



Topic: **Reservoir Committee Agenda Item 4-4 2018 March 19**

Subject: **Independent Municipal Financial Advisor**

Requested Action:

Award and execute a contract to Montague DeRose and Associated, LLC. for Professional Municipal Financial Advisory Services with the initial task order #1 in an amount not to exceed \$75,000; which is less than the budgeted amount, effective upon contract award through March 31, 2022.

Detailed Description/Background:

A request for proposals for Independent Registered Municipal Advisor Services was issued to 18 qualified firms. It was also posted on a national dissemination site, Onvia, a database of government contracts, and to the Sites Project website. Five proposals were received and evaluated by staff. Staff recommended the top three firms be interviewed. The three firms were interviewed on March 9th. The interview panel consisting of two Authority Board and two Reservoir Committee members voted 4 to 0 to selected Montague DeRose and Associates, LLC to recommend to the Reservoir Committee and Authority Board for a Municipal Advisor Services contract pending completion of reference checks and legal review of proposed contract.

The Sites Reservoir Committee will consider this recommendation at their March 16, 2018 meeting.

Prior Authority Board Action:

None.

Fiscal Impact/Funding Source:

The current, approved, Phase 1 budget and 2018 budget includes funding for both task order #1 and an estimated amount for task order #2.

Staff Contact:

Joe Trapasso

Attachments:

Attachment 4-4 – Contract for Professional Municipal Financial Advisory Services

PROFESSIONAL SERVICES CONTRACT

1. PARTIES:

The parties to this contract are the Sites Project Authority, a California joint powers authority, (the Authority) and Montague DeRose and Associates, a California Limited Liability Company (Contractor).

2. INCORPORATION:

The terms, conditions, and representations set forth in the Authority's certain *Request for Proposals: Independent Registered Municipal Advisor Services, RFP No. 17-02* (the "RFP") and the Contractor's February 23, 2018, response thereto in the form of that certain *Response to Request for Proposals for Financial Advisory Services* (the "Proposal"), are the basis for this contract and are therefore incorporated herein by reference. In the event of a conflict between the terms of the RFP or the Proposal on one hand, and this contract on the other, the terms of this contract shall prevail.

3. SCOPE OF SERVICES:

(a) The scope of services to be provided by Contractor is described in Section 3.0 of the RFP as Task 1- Financial Plan Development, Task 2- Financing Plan Implementation for Phases 1 and 2 (interim financing), Task 3- Financing Plan Update and Implementation for Phases 3 and 4 (construction financing), and Other Services (optional) (the "Scope" or "Scope of Work"). Task 1 of the Scope of Work is authorized with the signing of this contract and is restated in Attachment A hereto.

(b) If and when the Authority is prepared to expand the Scope of this contract to include additional tasks described in the RFP, the Authority and Contractor shall execute a new task order pursuant to which the Authority will specifically authorize the Contractor to undertake such additional task(s).

4. PAYMENT:

(a) Payment for services. The Authority shall pay for services performed in accordance with this contract according to the payment and fee schedule contained in Attachment B.

(b) Reimbursement of expenses. Contractor will be reimbursed for actual, reasonable and necessary expenses incurred in the performance of services in accordance with the expense reimbursement schedule included in Attachment B.

(c) Not to exceed amount. Task 1 payment shall not exceed \$75,000.

(d) Invoices. All invoices for services will be submitted on a monthly basis to the Contract Manager. The Authority generally will process and pay bills within thirty-five (35) days from receipt. However, please note that the Authority Board of Directors are required to approve all invoices for payment and do so at their monthly Board meetings. The Authority Board meets on the third Monday of the month unless there is a holiday on that Monday and then they meet the fourth

Monday of the month. Invoices are required to be submitted two weeks prior to an Authority Board meeting to be processed and considered for approval at the monthly Authority Board meeting. Contractor shall submit monthly invoices for all reimbursable expenses, including full documentation of each expense incurred. Payments are subject to a final audit upon completion of services or other termination of this contract.

(e) **Audit of Records.** Contractor shall maintain complete and accurate records of all time billed for services, work products, disbursements and other cost items charged to the Authority for establishing the basis of an invoice, for a minimum of four (4) years from the date of final payment to Contractor. All such records shall be clearly identifiable. Contractor shall allow Authority representative to inspect, examine, copy and audit such records during regular business hours upon 24 hours' notice.

5. TIME FOR PERFORMANCE:

(a) Contractor will complete all services on this contract, including any remaining Scope of Work tasks beyond Task 1, by March 31, 2022.

(b) **Extension of time for unforeseen circumstances.** In the event that the Contractor is unable to meet the completion date or schedule of services, if any, due to circumstances beyond Contractor's reasonable control, such as war, riots, strikes, lockouts, work slowdown or stoppage, except strikes, lockouts, or work slowdown or stoppage of Contractor's employees or subcontractors, acts of God, such as floods or earthquakes, and electrical blackouts or brownouts, Contractor shall inform the Contract Manager of the additional time required to perform the work and the Contract Manager may adjust the schedule.

6. COMPLIANCE WITH APPLICABLE LAWS AND STANDARD OF PERFORMANCE:

Contractor's services shall be performed in accordance with generally accepted professional practices and principles, in adherence to the Fiduciary Duty and related duties and obligations owed to the Authority as set forth in Attachment C, and in a manner consistent with the level of care and skill ordinarily exercised by members of Contractor's profession currently practicing under similar conditions. Contractor shall comply with all applicable federal, state, and local laws relating to the Scope of work. Whenever the Scope of Work requires or permits approval by the Authority, it is understood to be approval solely for the purposes of conforming to the requirements of the Scope of Work and not acceptance of any professional or other responsibility for the work. Such approval does not relieve the Contractor of responsibility for complying with the standard of performance or laws, regulations, industry standards, or from liability for damages caused by negligent acts, errors, omissions, noncompliance with industry standards, or the willful misconduct of Contractor or its subcontractors. By delivery of completed work, Contractor certifies that the work conforms to the requirements of this contract and all applicable federal, state and local laws. If Contractor is retained to perform services requiring a license, certification, registration or other similar requirement under California law, Contractor shall maintain that license, certification, registration or other similar requirement throughout the term of this contract.

7. INDEPENDENT CONTRACTOR:

Contractor is an independent contractor. Neither Contractor nor any of Contractor's officers, employees, agents or subcontractors, if any, is an employee of the Authority by virtue of this contract or performance of any work under this contract.

8. ASSIGNMENT:

Contractor shall not assign or transfer voluntarily or involuntarily any of its rights, duties, or obligations under this contract without the express written consent of the Authority in each instance.

9. SUBCONTRACTORS:

Contractor will perform the work personally or through Contractor's employees. Contractor may subcontract work only upon prior approval of the Authority and in compliance with provisions of the Authority's Small Contractor Outreach and Opportunities Program, if the Authority determines that the program provisions are applicable.

10. CONTRACTOR'S EMPLOYEES:

(a) Immigration Reform and Control Act of 1986. Contractor is aware of the requirements of the Immigration Reform and Control Act of 1986 and shall comply with those requirements, including, but not limited to, verifying the eligibility for employment of all of Contractor's employees, agents and subcontractors that are included in this contract.

(b) Limitation of Authority Liability. The payment made to Contractor pursuant to this contract shall be the full and complete compensation to which Contractor and Contractor's officers, employees, agents and subcontractors are entitled for performance of any work under this contract. Neither Contractor nor Contractor's officers or employees are entitled to any salary or wages, or retirement, health, leave or other fringe benefits applicable to employees of the Authority. The Authority will not make any federal or state tax withholdings on behalf of Contractor. The Authority shall not be required to pay any workers' compensation insurance on behalf of Contractor.

(c) Indemnification for Employee Payments. Contractor agrees to defend and indemnify the Authority for any obligation, claim, suit or demand for tax, retirement contribution including any contribution to the Public Employees Retirement System (PERS), social security, salary or wages, overtime payment, or workers' compensation payment which the Authority may be required to make on behalf of Contractor or any employee of Contractor, or any employee of Contractor construed to be an employee of the Authority, for work done under this contract. This is a continuing obligation that survives the termination of this contract.

11. FAIR EMPLOYMENT PRACTICES:

(a) Civil Rights Act. Contractor agrees to comply with Title VII of the Civil Rights Act of 1964, as amended, the California Fair Employment Practices Act, the Americans with Disabilities Act of 1990, any other applicable federal and state laws and regulations hereinafter enacted.

(b) Discrimination/Harassment. Contractor and its officers, employees, agents and subcontractors shall refrain from activity that constitutes harassment or discrimination, including, without limitation, sexual harassment. To the fullest extent permitted by law and without limitation by the provisions of Section 20 relating to insurance, the Contractor shall also indemnify, defend and hold harmless the Authority, and its directors, officers, employees and agents from and against all liability (including without limitation all claims, damages, penalties, fines, and judgments, associated investigation and administrative expenses, and defense costs, including but not limited to reasonable attorneys' fees, court costs, and costs of alternative dispute resolution) resulting from any claim of discrimination or harassment, including but not limited to sexual harassment, arising from the conduct of the Contractor or any of the Contractor's officers, employees, agents, licensees, or subcontractors. In the event of a discrimination or harassment complaint against any employee, agent, licensee or subcontractor of the Contractor or its subcontractors, the Contractor shall take immediate and appropriate action in response to such complaint, including, but not limited to termination or appropriate discipline of any responsible employee, agent, licensee or subcontractor. The provisions of this Section survive completion of the services or termination of the contract.

12. WORKPLACE CONDUCT AND BEHAVIOR:

Contractor and Contractor's officers, employees, agents and subcontractors shall comply with any of the Authority's rules and regulations governing work place safety, conduct, and behavior, for any portion of the work performed on the premises of the Authority or using Authority's facilities or equipment.

13. OWNERSHIP OF WORK PRODUCT:

Upon delivery, the work product, including without limitation, all original reports, writings, recordings, drawings, files, and detailed calculations developed under this contract are the property of the Authority. Contractor agrees that all copyrights which arise from creation of the work pursuant to this contract shall be vested in the Authority and waives and relinquishes all claims to copyright or other intellectual property rights in favor of the Authority. Authority acknowledges that its use of the work product is limited to the purposes contemplated by the scope of work and that the Contractor makes no representation of the suitability of the work product for use in or application to circumstances not contemplated by the Scope of Work.

14. FORMAT OF DOCUMENTS:

Documents submitted to the Authority in electronic format shall be formatted according to specifications provided by the Authority, or if not otherwise specified, in Microsoft Word, Excel, PowerPoint or other Microsoft Office Professional 2010 (or later version) format appropriate for the particular work product or, if directed by the Contract Manager, in Adobe Acrobat pdf format.

15. CHANGES IN WORK:

Consistent with the terms and conditions of Section 3(b) above, no payment for changed or additional work shall be made unless the changed or additional work has first been approved in writing by the Contract Manager and the parties have agreed upon the appropriate adjustment, if any, to the payment schedule and maximum payment amount for the changed or additional work. The Contract Manager may order changes or additions to the Scope of Work. Whether a change or addition to the Scope of Work is proposed by the Contractor or ordered by the Contract Manager, the parties shall in good faith negotiate an appropriate adjustment, if any, to the payment schedule and maximum payment for the changed or additional work. An approved change or addition, along with the payment adjustment, if any, will be effective upon an amendment to this contract executed by both parties. The amendment shall not render ineffective or invalidate unaffected portions of this contract.

16. CONFIDENTIALITY:

(a) Confidential Nature of Information. Contractor shall treat all information obtained from the Authority in the performance of this contract as confidential and proprietary to the Authority. Contractor shall treat all records and work product prepared or maintained by Contractor in the performance of this contract as confidential. Contractor warrants that it has systems in place to assure its compliance with applicable state and federal laws relating to the collection and management of personal and confidential information.

(b) Limitation on use and disclosure. Contractor agrees that it will not use any information obtained as a consequence of the performance of work for any purpose other than fulfillment of Contractor's Scope of Work. Contractor will not disclose any information prepared for the Authority, or obtained from the Authority or obtained as a consequence of the performance of work to any person other than the Authority, or its own employees, agents or subcontractors who have a need for the information for the performance of work under this contract unless such disclosure is specifically authorized in writing by the Authority.

(c) Security plan. Contractor shall prepare a security plan to assure that information obtained from the Authority or as a consequence of the performance of work is not used for any unauthorized purpose or disclosed to unauthorized persons. Contractor shall establish, implement, and maintain safeguards reasonably designed to ensure the security of personal and confidential information that could result in the unauthorized disclosure, misuse, alteration, destruction or other compromise of the information. Contractor shall provide to its employees, subcontractors, and any personnel working with Authority data, reasonable information security awareness training. Contractor shall immediately advise the Authority of any request for disclosure of information or of any actual or potential unauthorized disclosure of confidential or personal information. Contractor is responsible for taking reasonable responsive security and identity protection measures should an unauthorized disclosure occur at the sole cost to the Contractor.

(d) Survival. Contractor's obligations under this Section 16 shall survive the termination of this contract.

17. PROHIBITED INTEREST:

No official or employee of the Authority who is authorized in such capacity on behalf of the

Authority to negotiate, make, accept, or approve, or take part in negotiating, making, accepting, or approving this contract, shall become directly or indirectly interested in this contract or in any part thereof. No officer or employee of the Authority who is authorized in such capacity and on behalf of the Authority to exercise any executive, supervisory, or similar functions in connection with the performance of this contract shall become directly or indirectly interested personally in this contract or any part thereof.

18. CONFLICT OF INTEREST:

(a) Local Conflict of Interest Code Compliance. The Authority has determined, based on the scope of the services to be provided by Contractor under this contract, that this contract does not confer on Contractor or any of Contractor's employees the status of a "designated employee" or "Consultant" of the Authority for the purposes of the Authority's Conflict of Interest Code and the California Political Reform Act. This contract does not require or permit Contractor to make a governmental decision as specified in 2 Cal. Code of Regs. § 18700.3, subdiv. (a)(1), or serve in a staff capacity as specified in 2 Cal. Code of Regs. § 18700.3, subdiv. (a)(2).

(b) Disqualification. Contractor shall not make or participate in making or in any way attempt to use Contractor's position to influence a governmental decision in which Contractor knows or has reason to know Contractor has a direct or indirect financial interest other than the compensation promised by this contract. Contractor will not have such interest during the term of this contract. Contractor will immediately advise the Authority if Contractor learns of a financial interest of Contractor's during the term of this contract. If Contractor's participation in another Authority project would create an actual or potential conflict of interest, in the opinion of the Authority, the Authority may disqualify Contractor from participation in such other project during the term of this contract.

19. INDEMNIFICATION:

(a) To the fullest extent permitted by law, the Contractor shall (1) immediately defend, and (2) indemnify the Authority, and its directors, officers, and employees from and against all liabilities regardless of nature or type arising out of or resulting from Contractor's performance of services under this contract, or any negligent or wrongful act or omission of the Contractor or Contractor's officers, employees, agents, or subcontractors. Liabilities subject to the duties to defend and indemnify include, without limitation all claims, losses, damages, penalties, fines, and judgments; associated investigation and administrative expenses; defense costs, including but not limited to reasonable attorneys' fees; court costs; and costs of alternative dispute resolution. The Contractor's obligation to indemnify applies unless it is adjudicated that its liability was caused by the sole active negligence or sole willful misconduct of an indemnified party. If it is finally adjudicated that liability is caused by the comparative active negligence or willful misconduct of an indemnified party, the Contractor's indemnification obligation shall be reduced in proportion to the established comparative liability of the indemnified party.

(b) The duty to defend is a separate and distinct obligation from the Contractor's duty to indemnify. The Contractor shall be obligated to defend, in all legal, equitable, administrative, or special proceedings, with counsel approved by the Authority, the Authority and its directors,

officers, and employees, immediately upon tender to the Contractor of the claim in any form or at any stage of an action or proceeding, whether or not liability is established. An allegation or determination of comparative active negligence or willful misconduct by an indemnified party does not relieve the Contractor from its separate and distinct obligation to defend Authority. The obligation to defend extends through final judgment, including exhaustion of any appeals. The defense obligation includes an obligation to provide independent defense counsel if the Contractor asserts that liability is caused in whole or in part by the negligence or willful misconduct of the indemnified party. If it is finally adjudicated that liability was caused by the sole active negligence or sole willful misconduct of an indemnified party, Contractor may submit a claim to the Authority for reimbursement of reasonable attorneys' fees and defense costs.

(c) The review, acceptance or approval of the Contractor's work or work product by any indemnified party shall not affect, relieve or reduce the Contractor's indemnification or defense obligations. This Section 19 survives completion of the services or the termination of this contract. The provisions of this Section 19 are not limited by and do not affect the provisions of this contract relating to insurance.

20. INSURANCE:

(a) Requirement. Contractor shall procure and maintain during the period of performance of this contract and for 12 months following completion, insurance from insurance companies authorized to do business in the State of California, as set forth in this section. These policies shall be primary insurance as to the Authority so that any other coverage held by the Authority shall not contribute to any loss under Contractor's insurance.

General liability: (with coverage at least as broad as ISO form CG 00 01 10 01) coverage in an amount not less than \$4,000,000 general aggregate and \$2,000,000 per occurrence for general liability, bodily injury, personal injury, and property damage.

Automobile liability: (with coverage at least as broad as ISO form CA 00 01 10 01, for "any auto") coverage in an amount not less than \$2,000,000 per accident for personal injury, including death, and property damage.

Professional liability: (errors and omissions) for damage alleged to be as a result of errors, omissions or negligent acts of Contractor coverage in an amount not less than \$2,000,000 per claim and shall be maintained for 12 months following completion of contract.

Workers' compensation and employer's liability: coverage shall comply with the laws of the State of California, but not less than an employer's liability limit of \$1,000,000.

A deductible or retention may be utilized, subject to approval by the Authority. All policies that include a self-insured retention shall include a provision that payments of defense costs and damages (for bodily injury, property damage, personal injury or any other coverages included in the policy) by any party including additional insureds or insurers, shall satisfy the self-insured retention limits.

(b) Endorsements. The insurance policies shall be endorsed as follows:

For the commercial general liability insurance, the Authority (including its directors, officers, employees, and agents) shall be named as additional insured, and the policy shall be endorsed with a form equivalent to ISO form CG 20 10 10 93, that contains the provisions required by this contract.

Contractor's insurance is primary to any other insurance available to the Authority with respect to any claim arising out of this contract. Any insurance maintained by the Authority shall be excess of the Contractor's insurance and shall not contribute with it. The Contractor's endorsement of insurance shall include a waiver of any rights of subrogation against the Authority, and its directors, officers, employees and agents.

Contractor's insurance will not be canceled, limited, amended, reduced in coverage amount, or allowed to expire without renewal until after thirty (30) days' written notice has been given to the Authority, or after ten (10) days' written notice in the case of cancellation for non-payment of premium.

(c) Qualifications of Insurer. The insurance shall be provided by an acceptable insurance provider, as determined by the Authority, which satisfies the following minimum requirements: An insurance carrier admitted to do business in California and maintaining an agent for process within the state. Such insurance carrier shall maintain a current A.M. Best rating classification of "A-" or better and a financial size of "\$10 million to \$24 million (Class V) or better", or a Lloyds of London program provided by syndicates of Lloyds of London and other London insurance carriers, providing all participants are qualified to do business in California and the policy provides for an agent for process in the state. Workers' Compensation and Employer's Liability shall be provided by an A-V rated carrier or by the California State Compensation Fund. If provided by a carrier other than California State Compensation Fund, Contractor shall provide proof of the carrier's A-V rating to Authority.

(d) Provision of Insurance Prior to Commencement of Services. Before commencing any services, Contractor shall furnish certificates of insurance and endorsements affecting coverage on ISO forms that contain provisions required by this contract.

21. ACCIDENT REPORTS:

Contractor shall immediately report (as soon as feasible, but not more than 24 hours) to the Authority any accident or other occurrence causing injury to persons or property during the performance of this contract. If required by the Authority's Risk Manager, the report shall be made in writing and shall include, at a minimum: (a) the names, addresses, and telephone numbers of the persons involved, (b) the names, addresses and telephone numbers of any known witnesses, (c) the date, time and description of the accident or other occurrence.

22. COVENANT AGAINST CONTINGENT FEES:

Contractor agrees that its firm has not employed or retained any company or person, other than a bona fide employee working for Contractor, to solicit or secure this contract, and that Contractor has

not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon, or resulting from, the award or making of this contract. For breach or violation of this provision, the Authority shall have the right to terminate this contract without liability, or, in its discretion, to deduct from the contract price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fees, gift, or contingent fee.

23. TERMINATION OR ABANDONMENT:

(a) Authority's Rights. The Authority has the right to terminate or abandon any portion or all of the work by giving thirty (30) days' written notice. Upon receipt of a notice of termination, Contractor shall perform no further work except as specified in the notice. Before the date of termination, Contractor shall deliver to Authority all work product, whether completed or not, as of the date of termination and not otherwise previously delivered. The Authority shall pay Contractor for services performed in accordance with this contract before the date of termination. For time and material tasks performed, the Authority will pay for services rendered up the date of termination. For any work performed as a lump sum for services or by task and termination occurs before completion of the work or any defined task which according to the performance schedule was commenced before the notice of termination, the fee for services performed shall be based on an amount mutually agreed to by the Authority and Contractor for the portion of work completed in conformance with this contract before the date of termination. In addition, the Authority will reimburse Contractor for authorized expenses incurred and not previously reimbursed. The Authority shall not be liable for any fees or costs associated for the termination or abandonment except for the fees, and reimbursement of authorized expenses, payable pursuant to this section.

(b) Contractor's Rights. Contractor, if Contractor is not in default or breach, may terminate Contractor's obligation to provide further services under this contract upon thirty (30) days' written notice only in the event of a material default by the Authority, which default has not been cured within thirty (30) days following the written notice.

24. SUCCESSORS OR ASSIGNS:

All terms, conditions, and provisions of this contract shall apply to and bind the respective heirs, executors, administrators, successors, and assigns of the parties. Nothing in this paragraph is intended to affect the limitation on assignment.

25. DAMAGE OR LOSS OF EQUIPMENT OR FACILITIES:

General Obligation. Contractor shall pay to the Authority the replacement cost of any equipment or repair cost of any facilities provided by the Authority for Contractor's use in performance of services that is lost or damaged by Contractor or Contractor's officers, employees, agents or subcontractors.

26 ELECTRONIC COMMUNICATIONS:

During the course of this contract, communications may occur through sending, receiving or exchanging electronic versions of documents and e-mails using commercially available computer

software and Internet access. Contractor and the Authority acknowledge that the Internet is occasionally victimized by the creation and dissemination of so-called viruses, or similar destructive electronic programs. Contractor and the Authority view the issues raised by these viruses seriously and have invested in document and e-mail scanning software that identify and reject files containing known viruses. Contractor agrees to update its system with the software vendor's most current releases at regular intervals. Because of the virus scanning software, the respective computer systems of the parties may occasionally reject a communication. The parties acknowledge that this occurrence is to be expected as part of the ordinary course of business. Because the virus protection industry is generally one or two steps behind new viruses, neither party can guarantee that its respective communications and documents will be virus free. Occasionally, a virus will escape and go undetected as it is passed from system to system. Although each party will use all reasonable efforts to assure that its communications are virus free, neither party warrants that its documents will be virus free. Each party agrees to advise the other if it discovers a virus in its respective system that may have been communicated to the other party.

Contractor shall identify reasonably foreseeable internal and external risks to the privacy and security of personal information that could result in the unauthorized disclosure, misuse, alteration, destruction or other compromise of the information. Contractor shall regularly assess the sufficiency of any safeguards and information security awareness training in place to control reasonably foreseeable internal and external risks, and evaluate and adjust those safeguards in light of the assessment.

27. LAWS AND VENUE:

This contract and disputes arising out of or relating to the contract or the parties' relationship are governed by the laws of the State of California. Any action or proceeding arising out of or relating to the contract or the parties' relationship shall be brought in a state or federal court situated in the County of Colusa, State of California.

28. ADMINISTRATION:

(a) Contractor's principal place of business and agent for service of process. Contractor's principal place of business is 2801 Townsgate Road, Suite 221, Westlake Village, CA 91361. Contractor's agent for service of process is Doug Montague.

(b) Authority's Representative. The Authority's representative for administration of this contract is Joe Trapasso, who is the designated Contract Manager. The Authority may change the Contract Manager at any time upon notice to the Contractor.

(c) Contractor's Representative. The Contractor's representative for administration of this contract is Doug Montague, who is designated as the Project Manager. The Contractor may change the Project Manager upon written notice to and approval by the Contract Manager.

(d) Notices. Any notice or instrument required to be given or delivered by law or this contract shall be effective upon receipt thereof and shall be by personal service or delivered by depositing the same in any United States Post Office, registered or certified, postage prepaid, addressed to:

Sites Project Authority
122 Old Highway 99 West (courier)
P.O. Box 517 (USPS)
Maxwell, CA 95955

Attn: Joe Trapasso (Contract Manager)

Contractor:
Montague DeRose and Associates
2801 Townsgate Road, Suite 221
Westlake Village, CA 91361

Attn: Doug Montague (Project Manager)

Either party may change the address or identity of the person for notices under this paragraph by written notice to the other delivered in accordance with this paragraph.

(e) Routine Administrative Communications. Routine administrative communication required to be in writing may be by personal delivery, mail, facsimile transmission or electronic mail as agreed between the Contractor and Contract Manager.

29. INTEGRATION AND MODIFICATION:

This contract represents the entire understanding of the Authority 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 contract may not be modified, amended, or altered except in writing signed by the Authority and Contractor.

30. ADVICE OF COUNSEL:

The parties agree that they are aware that they have the right to be advised by counsel with respect to the negotiations, terms, and conditions of this contract, and that the decision of whether or not to seek the advice of counsel with respect to this contract is a decision which is the sole responsibility of each of the parties hereto. This contract shall not be construed in favor or against either party by reason of the extent to which each party participated in the drafting of the contract.

31. INDEPENDENT REVIEW:

Each party hereto declares and represents that in entering this contract it has relied and is relying solely upon its own judgment, belief and knowledge of the nature, extent, effect and consequence relating thereto. Each party further declares and represents that this contract is being made without

reliance upon any statement or representation not contained herein of any other party, or any representative, agent, or attorney of any other party.

32. TIME:

Time is of the essence in this contract. Any reference to days means calendar days unless otherwise specifically stated.

33. ASSIGNMENT OF ANTI-TRUST CLAIMS:

The Contractor offers and agrees to assign to the Authority all rights, title and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with § 16700) of Part 2 of Division 7 of the Business and Professions Code) arising from purchases of goods, services, or materials pursuant to the contract. This assignment shall become effective at the time the Authority tenders final payment to Contractor, without further acknowledgment by the parties. The Contractor shall have the rights set forth in Sections 4553 and 4554 of the Government Code.

34. TAXES:

The Contractor shall pay all applicable federal, state, and local excise, sales, consumer use, and other similar taxes required by law for the execution of the work.

35. SIGNATURES:

The individuals executing this contract represent and warrant that they have the legal capacity and authority to do so on behalf of their respective legal entities.

IN WITNESS WHEREOF, the parties have executed this contract on the following date.

Dated: _____

Sites Project Authority:

Contractor:

By: _____
Jim Watson
General Manager

By: _____
Doug Montague
Principal

ATTACHMENT A

SCOPE OF WORK

Contractor shall provide the following services:

Task 1- Financing Plan Development

1) Develop, with input from the Authority and related staff and consultants, the finance plan for approval by the Authority.

Prepare and maintain a schedule listing the primary tasks and key decision-making dates as milestones necessary to develop the financing plan and obtain approval by the Reservoir Committee and the Authority. Progress should be reported on at least a monthly basis.

It is anticipated the finance plan will need to be revised for subsequent approval after key Project milestones have been met. The schedule should identify the appropriate milestones that such revisions should occur. The cost to prepare subsequent revisions to the finance plan shall be included in the respective Tasks 2 and 3.

2) Development of the financing plan based on input from the Authority and Reservoir Committee is intended to include:

- Advise on governance structure and documents to identify potential changes related cost-effectively financing activities to be performed in each of the Project's phases and potentially to separately finance the hydropower.
- Advise on the financial impact and importance of the provisions of water sales agreements, including take and pay or take or pay, step-up and other financial provisions of such agreements, in structuring any tax-exempt water revenue bonds.
- Advise on structuring a tax-exempt water revenue bond program with the goal of obtaining the highest possible investment grade ratings.
- Advise on alternative financing and repayment structures. Currently, the Authority is interested in evaluating various repayment strategies such as water deliveries, water storage, or a hybrid method.
- Advise on the impact of construction risk on the financial plan and ways of mitigating such risk. The Authority will furnish an initial risk assessment and risk register for use in this activity.
- Evaluate the financial impact of the Authority and Reservoir Committee or issuer entering into water sales agreements with a variety of member and non- member governmental water agencies.
- Evaluate the financial impact of participation by other governmental entities, including, but not limited to Department of Water Resources and US Bureau of Reclamation.

3) Review solicited and unsolicited proposals made to the Authority after posting of an Independent Registered Municipal Advisor exemption letter.

4) Assist in the formulation of debt and investment policies and procedures, including preparation of local debt policies in accordance with Government Code Section 8855(i), Project financing plans, including presentations of alternative financial programs and strategies, taking into consideration appropriate debt structures, timing, impact on local agencies participating in the Project, budgeting, credit ratings, tax laws, and assessment of capital market conditions. Provide recommendations wherever requested.

5) Assist in the preparation and review of legal and financing documents in coordination with staff and other relevant parties.

ATTACHMENT B

PAYMENT and FEE SCHEDULE

1. Labor compensation for Task 1- Financing Plan Development shall be reimbursed based on the Hourly Rates table below. Contractor compensation for work related to Task 1 shall not exceed the amount indicated in Section 4(c) of this contract. Additional compensation for Task 1 will only be available to Contractor should the Authority and Contractor execute a contract change order pursuant to which the Authority specifically authorizes additional funds for completion of Task 1.
2. If other direct costs or travel are required, Contractor shall adhere to the requirements provided below under the “Reimbursements” section.

Hourly Rates

Principal	\$375
Managing Director	\$350
Senior Vice President	\$335
Vice President	\$325
Assistant Vice President	\$295
Associate	\$265
Analyst	\$250

REIMBURSEMENTS

1. Copying and report production expenses by outside copying or printing services, when necessary for the services are reimbursable at actual cost.
2. Federal Express and similar delivery services should be avoided without the prior approval of the Contract Manager. Charges for approved delivery services are reimbursable at actual cost.
3. Travel costs, including transportation and meals, will be reimbursed at actual cost subject to the Authority’s policy for reimbursement of travel and meal expenses for Authority employees. Any travel with an estimated expense of \$1,000 or more requires advance approval of the Contract Manager. Travel expenses incurred for services within the county of the home office of the Contractor or the Contractor’s employee or subcontractor incurring the travel expense are not reimbursable. Meals are not billable to the Authority, except for meals necessarily incurred in connection with approved travel. The Authority does not reimburse for cost of alcoholic beverages.
4. Detailed receipts are required for all reimbursements and are to be included in invoices for payment.

ATTACHMENT C

MUNICIPAL ADVISOR DISCLOSURES

Fiduciary Duty

Montague DeRose and Associates (“MDA”) is registered as a Municipal Advisor with the Securities and Exchange Commission (“SEC”) and the Municipal Securities Rulemaking Board (“MSRB”). As such, MDA has a Fiduciary Duty to the Sites Project Authority (the “Authority”) and must provide both a Duty of Care and a Duty of Loyalty that entails the following.

Duty of Care:

- a) exercise due care in performing its municipal advisory activities;
- b) possess the degree of knowledge and expertise needed to provide the Authority with informed advice;
- c) make a reasonable inquiry as to the facts that are relevant to the Authority’s determination as to whether to proceed with a course of action or that form the basis for any advice provided to the Authority; and
- d) undertake a reasonable investigation to determine that MDA is not forming any recommendation on materially inaccurate or incomplete information; MDA must have a reasonable basis for:
 - i. any advice provided to or on behalf of the Authority;
 - ii. any representations made in a certificate that it signs that will be reasonably foreseeably relied upon by the Authority, any other party involved in the municipal securities transaction or municipal financial product, or investors in the Authority’s securities; and
 - iii. any information provided to the Authority or other parties involved in the municipal securities transaction in connection with the preparation of an official statement.

Duty of Loyalty:

MDA must deal honestly and with the utmost good faith with the Authority and act in the Authority’s best interests without regard to the financial or other interests of MDA. MDA will eliminate or provide full and fair disclosure (included herein) to the Authority about each material conflict of interest (as applicable). MDA will not engage in municipal advisory activities with the Authority as a municipal entity if it cannot manage or mitigate its conflicts in a manner that will permit it to act in the Authority’s best interests.

Conflicts of Interest and Other Matters Requiring Disclosures

- As of the date of the Agreement, there are no actual or potential conflicts of interest that MDA is aware of that might impair its ability to render unbiased and competent advice or to fulfill its fiduciary duty. If MDA becomes aware of any potential conflict of interest that arise after this disclosure, MDA will disclose the detailed information in writing to the Authority in a timely manner.

- The compensation paid to MDA increases the cost of borrowing to the Authority. The increased cost occurs from compensating MDA for municipal advisory services provided. This cost may or may not be offset by the benefits MDA brings to the pricing process for the bonds.
- MDA does not act as principal in any of the transaction(s) related to this Agreement.
- During the term of the municipal advisory relationship, this agreement will be promptly amended or supplemented to reflect any material changes in or additions to the terms or information within this agreement and the revised writing will be promptly delivered to the Authority.
- MDA does not have any affiliate that provides any advice, service, or product to or on behalf of the Authority that is directly or indirectly related to the municipal advisory activities to be performed by MDA;
- MDA has not made any payments directly or indirectly to obtain or retain the Authority's municipal advisory business;
- MDA has not received any payments from third parties to enlist MDA's recommendation to the Authority of its services, any municipal securities transaction or any municipal finance product;
- MDA has not engaged in any fee-splitting arrangements involving MDA and any provider of investments or services to MDA;
- MDA does not have any conflicts of interest from compensation for municipal advisory activities to be performed that is contingent on the size or closing of any transactions as to which MDA is providing advice;
- MDA does not have any other engagements or relationships that might impair MDA's ability either to render unbiased and competent advice to or on behalf of the Authority or to fulfill its fiduciary duty to the Authority, as applicable; and
- MDA does not have any legal or disciplinary event that is material to the Authority's evaluation of the municipal advisor or the integrity of its management or advisory personnel.

Legal Events and Disciplinary History

Neither the firm nor any of its directors, officers, or employees is currently, or in the past has been under investigation or has been notified of an investigation or inquiry by any regulatory agency relating to the sale, purchase, marketing or other activity related to the securities industry since MDA was founded in 1995.

However, prior to founding Montague DeRose and Associates in 1995, Doug Montague, worked for 11 years as an investment banker for Lehman Brothers and CS First Boston, serving California clients. While working for CS First Boston in 1994, the firm was retained by the County of Orange to underwrite its 1994 Taxable Pension Obligation Bonds, Series A & B. This transaction, along with all others completed by the County in 1994, were reviewed by the SEC in connection with the County's December 1994 bankruptcy filing.

The SEC took the position that both CS First Boston and the investment bankers who completed the pension bond financing were negligent in not uncovering and fully disclosing the risky position of

the County's Investment Pool in the bond offering documents. In November 1996, after CS First Boston and the bankers, including Mr. Montague declined to enter into a settlement relating to the SEC's alleged complaints, the SEC filed a civil complaint in U.S. District Court relating to the matter. CS First Boston and the bankers contended that this was a clear case of 20/20 hindsight. They maintained that they acted professionally and according to industry standards in the structuring of the issue and should be counted among the long list of unknowing victims of the misinformation provided by the County in connection with the bond issue.

On January 29, 1998 in order to resolve the issue, the SEC, CS First Boston and the investment bankers entered into a settlement agreement that did not require any of the parties to admit or deny any of the complaints and did not include any public censure of the bankers. Therefore, there was no finding of liability in connection with any aspects of the SEC's complaint.

The Authority may electronically access MDA's most recent Form MA and each most recent Form MA-I filed with the Commission at the following website:

www.sec.gov/edgar/searchedgar/companysearch.html.

Recommendations

If MDA makes a recommendation of a municipal securities transaction or municipal financial product or if the review of a recommendation of another party is requested in writing by the Authority and is within the scope of the engagement, MDA will determine, based on the information obtained through reasonable diligence of MDA, whether a municipal securities transaction or municipal financial product is suitable for the Authority. In addition, MDA will inform the Authority of:

- the evaluation of the material risks, potential benefits, structure, and other characteristics of the recommendation;
- the basis upon which MDA reasonably believes that the recommended municipal securities transaction or municipal financial product is, or is not, suitable for the Authority; and
- whether MDA has investigated or considered other reasonably feasible alternatives to the recommendation that might also or alternatively serve the Authority's objectives.

If the Authority elects a course of action that is independent of or contrary to the advice provided by MDA, MDA is not required on that basis to disengage from the Authority.

Record Retention

Effective July 1, 2014, pursuant to the SEC record retention regulations, MDA is required to maintain in writing, all communication and created documents between MDA and the Authority for five years.

Investor and Municipal Advisory Client Education and Protection

Pursuant to Municipal Securities Rulemaking Board Rule G-10, on Investor and Municipal Advisory Client Education and Protection, Municipal Advisors are required to provide certain written information to their municipal entity and obligated person clients which include the following:

- MDA is currently registered as a Municipal Advisor with the U.S. Securities and Exchange Commission and the Municipal Securities Rulemaking Board.

- Within the Municipal Securities Rulemaking Board (“MSRB”) website at www.msrb.org, the Authority may obtain the Municipal Advisory client brochure that is posted on the MSRB website. The brochure describes the protections that may be provided by the MSRB Rules along with how to file a complaint with financial regulatory authorities.