

STAFF REPORT

DATE: January 25, 2020
TO: DCSD Board Members
FROM: Kathy Urbelis, Vice President
RE: Proposed Contract for General Management Services with Kathy Torru

I. Background

The District has been without a permanent General Manager since Dick Breitwieser retired on September 30, 2018.

In January of 2019, the District entered into a short-term contract with Kathy Torru to provide certain transitional services to the District, which included operational and administrative tasks. Ms. Torru successfully completed such tasks during the 90-day term of the contract, which was renewed for an additional 90 days.

Filling the role of General Manager is critical to ensure efficient and effective provision of services by the District. The Board accordingly requested proposals from applicants interested in providing general management services and posted its request on a variety of platforms from February to April 2019. The Board received two applications – one of them from Ms. Torru. At that time, the Board decided to wait to enter into a contract for a General Manager and instead focus on retaining an accountant/bookkeeper who could undertake management of the District's finances. In October of 2019, the District entered into a contract for accounting services in order to delegate that task. The Board is now prepared to approve a contract for general management services.

II. Proposed Contract for General Management Services

The District's Board is responsible for appointing a general manager. (Government Code section 61050.) The District has the authority to engage professional service providers, such as a contracted general manager, as necessary to carry out its purposes. (Government Code section 61060(g).) Having appointed a sub-committee to conduct the search and considering the applications received, the District now desires to enter into a contract for general management services with Ms. Torru. Ms. Torru's qualifications are impressive and her prior knowledge of the District, its history, and all administrative responsibilities and obligations will be invaluable to the District going forward.

III. Recommended Action and Motion

The proposed contract is attached to this staff report for the Board's consideration. I recommend approval of this contract to the Board by way of the following motion:

- Move to approve contract for general management services with Kathy Torru in substantial form and compliance with the draft attached to this staff report.

**STANDARD
CONTRACTUAL SERVICES AGREEMENT
--DRAFT--**

THIS AGREEMENT is made at the DIABLO COMMUNITY SERVICES DISTRICT, Diablo, California, as of _____, 2020, by and between DIABLO COMMUNITY SERVICES DISTRICT, a California Special District, (“District”), and KATHY TORRU, General Manager, (“Contractor”) who agree as follows:

1. **SERVICES**. Subject to the terms and conditions set forth in this Agreement, Contractor shall provide to District the services described in Exhibit A.
2. **PAYMENT**. District shall pay Contractor for services rendered pursuant to this Agreement at the rate of \$100.00, per hour, not to exceed 30 hours per month except when agreed to in advance. Statements for services will be sent to the District on a monthly basis and are payable within 30 days. The payments specified herein shall be the only payments to be made to Contractor for services rendered pursuant to this Agreement. District shall make no payment for any extra, further or additional service pursuant to this Agreement unless such extra service and the price therefor is agreed to in writing executed by the District Board President prior to the time such extra service is rendered.
3. **FACILITIES AND EQUIPMENT**. Except as set forth in Exhibit B, Contractor shall, at her sole cost and expense, furnish all facilities and equipment, which may be required for furnishing services pursuant to this Agreement. District shall furnish to Contractor only the facilities and equipment listed in Exhibit B according to the terms and conditions set forth in Exhibit B.
4. **GENERAL PROVISIONS**. The general provisions set forth in Exhibit C are part of this Agreement. In the event of any inconsistency between said general provisions and any other terms or conditions of this Agreement, the other term or condition shall control insofar as it is inconsistent with the general provisions.
5. **EXHIBITS**. All exhibits referred to herein are attached hereto and are by this reference incorporated herein.
6. **CONTRACT ADMINISTRATION**. This Agreement shall be administered by the Vice President of the District Board of Directors (“ADMINISTRATOR”). All correspondence shall be directed to or through the ADMINISTRATOR or his or her designee.
- 7 **NOTICES**.

Any written notice to Contractor shall be emailed to *kltorru@gmail.com* or mailed to Kathy Torru, PO Box 911, Diablo, CA 94528-0911.

Any written notice to District shall be emailed to *kurbelis@diablocsd.org* or sent to District Vice President, PO Box 321, Diablo, CA 94528-0321.

Effective as of the day first above stated:

DIABLO COMMUNITY SERVICES DISTRICT, a California Special District

By _____
Ray Brant
District Board President

Date

By _____
Kathy Torru
Contractor

Date

EXHIBIT A

SCOPE OF SERVICES

Reports to: Diablo Community Services District Board Vice President

Responsibilities

The responsibilities listed below are general in nature and represent the types of tasks that Contractor will be asked to undertake. Contractor shall initially consult and coordinate with the Board Vice President, other Board Members, and the District as a whole in order to confirm which of these responsibilities should be performed routinely and without additional direction or guidance.

- **Administration**

- Coordinate with General Counsel to ensure that the District is in compliance with Special District laws and the Brown Act.
- Work with Board Vice President to upgrade and maintain the District website, manage email accounts and interface with the webhosting company.
- Assist Board Members with communications to residents and other agencies, e.g., Town of Danville, Contra Costa County, State Controller, Diablo Country Club, Mt. Diablo State Park.
- Act as interface with the County, preparing required reports, identifying changes in Directors, communicating tax rate information, responding to requests.
- Interface with Diablo Advisory Council to ensure necessary information relevant to DMAC has been provided prior to meetings.
- Maintain official District records in accordance with legal requirements and the District's record retention policies.
- Negotiate and manage all insurance policies, e.g., General Liability, Excess Liability, Directors and Officers insurance. Provide carriers with required coverage information.
- Onboard new Directors. Coordinate with the Board in filling vacated positions to ensure that Special District laws are followed.

- **Meetings**

- Coordinate logistics for all meetings, Town Halls, and other events requested by the Board.

- Work with the Board President to prepare agendas and post them as required by law. Assist the Board Secretary in preparation and distribution of meeting packages.
- Attend Board meetings, take roll and minutes. Promptly following a meeting, draft minutes.

- **Finances**

- Provide oversight for the District's finances. Manage the DISTRICT's Bookkeeper, who is responsible for maintaining records in the District's accounting system and providing the Board with essential financial reports.
- Manage Accounts Payable functions. Obtain approval for invoices from the appropriate Board member and make timely payments.
- Manage Accounts Receivable functions. Track anticipated revenues from the county and confirm bank deposits; track revenues from traffic fines and other sources.
- Review Bank statements and balances. Control credit card access and usage.
- Manage annual external audit. Evaluate external auditors, recommend a selection to the Board, work with the selected auditors to complete a timely audit. Present the final audit report to the Board.
- Oversee timely creation of the annual and 7-year budgets, working with individual Board members regarding each's areas of responsibility. Present draft budgets to the Board for approval. Ensure compliance with State regulations and notification of final plans to the County. Monitor compliance with the budget during the year and report status to the Board on a regular basis.
- Ensure that all necessary financial reports are filed on a timely basis to the State, County, and IRS.

- **Roads**

- Coordinate with the Roads Commissioner to implement District-approved policies and ordinances on matters regarding roads, bridges, culverts, vegetation, signage and street markings. This includes working with engineering consultants that oversee projects, assistance with project bids, and publication of notices to contractors and affected residents.
- Ensure contractors performing work meet State guidelines and provide the District with a copy of their insurance certificates, with the District added as an additional insured.
- Assist with emergency situations when necessary.

- **Security**

- Assist the Security Commissioner in defining the District's security requirements.

- Coordinate with the Sheriff's Department regarding acquisition of new vehicles, and equipment, including computers for the vehicle and office.
- Assist with emergency situations.

EXHIBIT B

District shall furnish physical facilities, such as meeting space, as may be reasonably necessary for education of or meetings with Board members or other staff. The location, quantity, and time of furnishing said physical facilities shall be at the sole discretion of District. In no event shall District be obligated to reimburse any direct expenses, communication charges, and/or reproduction costs without the written permission from the Administrator.

EXHIBIT C

GENERAL PROVISIONS

1. INDEPENDENT CONTRACTOR. At all times during the term of this Agreement, Contractor shall be an independent contractor and shall not be an employee of District. District shall have the right to control Contractor only insofar as the results of Contractor's services rendered pursuant to this Agreement; however, District shall not have the right to control the means by which Contractor accomplishes services rendered pursuant to this Agreement.
2. LICENSES; PERMITS; ETC. Contractor represents and warrants to District that she has all licenses, permits, qualifications and approvals of whatsoever nature, which are legally required for Contractor to practice her profession. Contractor represents and warrants to District that Contractor shall, at her sole cost and expense, keep in effect at all times during the term of this Agreement any licenses, permits, and approvals which are legally required for Contractor to practice her profession.
3. TIME. Contractor shall devote such time to the performance of services pursuant to this Agreement as may be reasonably necessary for satisfactory performance of Contractor's obligations pursuant to this Agreement.
4. INSURANCE REQUIREMENTS. District shall provide liability insurance coverage for Contractor under its insurance policies. Contractor shall procure and maintain for the duration of the contract automobile liability insurance for all vehicles owned, leased, hired or borrowed by the Contractor. Any insurance or self-insurance maintained by the District, its officers, officials, employees or volunteers shall be excess of the Contractor's insurance and shall not contribute with it. Contractor shall furnish District with proof of such insurance.
5. CONTRACTOR NOT AGENT. Except as District may specify in writing, Contractor shall have no authority, express or implied, to act on behalf of District as an agent or to bind District to any obligation whatsoever.
6. ASSIGNMENT PROHIBITED. No party to this Agreement may assign any right or obligation pursuant to this Agreement. Any attempted or purported assignment of any right or obligation pursuant to this Agreement shall be void and of no effect.
7. STANDARD OF PERFORMANCE. Contractor shall perform all services required pursuant to this Agreement in the manner and according to the standards observed by a competent practitioner of the profession in which Contractor is engaged in the geographical area in which Contractor practices its profession. All instruments of service of whatsoever nature, which Contractor delivers to District pursuant to this Agreement, shall be prepared in a substantial, first class and workmanlike manner and conform to the standards of quality normally observed by a person practicing in Contractor's profession.
8. HOLD HARMLESS AND RESPONSIBILITY OF CONTRACTOR. Contractor shall take all responsibility for the work, shall bear all losses and damages directly or indirectly resulting to her or to the District and its officers and employees, on account of the performance or character of the work, unforeseen

difficulties, accidents, occurrences or other causes predicated on active or passive negligence of the Contractor. Contractor shall indemnify, defend and hold harmless the District its officers, officials, directors, employees and agents from and against any or all loss, liability, expense, claim, costs (including costs of defense), suits, and damages of every kind, nature and description directly or indirectly arising from the performance of the work. This paragraph shall not be construed to exempt the District, its employees and officers from its own fraud, willful injury or violation of law whether willful or negligent. For purposes of Section 2782 of the Civil Code the parties hereto recognize and agree that this agreement is not a construction contract.

District shall take all responsibility for its work, shall bear all losses and damages directly or indirectly resulting to Contractor on account of the performance or character of its work, unforeseen difficulties, accidents, occurrences or other causes predicated on active or passive negligence of the District and its officers and employees. District shall indemnify, defend and hold harmless Contractor from and against any or all loss, liability, expense, claim, costs (including costs of defense), suits, and damages of every kind, nature and description directly or indirectly arising from the performance of the work. This paragraph shall not be construed to exempt Contractor from her own fraud, willful injury or violation of law whether willful or negligent. For purposes of Section 2782 of the Civil Code the parties hereto recognize and agree that this agreement is not a construction contract.

9. TERMINATION. Either party, with or without cause, may terminate this Agreement by providing 30 days written notice. Contractor shall be compensated for all outstanding costs incurred for work satisfactorily completed. Approval of the insurance contracts does not relieve the Contractor from liability under this paragraph.

10. GOVERNMENTAL REGULATIONS. To the extent that this Agreement may be funded by fiscal assistance from another governmental entity, Contractor shall comply with all applicable rules and regulations to which District is bound by the terms of such fiscal assistance program.

11. DOCUMENTS. District agrees to provide all data and documentation required in order for Contractor to perform the services described in Exhibit A, including but not limited to: bank statements, payroll records, deposit records, check or online payment records, credit card transactions, previous Balance Sheets, profit & loss statements or financial reports. District is responsible for the accuracy of all information provided to Contractor.

All reports, data, maps, models, charts, studies, surveys, photographs, memoranda or other written documents or materials prepared by Contractor pursuant to this Agreement shall become the property of District upon completion of the work to be performed hereunder or upon termination of the Agreement.

12. COMPLIANCE WITH APPLICABLE LAWS. Contractor shall comply with all laws applicable to the performance of the work hereunder, including, but not limited to, laws prohibiting discrimination based on race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status or sex.