

Metropolitan Water District of Salt Lake & Sandy
Board Packet Information
Last Update: May 12, 2010

Agenda Item: Consider approval of Utah Lake Pumping Plant design reimbursement contract.

Objective: Seek Board authorization to execute the Engineering Cooperation Agreement with the Board of Canal Presidents (BOCP) in regards to the Utah Lake Pump Station Replacement Project.

Background: The Utah Lake Pump Station has been in service for 96+ years and is in need of replacement. Critical to the District's operations, we are in support of a replacement project. The Metropolitan Water District of Salt Lake & Sandy was asked by the BOCP to procure engineering services for the design and construction management for the replacement of the Utah Lake Pump Station.

The Engineering Cooperation Agreement provides for reimbursement of costs, less the District's percentage, directly related to the engineering design and construction management services. The current version of the agreement is attached.

Recommendation: Authorized the General Manager to execute the Engineering Cooperation Agreement when in final form and signed by all other parties.

ENGINEERING COOPERATION AGREEMENT

THIS AGREEMENT is made and entered as of ____ day of _____, 2010, by and among the following entities:

UTAH & SALT LAKE CANAL COMPANY (“Utah & Salt Lake Canal”)
EAST JORDAN IRRIGATION COMPANY (“East Jordan”)
SALT LAKE CITY CORPORATION (“Salt Lake City”)
SOUTH JORDAN CANAL COMPANY (“South Jordan Canal”)
NORTH JORDAN IRRIGATION COMPANY (“North Jordan”)
JORDAN VALLEY WATER CONSERVANCY DISTRICT (“Jordan Valley”)
KENNECOTT UTAH COPPER, LLC (“Kennecott”)
METROPOLITAN WATER DISTRICT OF SALT LAKE & SANDY (“Metro”)
DRAPER IRRIGATION COMPANY (“Draper Irrigation”)
SANDY CANAL COMPANY (“Sandy Canal”)

AGREEMENT PURPOSES

The Parties anticipate purchasing shares of stock in a new corporation to be formed for the purpose of purchasing certain assets of the existing Board of Canal Presidents (“BOCP”) and constructing a new Utah Lake Pumping Plant (“New Pumping Plant”) to lift water on behalf of the Parties from Utah Lake to Jordan River. BOCP is a joint venture of Utah & Salt Lake Canal, East Jordan, Salt Lake, South Jordan Canal, and North Jordan. The name of the new corporation has not been finalized but will be referred to here as “Utah Lake Water Users Association (ULWUA)” Even before ULWUA is formed, and shares of ULWUA stock are sold, the Parties desire to hire an engineering firm to design the New Pumping Plant. The Parties have agreed to cooperate in selecting and hiring an engineer as described here.

AGREEMENT TERMS

In consideration of the mutual covenants contained here, the Parties agree as follows:

1. Metro to Procure New Pumping Plant Design. Metro has acted as agent for the Parties in the preparation and publication of a request for Statements of Interest and Qualifications (“SOQs”) from qualified engineers. As instructed by the Parties, and after consulting with the Engineering Committee described below, Metro will assist the Parties in selecting an engineer, drafting an engineering contract, and generally acting on behalf of the Parties to procure preliminary and final designs for the New Pumping Plant. Except as otherwise agreed in writing by the Parties, such procurement of design will be accomplished in a manner consistent with the Utah Procurement Code and Metro procurement regulations. At any time, as reasonably requested by the authorized representative of an entity serving the role described for ULWUA above, Metro will act reasonably and promptly to transfer all responsibilities for

procurement of engineering as described in this Agreement over to such ULWUA entity. At any time after the organization of such ULWUA, Metro may, upon notice that is reasonable under the circumstances, transfer all responsibilities for procurement of engineering as described in this Agreement over to ULWUA

2. Engineering Committee. Each Party will select one representative to serve on an Engineering Committee. Parties may substitute their Engineering Committee representative at any time, so long as they timely notify the other Parties. The Engineering Committee shall meet, confer, (and adopt rules and procedures governing the Engineering Committee if they wish), and recommend to the Parties budgets, concepts, designs and contracts, and generally assist with the procurement of a design for the New Pumping Plant. Metro will provide to all members of the Engineering Committee all substantive design documents, submittals and correspondence from or to the engineer. The Engineering Committee members shall be responsible for distribution to their respective Party, and for obtaining from their respective Party any comments or corrections, and any necessary authority, within a reasonable time established by Metro. Metro will make reasonable efforts to forward all substantive comments from the Engineering Committee to the engineer for consideration and/or incorporation into the design, so long as those comments are made on a timely basis. It is understood and agreed that Metro is not responsible to supervise the design engineer, and is not responsible for the design or design documents. Metro's sole role is the facilitation of communication between the Engineering Committee and the engineer. To the extent, if any, that ULWUA, as the intended owner of the New Pumping Plant has responsibility for the design, that responsibility rests with the Parties jointly until assumed by ULWUA

3. Payment of Direct, Outside, Approved Costs. Metro will incur costs directly attributable to the procurement of the New Pumping Plant design, as described in this Agreement and as consistent with a budget approved by the Parties. All Parties have agreed to contribute, without compensation or reimbursement, their respective internal costs, including travel costs to attend Engineering Committee meetings, salaries and benefits of their employees and representatives serving on the Engineering Committee or reviewing documents, etc. All direct outside costs reasonably incurred consistent with the budget or other approval of the Parties by Metro (less Metro's percentage share described below) will be reimbursed by the existing BOCP within thirty (30) days of the date of receipt of an invoice from Metro. If there are any questions or disputes regarding an invoice they will be brought to Metro's attention in writing promptly, but in no event more than twenty (20) days after the question or dispute was discovered, or should with reasonable care have been discovered. Any portion of the invoice for which there is no question or dispute will be paid without delay. BOCP will be reimbursed according to each Party's percentage, as follows:

Entity	Capacity (cfs)	Percentage
U&SLCC	176	22.77
East Jordan	135	17.46
South Jordan	100	12.94
North Jordan	15	1.94
Jordan Valley	47	6.08
Salt Lake	55	7.12
Metro	135	17.46
Draper Irr Co	44	5.69
Sandy Canal	9	1.16
Kennecott	57	7.37
TOTAL	773	100

BOCP will be reimbursed within thirty (30) days of the date of receipt of an invoice from BOCP. If there are any questions or disputes regarding an invoice they will be brought to BOCP's attention in writing promptly, but in no event more than twenty (20) days after the question or dispute was discovered, or should with reasonable care have been discovered.

Should any Party withdraw from this Agreement as provided in paragraph 5(d) below, its share percentage as shown above shall be redistributed proportionately among the remaining Parties.

When the final capacities are set by subscription of shares in ULWUA, or other agreement, the contributions for engineering costs will be adjusted accordingly by BOCP.

4. Notices. Any notice required by this Agreement shall be deemed given when mailed, delivered, faxed or emailed to all parties at:

Nelson Petersen
Utah & Salt Lake Canal Company
P. O. Box 1181
West Jordan, UT 84084
Phone: (801) 918-6682

Bill Marcovecchio
East Jordan Irrigation Company
943 West 14600 South
Bluffdale, UT 84065
Phone: (801) 541-9041
Email: bmarov@Q.com

Jeff Niermeyer
Salt Lake City Corporation
1530 So. West Temple
Salt Lake City, UT 84115
Phone: (801) 483-6785
Email: jeff.niermeyer@slcgov.com

Larry Jacobson
South Jordan Canal Company
11515 South 1300 West
South Jordan, UT 84095
Phone: (801) 254-3904

Van F. King
Bill Gibbs
North Jordan Irrigation Company
4788 Hidden Cove
Taylorsville, UT 84123
Phone: (801) 364-5795
Email: van.king@riotinto.com
wgg@mac.com

Richard Bay
Jordan Valley Water Conservancy District
8215 South 1300 West
West Jordan, UT 84088
Phone: (801) 565-4300
Email: richardb@jvwcd.org

Van F. King
Manager Assets
Kennecott Utah Copper, LLC
P.O. Box 9550
South Jordan, UT 84095-0550 Phone: (801) 204-2766
Email: van.king@riotinto.com

Michael L. Wilson, General Manager
Metropolitan Water District of Salt Lake & Sandy
3430 East Danish Road
Cottonwood Heights, UT 84093
Phone: (801) 942-9685
Email: Wilson@mwdsls.org

Richard Skeen
David A. Gardner
Draper Irrigation Company
12421 South 800 East
Draper, UT 84020
Phone: (801) 571-2232
Email: gardner@waterpro.net

Craig F. Fairbanks
Sandy Canal Company
10000 Centennial Parkway No. 241
Sandy, UT 84070

Each party may change the designation of the addresses or the address for that party to receive notice by sending written notice of the change.

5. Miscellaneous.

(a) Modification of Agreement. This Agreement can only be modified by a separate writing signed by all Parties.

(b) Binding. This Agreement is for the benefit of and is binding upon the Parties hereto, and their successors. There are no other beneficiaries.

(c) Waiver. No failure by any party to insist upon the strict performance of any covenant, duty, agreement, or condition of this Agreement, or to exercise any right or remedy upon the breach thereof, shall constitute a waiver of any right or breach under this Agreement.

(d) Withdrawal. Any Party may withdraw from this Agreement, upon written notice, without cause, after a meeting of the Parties reasonably noticed in writing to all Parties. Any withdrawing Party will remain responsible to reimburse costs incurred as described in this Agreement prior to such notice of meeting, and any costs which otherwise cannot be reasonably avoided by the Parties.

(e) Entire Agreement. This Agreement contains the entire agreement of the Parties and supersedes all prior agreements, negotiations, and understandings between the Parties.

(f) REPRESENTATION REGARDING ETHICAL STANDARDS FOR AGENCY OFFICERS AND EMPLOYEES AND FORMER AGENCY OFFICERS AND EMPLOYEES. Each Party to this Agreement represents that it has not: (1) provided an illegal gift or payoff to a Salt Lake City officer or employee or former Salt Lake City officer or employee, or his or her relative or business entity; (2) retained any person to solicit or secure this contract upon an agreement or understanding for a commission, percentage, or brokerage or contingent fee, other than bona fide employees or bona fide commercial selling agencies for the purpose of securing business; (3) knowingly breached any of the ethical standards set forth in the Salt Lake City's conflict of interest ordinance, Chapter 2.44, Salt Lake City Code; or (4) knowingly influenced, and hereby promises that it will not knowingly influence, an Salt Lake City officer or employee or former Salt Lake City officer or employee to breach any of the ethical standards set forth in the Salt Lake City's conflict of interest ordinance, Chapter 2.44, Salt Lake City Code.

IN WITNESS WHEREOF, this Agreement is dated as of the last date entered below.

UTAH AND SALT LAKE CANAL COMPANY

By: _____
Nelson J. Petersen, President

EAST JORDAN IRRIGATION COMPANY

By: _____
Bill Marcovecchio, President

SALT LAKE CITY CORPORATION

By: _____
Jeff Niermeyer, Director of Public Utilities

SOUTH JORDAN CANAL COMPANY

By: _____
Larry Jacobson, President

NORTH JORDAN IRRIGATION COMPANY

By: _____
Van F. King, President

JORDAN VALLEY WATER CONSERVNACY
DISTRICT

By: _____
Richard P. Bay, General Manager

KENNECOTT UTAH COPPER, LLC

By: _____
Van F. King, Its Manager of Assets

METROPOLITAN WATER DISTRICT OF
SALT LAKE & SANDY

By: _____
Michael L. Wilson, General Manager

DRAPER IRRIGATION COMPANY

By: _____
Richard Skeen, President

SANDY CANAL COMPANY

By: _____
Craig F. Fairbanks, President