

**Power & Water Resources Pooling Authority
Resolution 23-12-17**

**EXTENSION OF PROFESSIONAL SERVICES AGREEMENT
WITH ROBERTSON-BRYAN, INC**

The Power and Water Resources Pooling Authority (“PWRPA”) provides electric service to its customers, known as “Project Participants,” under terms and conditions specified in the Aggregation Services Agreement (“ASA”); and

WHEREAS, Robertson-Bryan, Inc. (RBI), is currently providing operations management services to PWRPA under a one-year fixed-fee professional services agreement expiring on January 15, 2024; and

WHEREAS, RBI has worked together with PWRPA’s General Manager to evaluate the 2024 scope of work for operations management functions; and


WHEREAS, RBI has proposed a three-year extension of the existing professional services agreement.

NOW, THEREFORE, BE IT RESOLVED that the Pooling Authority Board of Directors hereby:

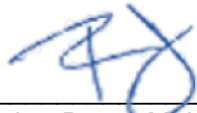
1. Authorizes the Chair, or his designee, to execute and implement the contract with RBI for operations management services according to the rates, terms, and conditions substantially similar to those set forth in Exhibit A, subject to the prior approval of General Counsel as to the form of the final, executable version.

PASSED AND ADOPTED by the PWRPA Board of Directors this 6th day of December 2023, by the following vote on roll call:

AYES	Arvin-Edison WSD, Banta Carbona ID, Byron Bethany ID, Cawelo WD, Glenn-Colusa ID, James ID, Lower Tule River ID, Princeton/Provident ID, RD 108, , Sonoma County WA, West Stanislaus ID, Westlands WD, Zone 7 WA (93.7% voting shares)
NOES	
ABSENT	Santa Clara Valley WD (6.3% voting shares)



David Weisenberger
Chairman



Attest by: Bruce McLaughlin
Secretary

**ATTACHMENT A
to
RESOLUTION 23-12-17**

PROFESSIONAL SERVICES AGREEMENT

Robertson-Bryan, Inc. (Firm), and the **Power and Water Resources Pooling Authority**, a California joint powers authority (Authority), enter into this **Professional Services Agreement** (Agreement), effective January 16, 2024. The Firm and the Authority are collectively referred to herein as the Parties. The Parties agree as follows:

1. Term and Termination

It is the desire of both the Firm and the Authority to enter into a three-year Agreement. Therefore, this Agreement shall become effective **January 16, 2024** and shall continue in effect until **January 15, 2027**, unless terminated prior to that date by either Party. This Agreement may be terminated under the following conditions:

1. By written mutual agreement of both Parties. Termination under this provision may be immediate.
2. Termination for convenience: Upon six (6) months written notice by either Party to the other of intent to terminate. In the event that the Joint Powers Agreement (JPA) is terminated pursuant to JPA section 6.1.1, the six-month notice period shall automatically begin no later than the date that all parties to the JPA mutually agree to terminate the JPA.
3. Termination for cause: If the Firm fails to perform in accordance with the Scope of Services listed below, or if the Firm fails to comply with any other provisions of the Agreement and fails to correct such noncompliance within thirty (30) days written notice thereof, the Authority may terminate this Agreement for cause. Termination shall be affected by serving a notice of termination on the Firm setting forth the manner in which the Firm is in default. The Firm will only be paid for services performed in accordance with the manner of performance set forth in this Agreement.
4. If this Agreement is terminated by either Party, the Authority agrees to pay to the Firm all fees and expenses associated with services provided to the effective date of termination.

2. General Scope of Services, Staff Roles, and Availability

- a. General Scope of Services (see **Exhibit A**)
 - i. Any work deemed by the Operations Manager, General Manager, and/or Authority Board of Directors (Board) to be out of scope with regards to Exhibit A will be presented by the Firm to the General Manager and/or Board for approval on a time and material basis according to the Firm Fee Schedule presented in **Exhibit B**.
 - ii. Any services requested of Firm staff that would result in exceeding the annual availability of staff for the fixed fee for services defined in Exhibit A shall be billed to the Authority on a time and material basis, according to the Firm Fee Schedule provided in Exhibit B.
 - iii. Additional services requested by individual Districts (for projects/topics primarily addressed through PWRPA) that are not covered by the fixed fee will be billed on a time

and material basis, according to the Firm Fee Schedule in Exhibit B, at the discretion of the Firm and Districts.

b. Staff & Accessibility

i. Professional services by Cori Bradley:

Role: Operations Manager duties

ii. Firm Staff:

Role: Staff shall support both the Operations Manager and the General Manager in an efficient and effective manner. Staff roles can change over time, but key staff positions available are staff analyst, database analyst, and power portfolio analyst.

Accessibility: Staff are available up to a collective total of 4,100 hours for their respective roles under the fixed fee. Staff are available during standard business hours and on-call as needed.

3. Independent Contractor Relationship

The Parties intend that an independent contractor relationship will be created by this Agreement. The Firm shall remain, at all times as to the Authority, a wholly independent contractor with only such obligations as are required under this Agreement. The implementation of services will lie solely with the discretion of the Firm. No employee of the Firm shall be deemed to be an employee of the Authority. The Firm will be solely and entirely responsible for its acts and for the acts of its agents, employees, servants, subcontractors or representatives during the performance of this Agreement.

4. Fixed Fee for services, reimbursable expenses

Fixed Fee: The annual contract rate for 2024 services provided under this Agreement shall be **Six hundred thirty-six thousand six hundred thirty six (\$636,636.00)** dollars, which shall be paid in monthly installments of fifty three thousand fifty three dollars (**\$53,053.00**). This fixed fee shall be compensation for the scope of services outlined in Exhibit A and staff availability defined above. This fixed fee shall have an annual escalation factor of three percent (3%) for the term of this Agreement to address year-over-year cost-of-living adjustments. In addition, the Firm's hourly billing rates (Exhibit B) used for out-of-scope work performed on a time and materials basis shall be increased by three percent (3%) annually.

In the event that this Agreement requires modification due to a changed scope-of-work or other factors at any time in the future, the scope of services and associated fixed fee shall be reviewed and revised by the Firm and submitted to the Authority Board for review and approval. As such, an equitable Agreement for both parties can be maintained over time in the face of changing factors and services requested from the Firm to meet the Authority's needs.

The Firm shall receive reimbursement beyond that of the fixed fee for all direct expenses incurred while providing professional services to the Authority, including but not limited to, plane fare, mileage at the current IRS approved business rate per mile, lodging for overnight stays as authorized in advance by the

Authority, document delivery charges, copying charges, filing fees and any other costs required to complete the scope of services. The Authority will consider and possibly reimburse certain educational activities that directly benefit the Authority.

MCG Energy Solutions Software as Service: The Firm is contracted with a software provider under the guidance and agreement by the Authority that replaced the prior SAMBA system. The Firm will pass through the MCG invoiced costs and will manage the subscription level as requested by the Authority.

5. General Right of Inspection and Supervision

Even though the Firm is an independent contractor with the Authority to control and direct the performance and details of the work authorized under this Agreement, the work must meet the approval of the Authority and shall be subject to the Authority's inspection.

6. Notices

All notices, invoices, reports or other communication required herein shall be properly given if delivered in person, or sent by first-class mail, facsimile, email, or overnight delivery to the following addresses.

Authority: Power and Water Resources Pooling Authority
Attention: Chairman
Banta-Carbona Irrigation District
3514 West Lehman Road
Tracy, CA 95304
dweisenberger@banta-carbona.com

Firm: Robertson-Bryan, Inc.
Attention: Michael Bryan
3100 Zinfandel Drive, Suite 300
Rancho Cordova, CA 95670
bryan@robertson-bryan.com
Telephone: (916) 261-4043

7. Key Terms and Conditions

1. This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of California, exclusive of conflict of laws provisions.
2. This Agreement constitutes the entire agreement between the Parties concerning the subject matter hereof.
3. This Agreement may not be modified or amended without the express written agreement of the Parties.
4. This Agreement may be executed in any number of counterparts, including through facsimile signatures, and upon execution by the Parties, each executed counterpart shall have the same force and effect as an original document and as if the Firm and the Client had signed the same document. Any signature page of this Agreement may be detached from any counterpart of this Agreement

without impairing the legal effect of any signatures thereon, and may be attached to another counterpart of this Agreement identical in form but having attached to it one or more signature pages.

5. This Agreement may be scanned and stored in electronic format. Neither Party shall object to the admissibility of an electronic version of this Agreement on the basis that such was not originated or maintained in documentary form.
6. All intellectual property rights in the services, including but not limited to, any deliverable furnished to the Authority as part of the services or any modifications, customizations and interfaces developed with respect to a deliverable, in whole or in part, provided to the Authority by the Firm under this Agreement shall be solely the property of the Authority. The Firm hereby assigns all right, title and interest in and to, and exclusive ownership of such services and deliverables to the Authority and the Firm shall take all actions necessary to transfer exclusive ownership of the same to the Authority. The Authority and the Firm agree that any product created, conceived, and/or prepared by the Firm in the performance of the services contained in this Agreement shall in all respects be considered a "work made for hire" within the meaning of the federal copyright and patent laws and that no other right in this Work shall inhere in the Firm, or in the Firm's representatives, heirs, or assigns. The Work shall be owned by the Authority and the Authority may, at its option and expense, seek copyright or patent registration for the Work. As owner of the copyright or patent, the Authority shall have all rights attendant to that ownership, including, but not limited to, rights of reproduction, preparation of derivative works, distribution, and display. Notwithstanding the foregoing, the Firm and the Authority may establish different terms for a specified deliverable pursuant to a separate written agreement.
7. Indemnity: If any claim or action is brought against the Firm, or any personnel of the Firm, and such claim arises from the Authority's negligence, errors or omissions, or willful misconduct, the Authority agrees to indemnify and hold harmless the Firm, its owners, officers, and employees from injuries, damages, claims, demands, costs, expenses, losses or liabilities, in law or in equity for all such claims and damages. The Firm agrees to indemnify and hold harmless the Authority, its Directors, officers, employees, and authorized volunteers from injuries, damages, claims, demands, costs, expenses, losses or liabilities, in law or in equity arising from the negligent acts, errors or omissions of the Firm or its employees, subcontractors, and any other person, firm, or corporation furnishing or supplying work, services, materials, or supplies in connection with the performance of this Agreement. The Authority will control its own defense and at the time of claim resolution, in the event of any claim within the purview of these indemnification provisions, Firm will provide reimbursement for those defense costs caused by any negligence or willful misconduct by or attributable to the Firm.
8. Arbitration: Any dispute arising out of or related to the engagement of Firm or its personnel by the Authority for any purpose, including, but not limited to, (i) any dispute relating to Firm's fees, expenses or costs, or (ii) any dispute relating to any allegedly wrongful or negligent act or omission by Firm or the Authority or any of their personnel, or (iii) any dispute relating to any duty allegedly owed by Firm or its personnel to the Authority or by the Authority or its personnel to Firm, shall be

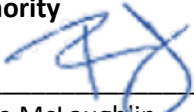
subject to binding arbitration at San Francisco, California, pursuant to the Commercial Arbitration Rules of the American Arbitration Association in effect at the time of the arbitration. The Authority understands that by agreeing to arbitrate the disputes specified in this arbitration agreement it is waiving its right to have a trial by a jury or court regarding such disputes. This arbitration agreement shall only apply to disputes concerning fees, costs, or both if (i) the Authority does not elect to pursue the arbitration procedures provided by the California Business and Professions Code (Bus. & Prof. Code, § 6200 et seq.) regarding such disputes, or (ii) if either Firm or the Authority rejects the award in any such arbitration. All employees and officers of Firm and the Authority are intended beneficiaries of this arbitration agreement and shall be bound by and have the benefit of it. The arbitration shall not deprive any party of prejudgment remedies. All arbitration proceedings, or any action to enforce such proceedings, shall be conducted in as confidential a manner as permitted by law. The arbitrator or arbitrators shall be authorized to award equitable remedies including specific performance. In any such arbitration, a written statement of decision prepared in compliance with the California Code of Civil Procedure shall be rendered, and any arbitration decision must be based on correct application of law and findings of fact based upon a preponderance of evidence admissible under the Evidence Code of the State of California. Failure of the arbitrator to comply with the requirements of this agreement shall be grounds to modify or vacate an award. The arbitration proceeding shall be reported by a certified court reporter, and all evidence shall be marked and retained as part of the record of the proceedings by the court reporter, or the arbitrator, until a final judgment on the arbitrator's award is paid or confirmed or the award is modified or vacated. By agreeing to arbitration both parties waive their right to trial by Jury.

9. The Firm shall obtain at its own expense, all insurance required by the attached insurance requirements (**Exhibit C**). Such insurance shall be maintained in full force and in effect at all times during the performance of work under this Agreement.

8. Signatures

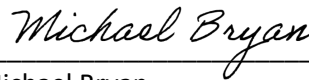
In witness whereof, the Parties have caused this Agreement to be executed by their duly authorized representatives.

Authority



Bruce McLaughlin
Title: General Manager
Date: December 14, 2023

Firm



Michael Bryan
Title: President
Date: December 15, 2023

Exhibit A: General Scope of Work

The general scope of services for the fixed fee agreement is defined below.

1. Support the General Management Services:
 - a. Advise Board in coordination with the General Manager on all matters relevant to the electric service provided by the Authority. Develop and implement strategic policies as authorized by the General Manager and the Board.
 - b. Identify and pursue Authority customer-focused programs and initiatives.
 - c. Design, build and maintains a cross-functional, team-based system to implement Board directives and attract/retain the highest caliber staff.
 - d. Plan, organize, coordinate, and direct the work of Firms and others to achieve efficient operations and meet project goals.
 - e. Plan, organize, coordinate, and participate in Board and committee meetings.
 - f. Meet with member Agencies, as necessary, to represent the Authority's activities.
 - g. Conducts a variety of special studies and surveys to determine the effectiveness of Authority projects.
 - h. Represent the Board's policies and projects with other government agencies.
 - i. Evaluate and make recommendations on improvements to existing Authority operations, projects, and services.
2. Operations Services
 - a. Develop and implement Authority's annual and Long-term Resource Plan (ASA Article 6).
 - b. Prepare and disseminate monthly reports covering operations and activities of the Authority.
 - c. Develop plans and operations for Authority facilities and resources.
 - d. Prepare the annual budget and Pro Forma rates, making recommendations to the Board on revenue and expenditure levels. (JPA 4.4)
 - e. Manage MDMA and all metering issues, including new Points of Delivery requests.
 - f. Manage Scheduling Coordinator functions, including load and resource portfolio strategy protocols.
 - g. Manage staff, algorithms, and all data in software systems.
 - h. Coordinate with Treasurer on all aspects of vendor invoicing, audits, and District allocation, monthly and annual reconciliation processes. This includes settlement validation of all load and resource transactions.
 - i. Coordinate and manage regulatory reporting needs of the Authority.
 - j. Manage staff and Districts on load scheduling and resource position analysis.

EXHIBIT B: FIRM HOURLY FEE SCHEDULE

2024 FEE SCHEDULE FOR ALL FIRM SERVICES NOT COVERED BY THE FIXED FEE

PROFESSIONAL SERVICES	RATE/HOUR
◆ Managing Partner	\$296.00
◆ Principal Engineer/Scientist	\$271.00
◆ Chief Engineer/Scientist	\$262.00
◆ Resource Director	\$245.00
◆ Senior Analyst	\$228.00
◆ Project Engineer I	\$214.00
◆ Senior Portfolio Manager	\$197.00
◆ ISO Specialist	\$180.00
◆ Project Analyst II	\$164.00
◆ Project Database Analyst II	\$161.00
◆ Project Analyst I	\$151.00
◆ Project Database Analyst I	\$150.00
◆ Staff Analyst II	\$139.00
◆ Staff Analyst I	\$133.00
◆ Administrative Assistant	\$104.00

Rates shall have an annual escalation factor of three percent (3%) for the term of this Agreement to address year-over-year cost-of-living adjustments.

Ten percent (10%) of subcontractor fees will be added to cover administrative costs. Hourly rates increased by twenty-five percent (25%) for depositions, trials, and hearings.

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

EXHIBIT C: INSURANCE REQUIREMENTS

Professional Services Additional Insured Endorsement

Liability Insurance – The Firm shall provide and maintain at all times during the performance of this Agreement, the following commercial general liability, professional liability, and automobile liability insurance:

Coverage - Coverage shall be at least as broad as the following:

1. Coverage for Professional Liability appropriate to the Firm's profession covering Firm's wrongful acts, negligent acts, and errors and omissions. The retroactive date, if any, is to be no later than the effective date of this Agreement.
2. Commercial General Liability Coverage
3. Automobile Liability Coverage

Limits – The Firm shall maintain no less than the following:

1. Professional Liability – One million dollars (\$1,000,000) per claim and occurrence.
2. General Liability – One million dollars (\$1,000,000) per occurrence, and two million dollars (\$2,000,000.00) aggregate, for bodily injury and property damage.
3. Automobile Liability (hired and non-owned) – One million dollars (\$1,000,000) for bodily injury and property damage each accident limit.

Required Provisions – The general liability policy is to contain the following provisions:

1. The Authority, its directors, officers, employees, and authorized volunteers are to be given additional insured status (via ISO endorsement CG 2010, CG 2033, or insurer's equivalent for general liability coverage) as respects: liability arising out of activities by or on behalf of the Firm; and premises owned, occupied or used by the Firm.
2. For any claims related to this project, the Firm's insurance shall be primary insurance as respects the Authority, its directors, officers, employees, or authorized volunteers. Any insurance, self-insurance, or other coverage maintained by the Authority, its directors, officers, employees, or authorized volunteers shall not contribute to it.
3. In the event any change is made in the scope of coverage or retroactive date of professional liability coverage required under this Agreement, Firm shall notify the Authority prior to any changes.

Workers Compensation and Employers Liability Insurance – The Firm and all sub-contractors shall cover or insure under the applicable laws relating to workers’ compensation insurance, all of their employees employed directly by them or through sub-contractors in carrying out the work contemplated under this Agreement, all in accordance with the “Workers Compensation and Insurance Act,” Division IV of the Labor Code of the State of California and any Acts amendatory thereof. The Firm shall provide employer’s liability insurance in the amount of at least \$1,000,000 per accident for bodily injury and disease.

Deductibles and Self-Insured Retentions – Any deductible or self-insured retention must be declared to and approved by the Authority; whereas, said approval shall not be unreasonably withheld.

Acceptability of Insurers – Insurance is to be placed with insurers having a current A.M. Best rating of no less than A-:VII or equivalent or as otherwise approved by the Authority.

Evidence of Insurance – Prior to execution of the Agreement, the Firm shall file with the Authority a certificate of insurance (Accord Form 25-S or equivalent) signed by the insurer’s representative. Such evidence shall include an original copy of the additional insured endorsement signed by the insurer’s representative. Such evidence shall also include confirmation that the coverage includes or has been modified to include Required Provisions 1 through 3. The Firm shall upon demand of the Authority, deliver to the Authority such policy or policies of insurance and the receipts for payment of premiums thereon.

Sub-contractors – In the event that the Firm employs other independent contractors (sub-contractors), as part of the services covered under this Agreement, it shall be the Firm’s responsibility to require and confirm that each sub-contractor meets the minimum insurance requirements specified above.