bay-Delta Program since 1995; and

WHEREAS, the Department of Justice is representing the Resources Agency and other CALFED agencies in litigation challenging the Bay-Delta plan and its Programmatic Environmental Impact Statement/Environmental Impact Report; and

WHEREAS, the Department of Justice has also provided legal advice related to the CALFED Bay-Delta Program's coordination efforts, and the various CALFED agencies' implementation of the Bay-Delta Plan; and

WHEREAS, the Authority will need continuing legal representation in litigation and day-to-day legal services in coordination with its Chief Counsel;

NOW, THEREFORE, BE IT RESOLVED that the Authority hereby authorizes the Director, or his designee, to sign an interagency agreement with the California Department of Justice for legal services, as generally described in the attached scope of work, for a total of \$3,310,200, subject to appropriation of adequate funds.

CERTIFICATION

The undersigned Assistant to the California Bay-Delta Authority does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the California Bay-Delta Authority held on August 14, 2003.

Dated:

Heidi Rooks
Assistant to the California Bay-Delta Authority

Attachment 1
Department of Justice (DOJ) Legal Support

Proposed Scope of Work

1. Background

DOJ has been providing legal services to the Bay-Delta Authority's predecessors, CALFED Bay-Delta Program and the Bay-Delta Oversight Council, since 1995. As the Bay-Delta Authority moves into implementing its plan and defending legal challenges, the need for DOJ services continues.

2. General Statement of Work

DOJ will provide legal services for the Bay-Delta Authority. Services of the DOJ will be available at the request of the Director or the Chief Counsel.

- Represent the State Respondents in ongoing litigation challenging the CALFED Programmatic Record of Decision and Programmatic Final EIS/EIR; represent the Bay-Delta Authority in any new litigation naming it as a party; and possibly act as amicus counsel in litigation in which the Authority has an interest. Coordinate with counsel for state agencies that are implementing the plan.
- Legal advice, document review, and document drafting related to compliance with open meeting acts, Public Records Act, conflict of interest laws, ex parte communications, delegations of authority and contracting laws.
- Legal advice related to implementation of programs mandated by the Bay-Delta Authority Act. Advice regarding the science program, oversight and integration of the CALFED Program elements, and pre-litigation counseling. Issues include, but are not limited to, review of environmental documents, compliance with State contract and grant laws and procedures, incorporation of agency commitments in the Record of Decision into agency actions.
- Legal advice related to the Bay-Delta Authority meetings, including, but not limited, to, compliance with conflict of interest and ex parte communications rules, review of agenda meeting notices and items with legal implications, and legal representation at meetings to advise on legal procedures, open meeting law, and closed sessions.
- Legal advice related to the development and adoption of regulations, including requirements of the Administrative Procedure Act and procedures of the Office of Administrative Law.

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- Legal advice related to interpretation of the Bay-Delta Authority legislation. Review and analyze legislative bills and assist in drafting legislation to assure legal sufficiency in furthering the Authority's policy objectives.
- Legal advice and representation of the Bay-Delta Authority in personnel actions, including adverse actions and affirmative action matters or assistance to the Authority in selecting counsel with expertise in these areas.
- Paralegal to provide litigation research and document preparation support to attorneys; provide client advice support to attorneys and client including attending meetings, conducting research, and drafting documents.
- Regular duties include attending meetings of the Authority, the Bay-Delta Public Advisory Committee, and other meetings as appropriate.

3. Representative

California Bay-Delta Authority Program Manager

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4. Term

The term of this interagency agreement shall be July 1, 2003 to June 30, 2006

5. Payment

The maximum amount payable under this interagency agreement is \$3,310,200.