



Topic: **Authority Board Agenda Item 4-5** **2018 July 16**

Subject: **RDJT Associates, Inc Environmental Services Contract**

Requested Action:

Consider approval of a contract with RDJT Associates, Inc. for environmental planning and permitting services and to authorize the General Manager to sign.

Detailed Description/Background:

The Sites Project Authority has been contracting for the services of the Environmental Planning and Permitting Manager (EPP) position through ICF. This action would remove the EPP services from the existing ICF contract and move them into a new contract with RDJT Associates, Inc (Rob Thomson).

Prior Authority Board Action:

None.

Fiscal Impact/Funding Source:

No budget impact. The cost for these services are included in the approved Phase 1 workplan and the approved reprioritized FY 2018 budget for the Reservoir Committee.

Staff Contact:

Joe Trapasso

Attachments:

Attachment A – Draft RDJT Associates, Inc. Contract

**Sites Project Authority – Program Operations Manager Services
Independent Contractor Agreement**

This Agreement is made between the Sites Project Authority ("Authority") with a principal place of business at 122 Old Highway 99 West Maxwell, CA 95955 and RDJT Associates, Inc ("Contractor"), with a principal place of business at 292 Arboleda Road, Santa Barbara, CA 93110.

1. Services to Be Performed

- 1.1. Contractor agrees to perform the services described in Exhibit A (the “services”), which is attached to this Agreement. The services shall be performed by Robert Thomson, who is an employee of the Contractor.
- 1.2. Contractor’s performance under the criteria defined in Exhibit A, will be factored into any decision by the Authority whether to extend or renew this Agreement beyond the completion of Phase 1.
- 1.3. Nothing contained in this Agreement shall limit the ability of the Contractor to perform the same or similar services for any other entity so long as such services do not create a conflict of interest for the Contractor.

2. Payment

- 2.1. Services: In consideration for the services to be performed by Contractor, Authority agrees to pay Contractor a fixed fee of \$26,167 per month Should this Agreement be executed after the start of a month or terminated before a month’s end, the monthly amount shall be prorated. Should the Authority determine that the services performed by the Contractor is more appropriately described as less than the monthly requirement, the Contractor rate shall be \$250.00 per hour. Contractor shall be paid within 60 days after the Contractor submits an invoice to Authority.
- 2.2. Expenses: Contractor shall be responsible for all expenses incurred while performing services under this Agreement.

The Authority will reimburse Contractor for expenses directly related to the Sites Project and other Authority business. Reimbursement for air travel or relevant conferences require the General Manager’s prior approval.

For vehicle use by Contractor, the Authority will reimburse Contractor at the published IRS Standard Mileage Rate of 53.5 ¢ /mile.

3. Term of Agreement

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3.1. This agreement will become effective on August 01, 2018 and will terminate within three years of the effective date, unless amended, or the date a party terminates the Agreement, whichever is earliest.

3.2. Either party may terminate this Agreement at any time by giving 30 days' written notice to the other party of the intent to terminate.

3.3. The Authority may terminate this Agreement at any time without notice if it is determined that Contractor commits any material act of dishonesty, discloses any of the Confidential Information, acts with gross negligence or misconduct, unjustifiably neglects to perform the Services or acts in a manner that has a direct, substantial and adverse effect on the Authority. In the event of a Termination for Cause under this Paragraph, the Authority shall only be liable to compensate Contractor for the total amount of unpaid hours worked providing the Services up to the time of termination.

4. Independent Contractor

- 4.1. Status: Contractor is an independent contractor, and shall not be deemed an employee of the Authority. Contractor has the right to perform services for others during the term of this Agreement. Contractor is not authorized to enter into or commit the Authority to any agreements, and Contractor shall not represent himself as the agent or representative of the Authority, except as authorized in writing by the Authority's General Manager and as defined in the scope of services attached as Exhibit A.
- 4.2. Fringe Benefits: The Authority does not participate in any employee benefit plans. Contractor understands that Contractor is not eligible to participate in any employee pension, health, vacation pay, sick pay, or other fringe benefit plan of the Authority.
- 4.3. Unemployment Compensation: The Authority shall make no state or federal unemployment compensation payments on behalf of Contractor. Contractor will not be entitled to these benefits in connection with work performed under this Agreement.
- 4.4. Workers' Compensation: The Authority shall not provide workers' compensation insurance coverage on behalf of Contractor or Contractor's employees.

5. State and Federal Taxes

The Authority will not withhold FICA (Social Security and Medicare taxes) from Contractor's payments or make FICA payments on Contractor's behalf, make state or federal unemployment compensation contributions on Contractor's behalf, or

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withhold state or federal income tax from Contractor's payments. Contractor agrees to defend, indemnify, and hold the Authority harmless as to any claims or causes of action related to the payment of any federal, state, and local taxes.

Contractor shall pay all taxes incurred while performing services under this Agreement—including all applicable income taxes and, if Contractor is not a corporation, self-employment (Social Security) taxes. Upon demand, Contractor shall provide Authority with proof that such payments have been made.

6. Business Licenses, Permits, and Certificates

Contractor represents and warrants that Contractor will comply with all federal, state, and local laws requiring drivers and other licenses, business permits, and certificates required to carry out the services to be performed under this Agreement.

7. Indemnification

Contractor shall indemnify and hold the Authority and its officers, directors, employees and agents harmless from any claim, cause of action, loss or liability arising out of or related to acts or omissions of the Contractor in performing services under this Agreement.

8. Insurance

During the term of this Agreement, Contractor shall, at Contractor's sole expense, maintain vehicle liability, and other insurance in a minimum amount as required under California law, as deemed appropriate by the Authority. Contractor shall also maintain general liability insurance in an amount of not less than \$2 million for each occurrence. Contractor will provide evidence of such coverage upon request.

9. Dispute Resolution

If a dispute arises under this Agreement, the parties agree to first try to resolve the dispute with the help of a mutually agreed-upon mediator. Any costs and fees other than attorney fees associated with the mediation shall be shared equally by the parties. If it proves impossible to arrive at a mutually satisfactory solution through mediation, the parties agree to submit the dispute to a mutually agreed-upon arbitrator. Judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction to do so. Costs of arbitration, including attorney fees, will be allocated by the arbitrator.

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10. Applicable Laws

This Agreement will be governed by California law, without giving effect to conflict of laws principles.

11. Attorney Fees

If any suit, action, arbitration or proceeding is instituted to enforce any of the provisions of this Agreement, the prevailing party will be entitled to recover, in addition to costs and disbursements, its reasonable attorney's fees as determined by any court or arbitrator in which such action or proceeding is tried, heard or decided, including any appeal.

12. Confidentiality

Contractor acknowledges that it will be necessary for the Authority to disclose certain confidential and proprietary information to Contractor in order for Contractor to perform duties under this Agreement. Contractor acknowledges that disclosure to a third party or misuse of this proprietary or confidential information would irreparably harm the Authority. Accordingly, Contractor will not disclose or use, either during or after the term of this Agreement, any proprietary or confidential information of the Authority without the Authority's prior written permission except to the extent necessary to perform services on the Authority's behalf.

13. Proprietary Information

The product of all work performed under this Agreement ("Work Product"), including without limitation all notes, reports, documentation, drawings, computer programs, inventions, creations, works, devices, models, work-in-progress and deliverables will be the sole property of the Authority, and Contractor hereby assigns to the Authority all right, title and interest therein, including but not limited to all audiovisual, literary, moral rights and other copyrights, patent rights, trade secret rights and other proprietary rights therein. Contractor retains no right to use the Work Product and agree not to challenge the validity of the Authority's ownership in the Work Product.

14. Furnished Items

- 14.1. Authority-furnished Items: The Authority will provide office space for the Contractor's use in the Sites Project Office located in Maxwell California. The Authority will also provide ancillary and support functions, in addition to those supplied by Contractor as provided below, such as printers, copiers, internet,

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phone and IT services, and miscellaneous office supplies for the Contractor's use when the Contractor is performing the services of this Agreement.

- 14.2. Contractor-furnished Items - Vehicle, Equipment, and Materials: Contractor will furnish all vehicles and equipment used to provide the services required by this Agreement. At a minimum, this equipment shall include computers/laptops, peripherals such as printers and scanners, and a cellphone.

15. Additional Requirements

- 15.1. Exclusive Agreement: This is the entire Agreement between Contractor and the Authority.
- 15.2. Modifying the Agreement: This Agreement may be modified only by a writing signed by both parties.
- 15.3. No Partnership: This Agreement does not create a partnership relationship. Contractor does not have authority to enter into contracts on the Authority's behalf.
- 15.4. Assignment and Delegation: Neither Contractor nor the Authority may assign rights and may delegate duties under this Agreement.
- 15.5. Integration: This Agreement and Attachments is intended to be the final, complete, and exclusive statement of the terms of Contractor's terms of service to the Authority. This Agreement supersedes all other prior or contemporaneous agreements and statements, whether written or oral, express or implied, pertaining in any manner to the Services of Contractor to the Authority, and it may not be contradicted by evidence or any prior or contemporaneous statements or agreements. To the extent the practices, policies, or procedures of the Authority, now or in the future, apply to Contractor and are inconsistent with the terms of this Agreement, the provisions of this Agreement shall control.

IN WITNESS HEREOF, the Authority has caused this Agreement to be signed and executed in its behalf by its General Manager. It has also been executed by the president of RDJT Associates, Inc.

Authority

Contractor

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Jim Watson, General Manager
Sites Project Authority

Robert Thomson
RDJT Associates, Inc
Taxpayer ID: _____

Date: 2018 August

Date: 2018 August

Exhibits:

A Scope of Services

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Exhibit A: Scope of Services

- Plan, organize, staff, direct, control, assess and adjust all work provided by consultants under contract to perform the environmental planning and permitting technical activities and reports
- Review and recommend acceptance or revision of technical activities and reports relating to the environmental planning and permitting work efforts
- Review and recommend acceptance or revision of invoices and progress reports relating to the environmental planning and permitting work efforts
- Report progress, issues and potential solutions to the General Manager, Reservoir Committee and Authority Board.
- Coordinate with the other project leadership (engineering, communications, administration, real estate) to incorporate the environmental planning and permitting work efforts into other Project efforts
- Provide strategic and tactical advice to the General Manager and the Authority regarding project development.