



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Adopt Resolution Authorizing the City Manager to Execute Professional Services Agreement for Power Resource Planning Support with Robertson-Bryan, Inc. of Elk Grove (\$200,000)

MEETING DATE: March 19, 2014

PREPARED BY: Electric Utility Director

RECOMMENDED ACTION: Adopt a resolution authorizing the City Manager to execute a professional services agreement for power resource planning support with Robertson-Bryan, Inc. of Elk Grove in an amount not to exceed \$200,000.

BACKGROUND INFORMATION: In June 2012, the City Council approved a Professional Services Agreement (PSA) with Matthew Foskett Consulting, LLC for Electric Utility (EU) rate and resource consulting services, and to assist with the heavy workload associated with increasing Renewables Portfolio Standard (RPS) reporting requirements. The PSA expires March 31, 2014.

The EU faces upcoming RPS and Greenhouse Gas reporting requirements, in addition to a comprehensive rate study, review of several agreements related to solar project development, the Pacific Gas and Electric Interconnection Agreement, and a number of Northern California Power Agency governance agreements. Support services for these efforts are needed until such time as the EU can complete a thorough evaluation of staffing requirements.

Staff has determined Robertson-Bryan, Inc. is well-equipped to provide the power resource planning support services needed and recommends council approval of the PSA in an annual amount not to exceed \$200,000.

FISCAL IMPACT: No additional funding is required.

FUNDING AVAILABLE: Included in FY2013/14 Budget Account No. 160603. Additional funds to be budgeted in FY2014/15.



 Jordan Ayers
 Deputy City Manager/Internal Services Director



 Elizabeth A. Kirkley
 Electric Utility Director

PREPARED BY: Melissa Price, Rates & Resources Manager
 EAK/MP/lst

APPROVED: 

 Stephen Schwabauer, Interim City Manager

AGREEMENT FOR PROFESSIONAL SERVICES

ARTICLE 1 PARTIES AND PURPOSE

Section 1.1 Parties

THIS AGREEMENT is entered into on _____, 2014, by and between the CITY OF LODI, a municipal corporation (hereinafter "CITY"), and Robertson-Bryan, Inc. (hereinafter "CONTRACTOR").

Section 1.2 Purpose

CITY selected the CONTRACTOR to provide the services required in accordance with attached Scope of Services, Exhibit A, attached and incorporated by this reference.

CITY wishes to enter into an agreement with CONTRACTOR for power resource planning support (hereinafter "Project") as set forth in the Scope of Services attached here as Exhibit A. CONTRACTOR acknowledges that it is qualified to provide such services to CITY.

ARTICLE 2 SCOPE OF SERVICES

Section 2.1 Scope of Services

CONTRACTOR, for the benefit and at the direction of CITY, shall perform the Scope of Services as set forth in Exhibit A.

Section 2.2 Time For Commencement and Completion of Work

CONTRACTOR shall commence work pursuant to this Agreement, upon receipt of a written notice to proceed from CITY or on the date set forth in Section 2.6, whichever occurs first, and shall perform all services diligently and complete work under this Agreement based on a mutually agreed upon timeline or as otherwise designated in the Scope of Services.

CONTRACTOR shall submit to CITY such reports, diagrams, drawings and other work products as may be designated in the Scope of Services.

CONTRACTOR shall not be responsible for delays caused by the failure of CITY staff to provide required data or review documents within the appropriate time frames. The review time by CITY and any other agencies involved in the project shall not be

counted against CONTRACTOR's contract performance period. Also, any delays due to weather, vandalism, acts of God, etc., shall not be counted. CONTRACTOR shall remain in contact with reviewing agencies and make all efforts to review and return all comments.

Section 2.3 Meetings

CONTRACTOR shall attend meetings as may be set forth in the Scope of Services.

Section 2.4 Staffing

CONTRACTOR acknowledges that CITY has relied on CONTRACTOR's capabilities and on the qualifications of CONTRACTOR's principals and staff as identified in its proposal to CITY. The Scope of Services shall be performed by CONTRACTOR, unless agreed to otherwise by CITY in writing. CITY shall be notified by CONTRACTOR of any change of Project Manager and CITY is granted the right of approval of all original, additional and replacement personnel at CITY's sole discretion and shall be notified by CONTRACTOR of any changes of CONTRACTOR's project staff prior to any change.

CONTRACTOR represents it is prepared to and can perform all services within the Scope of Services (Exhibit A) and is prepared to and can perform all services specified therein. CONTRACTOR represents that it has, or will have at the time this Agreement is executed, all licenses, permits, qualifications, insurance and approvals of whatsoever nature are legally required for CONTRACTOR to practice its profession, and that CONTRACTOR shall, at its own cost and expense, keep in effect during the life of this Agreement all such licenses, permits, qualifications, insurance and approvals, and shall indemnify, defend and hold harmless CITY against any costs associated with such licenses, permits, qualifications, insurance and approvals which may be imposed against CITY under this Agreement.

Section 2.5 Subcontracts

Unless prior written approval of CITY is obtained, CONTRACTOR shall not enter into any subcontract with any other party for purposes of providing any work or services covered by this Agreement.

Section 2.6 Term

The term of this Agreement commences on April 1, 2014 and terminates upon the completion of the Scope of Services or on April 1, 2015, whichever occurs first.

Section 2.7 Option to Extend Term of Agreement

At its option, City may extend the terms of this Agreement for an additional two (2) one (1)-year extensions; provided, City gives Contractor no less than thirty (30) days written notice of its intent prior to expiration of the existing term. In the event City exercises any option under this paragraph, all other terms and conditions of this Agreement continue and remain in full force and effect.

The total duration of this Agreement, including the exercise of any option under this paragraph, shall not exceed three (3) years.

ARTICLE 3
COMPENSATION

Section 3.1 Compensation

CONTRACTOR's compensation for all work under this Agreement shall conform to the provisions of the Fee Proposal, attached hereto as Exhibit B and incorporated by this reference.

CONTRACTOR shall not undertake any work beyond the scope of this Agreement unless such additional work is approved in advance and in writing by CITY.

Section 3.2 Method of Payment

CONTRACTOR shall submit invoices for completed work on a monthly basis, or as otherwise agreed, providing, without limitation, details as to amount of hours, individual performing said work, hourly rate, and indicating to what aspect of the Scope of Services said work is attributable. CONTRACTOR's compensation for all work under this Agreement shall not exceed the amount of the Fee Proposal.

Section 3.3 Costs

The Fee Proposal shall include all reimbursable costs required for the performance of the Scope of Services. Payment of additional reimbursable costs considered to be over and above those inherent in the original Scope of Services shall be approved in advanced and in writing, by CITY.

Section 3.4 Auditing

CITY reserves the right to periodically audit all charges made by CONTRACTOR to CITY for services under this Agreement. Upon request, CONTRACTOR agrees to furnish CITY, or a designated representative, with necessary information and assistance needed to conduct such an audit.

CONTRACTOR agrees that CITY or its delegate will have the right to review, obtain and copy all records pertaining to performance of this Agreement.

CONTRACTOR agrees to provide CITY or its delegate with any relevant information requested and shall permit CITY or its delegate access to its premises, upon reasonable notice, during normal business hours for the purpose of interviewing employees and inspecting and copying such books, records, accounts, and other material that may be relevant to a matter under investigation for the purpose of determining compliance with this requirement. CONTRACTOR further agrees to maintain such records for a period of three (3) years after final payment under this Agreement.

ARTICLE 4 **MISCELLANEOUS PROVISIONS**

Section 4.1 Nondiscrimination

In performing services under this Agreement, CONTRACTOR shall not discriminate in the employment of its employees or in the engagement of any sub CONTRACTOR on the basis of race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, age, or any other criteria prohibited by law.

Section 4.2 ADA Compliance

In performing services under this Agreement, CONTRACTOR shall comply with the Americans with Disabilities Act (ADA) of 1990, and all amendments thereto, as well as all applicable regulations and guidelines issued pursuant to the ADA.

Section 4.3 Indemnification and Responsibility for Damage

CONTRACTOR to the fullest extent permitted by law, shall indemnify and hold harmless CITY, its elected and appointed officials, directors, officers, employees and volunteers from and against any claims, damages, losses, and expenses (including reasonable attorney's fees), arising out of performance of the services to be performed under this Agreement, provided that any such claim, damage, loss, or expense is caused by the negligent acts, errors or omissions of CONTRACTOR, any subcontractor employed directly by CONTRACTOR, anyone directly or indirectly employed by any of them, or anyone for whose acts they may be liable, except those injuries or damages arising out of the active negligence of the City of Lodi or its officers or agents.

Section 4.4 No Personal Liability

Neither the City Council, nor any other officer or authorized assistant or agent or City employee shall be personally responsible for any liability arising under this Agreement.

Section 4.5 Responsibility of CITY

CITY shall not be held responsible for the care or protection of any material or parts of the work described in the Scope of Services prior to final acceptance by CITY, except as expressly provided herein.

Section 4.6 Insurance Requirements for CONTRACTOR

CONTRACTOR shall take out and maintain during the life of this Agreement, insurance coverage as set forth in Exhibit C attached hereto and incorporated by this reference.

Section 4.7 Successors and Assigns

CITY and CONTRACTOR each bind themselves, their partners, successors, assigns, and legal representatives to this Agreement without the written consent of the others. CONTRACTOR shall not assign or transfer any interest in this Agreement without the prior written consent of CITY. Consent to any such transfer shall be at the sole discretion of CITY.

Section 4.8 Notices

Any notice required to be given by the terms of this Agreement shall be in writing signed by an authorized representative of the sender and shall be deemed to have been given when the same is personally served or upon receipt by express or overnight delivery, postage prepaid, or three (3) days from the time of mailing if sent by first class or certified mail, postage prepaid, addressed to the respective parties as follows:

To CITY: City of Lodi
 221 West Pine Street
 P.O. Box 3006
 Lodi, CA 95241-1910
 Attn: Elizabeth Kirkley, Electric Utility Director

To CONTRACTOR: Robertson-Bryan, Inc.
 9888 Kent Street
 Elk Grove, CA 95624
 Attn: Stuart Robertson

Section 4.9 Cooperation of CITY

CITY shall cooperate fully and in a timely manner in providing relevant information it has at its disposal relevant to the Scope of Services.

Section 4.10 CONTRACTOR is Not an Employee of CITY

CONTRACTOR agrees that in undertaking the duties to be performed under this Agreement, it shall act as an independent contractor for and on behalf of CITY and not

an employee of CITY. CITY shall not direct the work and means for accomplishment of the services and work to be performed hereunder. CITY, however, retains the right to require that work performed by CONTRACTOR meet specific standards without regard to the manner and means of accomplishment thereof.

Section 4.11 Termination

CITY may terminate this Agreement, with or without cause, by giving CONTRACTOR at least ten (10) days written notice. Where phases are anticipated within the Scope of Services, at which an intermediate decision is required concerning whether to proceed further, CITY may terminate at the conclusion of any such phase. Upon termination, CONTRACTOR shall be entitled to payment as set forth in the attached Exhibit B to the extent that the work has been performed. Upon termination, CONTRACTOR shall immediately suspend all work on the Project and deliver any documents or work in progress to CITY. However, CITY shall assume no liability for costs, expenses or lost profits resulting from services not completed or for contracts entered into by CONTRACTOR with third parties in reliance upon this Agreement.

Section 4.12 Confidentiality

CONTRACTOR agrees to maintain confidentiality of all work and work products produced under this Agreement, except to the extent otherwise required by law or permitted in writing by CITY. CITY agrees to maintain confidentiality of any documents owned by CONTRACTOR and clearly marked by CONTRACTOR as "Confidential" or "Proprietary", except to the extent otherwise required by law or permitted in writing by CONTRACTOR. CONTRACTOR acknowledges that CITY is subject to the California Public Records Act.

Section 4.13 Applicable Law, Jurisdiction, Severability, and Attorney's Fees

This Agreement shall be governed by the laws of the State of California. Jurisdiction of litigation arising from this Agreement shall be venued with the San Joaquin County Superior Court. If any part of this Agreement is found to conflict with applicable laws, such part shall be inoperative, null, and void insofar as it is in conflict with said laws, but the remainder of this Agreement shall be in force and effect. In the event any dispute between the parties arises under or regarding this Agreement, the prevailing party in any litigation of the dispute shall be entitled to reasonable attorney's fees from the party who does not prevail as determined by the San Joaquin County Superior Court.

Section 4.14 City Business License Requirement

CONTRACTOR acknowledges that Lodi Municipal Code Section 3.01.020 requires CONTRACTOR to have a city business license and CONTRACTOR agrees to secure such license and pay the appropriate fees prior to performing any work hereunder.

Section 4.15 Captions

The captions of the sections and subsections of this Agreement are for convenience only and shall not be deemed to be relevant in resolving any question or interpretation or intent hereunder.

Section 4.16 Integration and Modification

This Agreement represents the entire understanding of CITY and CONTRACTOR as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered hereunder. This Agreement may not be modified or altered except in writing, signed by both parties.

Section 4.17 Contract Terms Prevail

All exhibits and this Agreement are intended to be construed as a single document. Should any inconsistency occur between the specific terms of this Agreement and the attached exhibits, the terms of this Agreement shall prevail.

Section 4.18 Severability

The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.

Section 4.19 Ownership of Documents

All documents, photographs, reports, analyses, audits, computer media, or other material documents or data, and working papers, whether or not in final form, which have been obtained or prepared under this Agreement, shall be deemed the property of CITY. Upon CITY's request, CONTRACTOR shall allow CITY to inspect all such documents during CONTRACTOR's regular business hours. Upon termination or completion of services under this Agreement, all information collected, work product and documents shall be delivered by CONTRACTOR to CITY within ten (10) calendar days.

CITY agrees to indemnify, defend and hold CONTRACTOR harmless from any liability resulting from CITY's use of such documents for any purpose other than the purpose for which they were intended.

Section 4.20 Authority

The undersigned hereby represent and warrant that they are authorized by the parties to execute this Agreement.

Section 4.21 Federal Transit Funding Conditions

If the box at left is checked, the Federal Transit Funding conditions attached as Exhibit D apply to this Agreement. In the event of a conflict between the terms of this Agreement or any of its other exhibits, and the Federal Transit Funding Conditions, the Federal Transit Funding Conditions will control.

IN WITNESS WHEREOF, CITY and CONTRACTOR have executed this Agreement as of the date first above written.

CITY OF LODI, a municipal corporation

ATTEST:

RANDI JOHL-OLSON
City Clerk

STEPHEN SCHWABAUER
Interim City Manager

APPROVED AS TO FORM:
JANICE D. MAGDICH, Interim City Attorney

ROBERTSON-BRYAN, INC.

By: _____


By: _____
Name: Stuart Robertson
Title: President

- Attachments:**
Exhibit A – Scope of Services
Exhibit B – Fee Proposal
Exhibit C – Insurance Requirements
Exhibit D – Federal Transit Funding Conditions (if applicable)

Funding Source: 160603.7323
(Business Unit & Account No.)

Doc ID:

CA:rev.02.2014

Exhibit A

Scope of Services

Power Resource Planning Support

Provide support as it relates to developing and implementing strategies and activities to optimize the Lodi Electric Utility's (LEU) position within the market in a fiscally responsible manner by helping develop and implement procedures to effectively improve LEU's resource and load portfolio within the acceptable risk and policy standards of the LEU including, but not limited to supporting the following activities:

Load Forecasting and Power Supply

- Review and analysis of LEU's load forecast as prepared by the Northern California Power Agency (NCPA) to ensure accurate assumptions with respect to load growth, energy efficiency, etc. and determination of power supply requirements
- Modeling, analyzing and forecasting LEU load patterns and resource utilization
- Review and reconciliation of NCPA power supply budget and monthly billings, including review of cost allocation factors and assumptions

Resource Adequacy

- Review and analysis of LEU's energy portfolio to ensure adequate system resource adequacy requirements are met and provide recommendations for capacity procurement as required by the California Independent System Operator (CAISO)

CAISO and Transmission Issues

- Review and analysis of financial impacts to the LEU as a result of CAISO regulations, recommendations for cost containment strategies and review of interconnection issues impacting the LEU
- Representation of the LEU as it relates to Transmission Agency of Northern California (TANC) activities under existing and future agreements/contracts

Greenhouse Gas Program

- Review climate change regulations and ensure compliance with State Greenhouse Gas Program requirements including participation in the Cap & Trade Program and annual reporting requirements

Renewables Portfolio Standard (RPS)

- Review of existing RPS resources and review of opportunities for additional RPS resources

- Review, calculation and tracking of LEU requirements in accordance with California Energy Commission (CEC) guidelines, provide guidance and recommendations regarding future compliance obligations, and assist with annual reporting requirements

Economic Analysis and Market Purchases

- Perform technical and economic analysis of resource options; acquire and evaluate market survey data and potential opportunities for power/fuel purchases and project participation

Contracts

- Review and negotiation of contracts and associated amendments, including but not limited to NCPA governance agreements and others (i.e., interconnection, power purchase, etc.)

Training

- Provide on-site training for existing and new staff in the areas of energy resource planning

Meetings and Presentations

- Attend meetings as needed and prepare/provide/deliver information including, but not limited to: NCPA, TANC, City of Lodi Risk Oversight Committee, and Lodi City Council

Contractor and City will agree to who Contractor assigns as the Project Manager to represent Contractor during the day-to-day work under this Agreement, as identified in the Scope of Services above. If circumstances cause the substitution of the Project Manager, the assignment of any new or replacement personnel will be subject to prior written approval of the City. Contractor, at City's request, shall promptly remove personnel who City finds do not perform the requested Scope of Services in an acceptable manner to the City.

Exhibit B

Fee Proposal

RBI will provide staff support to Lodi Electric Utility (LEU) related to developing and implementing strategies within the power as described further in Exhibit A. Billings for these services shall not exceed \$200,000 without express written authorization from LEU.

RBI will provide additional services at the request of LEU upon mutual concurrence in an additional scope of work and budget.

RBI will bill for this services monthly on a time and expense basis according to the attached 2014 fee schedule.



2014 FEE SCHEDULE

Robertson-Bryan, Inc. (RBI) will invoice clients for hourly work based on the following hourly rates.

| PROFESSIONAL SERVICES | RATE/HOUR |
|---------------------------------------|-----------|
| ◆ Principal Engineer/Scientist | \$225.00 |
| ◆ Resource Director | \$205.00 |
| ◆ Chief Engineer/Scientist/Consultant | \$200.00 |
| ◆ Senior Engineer/Scientist II | \$190.00 |
| ◆ Senior Engineer/Scientist I | \$180.00 |
| ◆ Project Engineer/Scientist II | \$170.00 |
| ◆ Project Engineer/Scientist I | \$150.00 |
| ◆ Staff Engineer/Scientist II | \$135.00 |
| ◆ Staff Engineer/Scientist I | \$120.00 |
| ◆ Graphics/GIS | \$120.00 |
| ◆ Technical Analyst | \$95.00 |
| ◆ Administrative Assistant | \$80.00 |
| ◆ Intern | \$55.00 |

Hourly rates increased by twenty-five percent (25%) for depositions, trials, and hearings. Rates are subject to indexing using the US Bureau of Labor Statistics for the Western Urban Region as of November 16, of each year.

INVOICING AND PAYMENTS

RBI issues invoices on a monthly basis for all work performed. Payment is due upon receipt of the invoice.

A RESOLUTION OF THE LODI CITY COUNCIL AUTHORIZING
THE CITY MANAGER TO EXECUTE A PROFESSIONAL
SERVICES AGREEMENT FOR POWER RESOURCE
PLANNING SUPPORT WITH ROBERTSON-BRYAN, INC.

WHEREAS, in June 2012, the City Council approved a Professional Services Agreement (PSA) with Matthew Foskett Consulting, LLC for Electric Utility (EU) rate and resource consulting services in an amount not to exceed \$120,000; and

WHEREAS, in 2013, that PSA was amended to continue to provide support until a Rates and Resources Manager was hired and later to assist with the heavy workload associated with increasing Renewables Portfolio Standard (RPS) reporting requirements; and

WHEREAS, the PSA with Matthew Foskett Consulting, LLC expires March 31, 2014; and

WHEREAS, the EU is currently facing upcoming RPS and Greenhouse Gas reporting requirements, in addition to completing a comprehensive rate study and working through the review of several agreements related to a solar project development, the Pacific Gas and Electric Interconnection Agreement, and a number of Northern California Power Agency governance agreements; and

WHEREAS, support services for these efforts are needed until such time as the EU can complete a thorough evaluation of staffing requirements; and

WHEREAS, staff has determined Robertson-Bryan, Inc. is well-equipped to provide the power resource planning support services needed and recommends Council approval of the PSA in an annual amount not to exceed \$200,000; and

WHEREAS, funding is available in the FY2013/14 Budget and additional funds will be budgeted for FY2014/15.

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby authorize the City Manager to execute a Professional Services Agreement with Robertson-Bryan, Inc., of Elk Grove, for power resource planning support in an annual amount not to exceed \$200,000.

Dated: March 19, 2014

I hereby certify that Resolution No. 2014-39 was passed and adopted by the City Council of the City of Lodi in a regular meeting held March 19, 2014, by the following vote:

- AYES: COUNCIL MEMBERS – Hansen, Johnson, Mounce, Nakanishi, and Mayor Katakian
- NOES: COUNCIL MEMBERS – None
- ABSENT: COUNCIL MEMBERS – None
- ABSTAIN: COUNCIL MEMBERS – None


RANDI JOHL-OLSON
City Clerk