



Midpeninsula Regional
Open Space District

PROCUREMENT AGENDA ITEM

R-24-66
Meeting 24-14
May 22, 2024

AGENDA ITEM 6

AGENDA ITEM

California Department of Fish and Wildlife Master Agreement

GENERAL MANAGER'S RECOMMENDATIONS

1. Authorize the General Manager to approve a single payment of \$111,037.25 to apply for a California Department of Fish and Wildlife Master Agreement to obtain regulatory permit coverage for various land management activities, including (but not limited to) culvert maintenance and replacement, road and trail drainage repairs and upgrades, aquatic habitat restoration in ponds, creeks and wetlands, invasive species removal, and bridge replacements and relocations.
2. Authorize the General Manager to approve annual project fees notified under the Master Agreement for a period of up to ten years.

DISCUSSION

The Midpeninsula Regional Open Space District (District) currently holds a Routine Maintenance Agreement (RMA) with the California Department of Fish and Wildlife (CDFW) and annually notifies CDFW for projects under the RMA (see Attachment 1 2024 fee schedule). Unfortunately, this agreement type does not cover the full breadth of work routinely undertaken by the District, resulting in the need for additional fees and agreements (per project). RMA's have a term of five years or less, while master agreements can be for much longer, usually ten years. The District's sister agency, the East Bay Regional Park District recently switched from an RMA to a Master Agreement to provide coverage for a greater variety of project types, for a longer term, and to ensure standardized review periods and avoidance and minimization measures.

For the purposes of permitting and project implementation efficiencies, the General Manager is recommending that the District apply for and operate under a new Master Agreement that would replace the existing RMA. This will allow regulatory permitting coverage for more project types and activities, including (but not limited to) culvert maintenance and replacement, road and trail drainage repairs and upgrades, sediment and debris removal, conservation grazing infrastructure maintenance and improvements, aquatic habitat restoration in ponds, creeks and wetlands, planting of native vegetation, invasive species removal, small scale facility improvements, new bridges, bridge replacement and relocation, and road decommissioning. This recommendation comes from ongoing multi-year discussions with CDFW during Project 80034-44 Programmatic State and Federal Environmental Permitting.

The base fee to apply for the 10-year Master Agreement is \$111,037.25. The current annual fee is \$9,252.25 plus \$926.25 for each project the agreement covers for that year (Attachment 1). The term “projects” as used under the Master Agreement includes some of the land management activities that are listed in the annual Capital Improvement and Action Plan (CIAP) and a multitude of routine maintenance and restoration activities that are covered under broader operating budgets. The number of projects notified annually varies and in recent years has ranged from 50 to 75. The total annual fee based on 50 to 75 projects would be between \$55,565 and \$78,721 annually, varying each year depending on the number of projects with standard increases in costs over time since CDFW may adjust its annual and per project fees based on inflation and other factors.

BUDGET / FISCAL IMPACT

The current fiscal year budget contains:

- sufficient funds.
- insufficient funds; the next quarterly budget update will include a reallocation of unspent funds from other project budgets to cover for this expenditure.
- insufficient funds; approval of this item requires a fiscal year budget augmentation.
- future fiscal year budgets will include additional funds to complete the contracted work.

Measure AA

- No, this contract is not part of a Measure AA project.
- Yes, this contract is part of a Measure AA project.

PROCUREMENT PROCESS AND SELECTION

No procurement process or consultant selection is part of this item. CDFW is the regulatory agency to which permit fees must be paid.

PRIOR BOARD ACTION SUPPORTING THE PROJECT

In April of 2019 ([R-19-54](#) and [minutes](#)) the Board approved a contract with Horizon Water and Environment (now Montrose) to provide state and federal waters environmental permitting services. As part of that multi-year work effort and numerous discussions with CDFW, it is now recommended that the District apply for a Master Agreement for permitting efficiencies.

PUBLIC NOTICE

Public notice was provided as required by the Brown Act.

CEQA COMPLIANCE

This item is not a project subject to the California Environmental Quality Act.

NEXT STEPS

If the Board approves the General Manager's recommendations, the District will apply for a Master Agreement, work with CDFW to issue that agreement and anticipates using the agreement for projects beginning in calendar year 2025 for a period of up to ten years.

Attachment(s)

1. Pages 5-6 from the 2024 CDFW Lake and Streambed Alteration Agreements and Fees document showing Routine Maintenance and Master Permit Fees

Responsible Department Head:
Kirk Lenington, Natural Resources

Prepared by / Contact person:
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Agreement for Routine Maintenance

Fee if the term of the agreement is five years or less:

\$4,443.00 base fee, plus \$369.75 for each maintenance project completed per calendar year.

Fee if the term of the agreement is longer than five years:

\$8,883.75 base fee, plus \$369.75 for each maintenance project completed per calendar year.

Fee submittal: The base fee shall be submitted with the notification, and the project fee shall be submitted as specified in the agreement.

Master Agreement

Fee: \$111,037.25 base fee, plus:

An annual fee of \$9,252.25, unless the department specifies otherwise.

\$926.25 for each project the agreement covers, unless the department specifies otherwise.

Fee submittal: The base fee shall be submitted with the notification. The annual fee and project fee shall be submitted as specified in the agreement.

Timber Master Agreement

Pursuant to subdivision (c) of Section 4629.6 of the Public Resources Code, no fee shall be required if the department received the notification after July 1, 2013. This includes a notification made to the department pursuant to Section 1602 or Section 1611 of the Fish and Game Code.

Additional Fee for Marijuana Cultivation Sites That Require Remediation

If the purpose of an agreement, or major amendment to an agreement, is to remediate a marijuana cultivation site, the entity shall submit the applicable fee below, which shall be in addition to the fee for the agreement or major amendment, in accordance with subdivision (d) of Section 12029 of the Fish and Game Code.

Fee:

\$3,948.50 if the total remediation area is less than or equal to 1,000 square feet as determined by the department.

\$6,580.50 if the total remediation area is greater than 1,000 square feet as determined by the department.

Fee submittal: The fee specified above shall be submitted with the notification or amendment request by separate check or other method of payment.

Extensions for Agreements

To request an extension for an existing agreement, complete an Extension Request Form, and submit to the appropriate department Regional office with the proper fee. An extension request must be made prior to expiration date of the agreement. An extension is not an amendment.

Fee: \$739.50.

Fee submittal: The fee specified above shall be submitted with the request for an extension.

Amendments

The holder of a Lake or Streambed Alteration Agreement may request the department to amend the agreement, provided the request is submitted to the department in writing prior to the agreement's expiration. To request an amendment for an existing agreement, complete an Amendment Request Form, and submit to the appropriate department Regional office with the proper fee. A project may not be added to an agreement by amendment unless the agreement specifies otherwise.

Minor Amendments -

Fee: \$554.00.

Major Amendments -

Fee: \$1,849.25.

Fee submittal: The fee specified above shall be submitted with the request for an amendment.

California Environmental Quality Act (CEQA)

When the department is required to act as lead agency to administer and enforce Sections 1600-1616 of the Fish and Game Code, the department may charge and collect a reasonable fee from the entity to recover its estimated CEQA-related costs in accordance with Section 21089 of the Public Resources Code. The department may recover its estimated CEQA-related costs by collecting from the entity one or more deposits. The amount of the first deposit shall be at least \$1,500. The department shall refund any unused deposit to the entity.

Payment of Fees

The department may refuse to process a notification, or a request for an extension, or a request for a minor or major amendment until the department receives the proper fee or fees.

Method of Payment.

Any fee specified herein shall be made to the Department of Fish and Wildlife by check, money order, or credit card accepted by the department.

To pay a fee by credit card, the department's Credit Card Payment Authorization Form (DFW 1443b (8/15)) shall be completed in full and submitted to the department with the notification form, request for an extension, or request for a minor or major amendment, unless the fee is paid in person at one of the department region offices. The form is available on the internet at: