

City of Madera
Inter-Office Memorandum

From the desk of **Steve Frazier, City Administrator**

Date: February 21, 2018

To: Mayor and Council Members

Subject: Agenda Item C-3

The late distribution contract will show a difference in the total dollar amount as reflected in Item 3 "Obligations, duties and responsibilities of Consultant". The total for Ron's service is \$25,000 which is inclusive of consultant services two governance classes as well as Councils desired work by Mr. Manfredi in the hiring of the new City Administrator.



Steve Frazier
City Administrator

CITY OF MADERA

CONSULTING SERVICES AGREEMENT

THIS AGREEMENT made and entered into the 21st day of February 2018, by and between the CITY OF MADERA, a municipal corporation of the State of California, hereinafter called "City" AND Ron Manfredi, hereinafter called "Consultant";

RECITALS:

- A. The City desires to obtain specialized municipal consulting services.
- B. Consultant is a specialized firm having the necessary experience and qualifications to provide such consultation services to the City.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants and agreements herein contained, it is agreed by and between the City and the Consultant as follows:

1. Services. The City hereby contracts with Consultant to provide consulting services herein set forth at the compensation and upon the terms and conditions herein expressed, and Consultant hereby agrees to perform such services for said compensation, and upon said terms and conditions. City hereby authorizes Consultant to commence work immediately upon approval of this agreement by the City Council at a scheduled meeting of said governing body.

2. Obligations, duties and responsibilities of Consultant. It shall be the duty, obligation and responsibility of the Consultant, in a skilled and professional manner, to perform the consulting services in accordance with the Scope of Services defined in Exhibit 1.

3. Consultant's fees and compensation: amount, how and when payable.

Item #1 & 2 – \$20,000 in three installments, on the 30th of each month, March April and May

Item #3 - \$5,000 paid in two installments \$2,500 after each workshop session (which is also inclusive of advisor capacity to Council on City Administrator process)

Billings are to be made directly to the following address:

City of Madera
Attn: Accounts Payable
205 W. 4th Street
Madera, CA 93637

4. Term of agreement. This Agreement shall be in effect starting February 22, 2018 and terminating upon completion of the project. Project completion is expected to occur no later than May 22, 2018. The project deadline may be extended upon mutual consent of the Consultant and the City of Madera City Administrator. Consultant may be contacted following submittal of the final report for clarification and consultation on information provided in said report.

5. Consultant's agreement to hold harmless and insurance requirements.

5.1 Independent contractor. In the furnishing of the services provided herein, the Consultant is acting as an independent contractor and not as an employee of the City.

5.2 Indemnification and Waivers. Consultant shall indemnify, defend, and hold harmless the City, and its officers, and employees ("City indemnitees"), from and against any and all third party causes of action, claims, obligations, judgments, or damages, including reasonable legal counsels' fees and costs of litigation ("Claims"), arising out of the Consultant's performance of its obligations under this agreement or out of the operations conducted by Consultant except to the extent such loss or damage arises from, in whole or in part, the negligence or willful misconduct of the City or the City indemnitees. In the event the City indemnitees are made a party to any action, lawsuit, or other adversarial proceeding arising from Consultant's performance of this agreement (except to the extent City indemnitees are made a party based on, in whole or in part, their own negligence or willful misconduct), the Consultant shall provide a defense to the City indemnitees, or at Consultant's option, reimburse the City indemnitees their costs of defense, including reasonable legal counsels' fees, incurred in defense of such action, lawsuit, or other adversarial proceeding.

5.3. Insurance. During the term of this Agreement, Consultant shall maintain, keep in force and pay all premiums required to maintain and keep in force the policies and limits of such policies as required in Exhibit 2 of this Agreement.

6. Attorney's fees/venue. In the event that any action is brought to enforce the terms of this Agreement, the party found by the court to be in default agrees to pay reasonable attorney's fees to the successful party in an amount to be fixed by the Court.

The venue for any claim being brought for breach of this Agreement shall be in Madera County.

7. Governing Law. The laws of the State of California shall govern the rights and obligations of the parties under the Agreement, including the interpretation of the Agreement. If any part of the Agreement is adjudged to be invalid or unenforceable, such invalidity shall not affect the full force and effect of the remainder of the Agreement.

8. Termination. This agreement may be terminated by mutual written agreement or it may be terminated by the City upon giving ten (10) days written notice of intent to terminate the agreement.

Notice of termination shall be mailed to the City:

City of Madera
Steve Frazier, Interim City Administrator
205 W. 4th Street
Madera, CA 93637
sfrazier@cityofmadera.com

To the Consultant:

Ron Manfredi
3014 Forest Ln.
Madera, CA 93637
manfredisolutions@gmail.com
(559)351-8239

In the event of such termination, Consultant shall be paid for work completed to date of termination, and any such work shall become the property of the City and the amount of final fee due and payable by City to Consultant will be subject to negotiation but in no event less than the fees for service pursuant to the schedule:

- Within First 30 days of Contract: 50% of Total Contract (\$12,500)
- Within Second 30 days of Contract: 75% of Total Contract (\$6,250)
- After 60 days: 100% of Contract (\$1,250)

9. Assignment. Neither the City nor the Consultant will assign its interest in this Agreement without the written consent of the other.

10. Notices. All notices and communications from the City shall be to Consultant's primary contact and all notices and communications from the Consultant shall be to the City Administrator. All communications shall be conducted in writing. All written notices shall be provided and addressed as indicated in Paragraph 8 hereof.

11. City of Madera Business License. Prior to beginning any work the Consultant shall secure the appropriate Business License from the City of Madera unless Consultant is already in possession of a valid City of Madera Business License. Business License information may be obtained by calling (559) 661-5408.

12. Savings Clause. This agreement and the attachments and exhibits incorporated herein by reference, represents the entire agreement and understanding between the parties. Any modifications to this Agreement shall be in writing and signed by authorized representatives of the parties. One or more waivers of any term, condition or covenant by either party shall not be construed as a waiver of any other term, condition or covenant.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement at Madera, California, the day and year first above written.

CITY OF MADERA

BY: _____
Andrew Medellin, Mayor

Consultant
BY:  _____
Ron Manfredi

ATTEST:

Sonia Alvarez, City Clerk

APPROVED AS TO FORM
CITY ATTORNEY:

By: _____
Joel Brent Richardson

CONSULTING SERVICES AGREEMENT
SCOPE OF WORK

Item #1

- Provide written and verbal feedback and recommendations to the City Council during the workshop to be held during open session with Compensation Consultant hired through City's RFP process to evaluate and determine comparable agencies and define the elements of total compensation to be included in the study, including methodology and how each element will be valued for comparison purposes.
- Review the draft Compensation Study to be prepared by the Compensation Consultant to evaluate proper comparable cities and positions used in the study, proper measurement of the defined elements of compensation, as well as provide any revised recommendations for consideration in writing to the City to be provided to the Compensation Consultant.
- Upon receipt of the final Compensation Study report, review existing management contracts and provide options to the City Council for implementation of findings in the Compensation Study. Options will be provided in writing and provide the Council with a menu of choices that outlines both the positive and negative impacts of implementing each option.

Item #2

- Report to Interim City Administrator and City Council regarding consideration/review of water utility rate assumptions, related maintenance, personnel staffing, CIP percentages and long-term capital improvement plans and funding sources, and the revenue for these operations. Identify in that process the role of developmental impact fees and their relationship to capital projects included in the rate calculations and key benchmarks to be aware of in progressing with the current impact fee study.

Item #3

- At Council discretion provide two governance workshops. Recommended by consultant one now and the other after the new City Administrator has been hired. Specific dates to be mutually agreed upon.
- Consultant will act as advisor to Council on the recruitment and hiring of the City Administrator. Timetable to be mutually agreed upon but input will be provided before Council final compensation/benefit instructions are given to search firm.

CONSULTING SERVICES AGREEMENT
INSURANCE REQUIREMENTS

Without limiting Consultant's indemnification of City, and prior to commencement of Work, Consultant shall obtain, provide, and continuously maintain at its own expense during the term of the Agreement, and shall require any and all Subcontractors and Subconsultants of every Tier to obtain and maintain, policies of insurance of the type and amounts described below and in form satisfactory to the City.

Minimum Scope and Limits of Insurance

Consultant shall maintain limits no less than:

- **\$500,000 General Liability** per occurrence and in the aggregate, for bodily injury, personal injury and property damage, including without limitation, blanket contractual liability. Coverage shall be at least as broad as Insurance Services Office (ISO) Commercial General Liability coverage form CG 00 01. General liability policies shall be endorsed that the City and its officers, officials, employees and agents shall be additional insureds under such policies.
- **\$100,000 Automobile Liability** combined single limit per accident for bodily injury or property damage at least as broad as ISO Form CA 00 01 for all activities of Consultant arising out of or in connection with Work to be performed under this Agreement, including coverage for any owned, hired, non-owned or rented vehicles. Automobile Liability policies shall be endorsed to provide that the City and its officers, officials, employees and agents shall be additional insureds under such policies.
- **Worker's Compensation** as required by the State of California.
- **\$100,000 Professional Liability (Errors & Omissions)** per claim and in the aggregate. Consultant shall maintain professional liability insurance that insures against professional errors and omission that may be made in performing the Services to be rendered in connection with this Agreement. Any policy inception date, continuity date, or retroactive date must be before the effective date of this Agreement, and Consultant agrees to maintain continuous coverage through a period no less than three years after completion of the services required by this Agreement. The cost of such insurance shall be included in Consultant's bid.

Maintenance of Coverage

Consultant shall procure and maintain, for the duration of the contract, insurance against claims for injuries to persons or damages to property, which may arise from or in connection with the performance of the Work hereunder by Consultant, its agents, representatives, employees, subcontractors or subconsultants as specified in this Agreement.

Proof of Insurance

Consultant shall provide to the City certificates of insurance and endorsements, as required, as evidence of the insurance coverage required herein, along with a waiver of subrogation endorsement for workers' compensation. Insurance certificates and endorsements must be approved by the City prior to commencement of performance. Current evidence of insurance shall be kept on file with the City at all times during the term of this Agreement. Agency reserves the right to require complete, certified copies of all required insurance policies, at any time.

Acceptable Insurers

All insurance policies shall be issued by an insurance company currently authorized by the Insurance commissioner to transact business of insurance in the State of California, with an assigned policyholders' Rating of A- (or higher) and a Financial Size Category Class VII (or larger), in accordance with the latest edition of Best's Key Rating Guide.

Waiver of Subrogation

All insurance coverage maintained or procured pursuant to this agreement shall be endorsed to waive subrogation against the City, its elected or appointed officers, agents, officials, employees, and volunteers, or shall specifically allow Consultant, or others providing insurance evidence in compliance with these specifications, to waive their right of recovery prior to a loss. Consultant hereby waives its own right of recovery against the City and shall require similar written express waivers and insurance clauses from each of its subconsultants or subcontractors.

Enforcement of Contract Provisions (non estoppel)

Consultant acknowledges and agrees that any actual or alleged failure on the part of the Agency to inform Consultant of non-compliance with any requirement imposes no additional obligations on the City, nor does it waive any rights hereunder.

Specifications not Limiting

Requirements of specific coverage features or limits contained in this Section are not intended as a limitation on coverage, limits or other requirements, or a waiver of any coverage normally provided by any insurance. Specific reference to a given coverage feature is for purposes of clarification only as it pertains to a given issue and is not intended by any party or insured to be all inclusive, or to the exclusion of other coverage, or a waiver of any type. If Consultant maintains higher limits than the minimums required above, the entity shall be entitled to coverage at the higher limits maintained by Consultant.

Notice of Cancellation

Consultant agrees to oblige its insurance agent or broker and insurers to provide to the City with thirty (30) calendar days' notice of cancellation (except for nonpayment for which ten (10) calendar days' notice is required) or nonrenewal of coverage for each required coverage.

Self-insured Retentions

Any self-insured retentions must be declared to and approved by the City. The City reserves the right to require that self-insured retentions be eliminated, lowered or replaced by a deductible. Self-insurance will not be considered to comply with these specifications unless approved by the City's Risk Manager.

Timely Notice of Claims

Consultant shall give the City prompt and timely notice of claims made or suits instituted that arise out of or result from Consultant's performance under this Agreement, and that involve or may involve coverage under any of the required liability policies.

Additional Insurance

Consultant shall also procure and maintain, at its own cost and expense, any additional kinds of insurance, which in its own judgement may be necessary for its proper protection and prosecution of the Work.