



REQUEST FOR PROPOSAL

**AIRPORT ENGINEERING AND
CONSTRUCTION MANAGEMENT
SERVICES**

RFP #201920-07

December 18, 2019

1. INSTRUCTIONS AND CONDITIONS

- A. No proposal will be considered for award unless submitted in the proposal format described in this Request for Proposal (RFP). The proposal must be fully complete and executed. Each response shall contain four (4) copies of the completed proposals which will include; three (3) bound and one (1) unbound copy with a copy of this RFP attached to the front of each proposal, with appropriate responses included.

Format: Proposal should be 8 ½ x 11 inches, printed two-sided on recycled paper with removable bindings, bound in a single document and organized in sections.

Each proposal must be submitted in a sealed envelope addressed to Becky McCurdy, Procurement Services Manager, City of Madera, Purchasing-Central Supply, 1030 South Gateway Drive, Madera, California 93637, and delivered prior to the time and date specified in this document. Each sealed envelope containing a proposal must have, on the outside, the name of the proposer, proposer's address and the statement "DO NOT OPEN UNTIL THE TIME OF PROPOSAL OPENING" and in addition, must be plainly marked on the outside as follows:

Proposal: Airport Engineering and Construction Management Services

RFP #: 201920-07

Filing Deadline: Thursday, January 16, 2020 - 3:00 P.M.

- B. Attention of proposers is especially directed to the specifications which, in addition to the proposal and these instructions, are basis for evaluation and will be part of any agreement with the successful proposer. Any deviations from the specifications in this notice shall be proper reason for rejection of all or any part of the proposal.
- C. The City of Madera recognizes its policy of providing equal opportunity to all qualified persons and reaffirms its commitment that there shall be no discrimination against qualified applicants or employees on the basis of race, gender, color, national origin, religion, age, disability, sexual orientation or marital status.

- D. The City reserves the right to reject or accept any or all proposals or parts thereof and to accept or reject the alternatives individually or jointly, for any reason.
- E. The City reserves the right to consider any minor deviations from the specifications and determine the acceptance or rejection of such deviation. The City reserves the right to seek supplementary information from any proposer at any time after official proposal opening and before the award. Such information will be limited to clarification or amplification of information asked in the original proposal.
- F. The City reserves the right to modify this Request for Proposal (RFP) at any time. In the event it becomes necessary to modify or revise the RFP, a written amendment or addenda issued by City's Purchasing-Central Supply Division is the only method which should be relied on with respect to changes to the RFP. Proposer is responsible to contact City's Purchasing-Central Supply Division prior to submitting a proposal to determine if any amendments were made to the RFP. Documents, amendments, addenda, etc. will be posted to the City's Purchasing page at www.madera.gov/purchasing under Bid Announcement and Results.

Questions and suggestions concerning the RFP must be submitted in writing no later than 3:00 P.M. Monday, January 6, 2020. Written questions or inquiries should be e-mailed, mailed or faxed to:

Becky McCurdy
Procurement Services Manager
City of Madera
Purchasing-Central Supply
1030 South Gateway Drive
Madera, CA 93637

rmccurdy@madera.gov

FAX: (559) 661-0760

No questions or inquiries should be directed to any individual(s) at the locations detailed in this document. All communications should be submitted in writing per the process described in this document.

- G. Proposals will be evaluated by the City. If a proposal is found to be incomplete or not in compliance with the format required, it will not be considered for evaluation. During the evaluation process, the City may find it beneficial to request additional information.
- H. Any proposal may be withdrawn at any time prior to the hour fixed for the opening, provided that a request in writing executed by the proposer, or his/her duly authorized representative, for the withdrawal of such proposal is filed with Purchasing-Central Supply. The withdrawal of a proposal shall not prejudice the right of a proposer to file a new proposal prior to the time and date set for the opening. After the expiration of the

time and date for receipt of proposals, a proposal may not be withdrawn or altered.

- I. Issuance of the RFP and receipt of proposals does not commit the City to award an agreement. The City reserves the right to postpone the RFP process for its own convenience, to accept or reject any or all proposals received in response to this RFP, to negotiate with other than the selected company should negotiations with the selected company be terminated, or to cancel any section of this RFP. The City also reserves the right to apportion the award among more than one proposer.
- J. An award will be made as soon as reasonably practical after the opening of Proposals. A three-year agreement will be awarded. Prices shall remain firm for a minimum of three years. The City has the option to extend the agreement for two additional one-year terms. The price for the extension will be negotiated prior to processing an extension.
- K. The successful Proposer shall enter into a formal agreement with City which will be very similar in content to the Attachment B "Draft" agreement which is provided for information purposes only and to help clarify City intent relevant to this Request for Proposal.
- L. The City may, at its sole option, terminate any contract/agreement that may be awarded as a result of this RFP at the end of any City Fiscal Year, for reason of non-appropriation of funds. In such event, the City will give proposer at least thirty (30) days written notice that such function will not be funded for the next fiscal period.
- M. Prior to beginning any work or delivering any equipment or material to be furnished under this proposal, the proposer shall secure the appropriate Business License from the City of Madera. Business license information may be obtained by calling (559) 661-5408. Should the proposer already have his license, please indicate the license number and expiration date below:

City License No. _____ Expiration Date _____

Any Federal or State of California License/Certification required to provide the services will be required. A Certificate of Insurance in accordance with the Insurance Requirements for Service Providers document included in this RFP as Attachment A will also be required.

- N. Proposer's Proprietary Information: All documents provided by the successful proposer shall become public record.
- O. It is the City's policy to encourage the purchase of supplies, services and equipment from vendors located within the boundaries of the City. Local vendors are sellers, vendors, suppliers and contractors who maintain places of business located within the limits of the City and who have a current City of Madera business license. The local vendor outreach policy shall not apply to those Agreements where State or Federal law, or other laws or regulations preclude such a preference.

Contractors will, to the greatest extent feasible, attempt to incorporate local area businesses as subcontractors and suppliers. Contractors will, upon request, provide records showing the outreach efforts made to local businesses to demonstrate that they have made a reasonable effort to inform local businesses of the opportunity.

- P. The agreement issued to the successful engineer/consultant is subject to the provisions of Executive Order 11246 (Affirmative Action to Ensure Equal Employment Opportunity) and to the provisions of the Department of Transportation Regulation 49 CFR Part 26 (Disadvantaged Business Enterprise Participation). DBE firms are encouraged to participate.

2. GENERAL INFORMATION

The City of Madera is requesting a proposal from professional consultants with a strong background in construction of general aviation airport improvements.

The Madera Municipal Airport is located approximately three miles northwest of the City of Madera. The 890-acre site is located in the Central Valley of California at an elevation of 255 feet above mean sea level. The Airport is owned and operated by the City of Madera. The Airport is a general aviation facility serving the requirements of the air trade area, which generally consists of the City of Madera, the surrounding County of Madera, and portions of Fresno County. Aircraft using the airport are generally single-engine general aviation aircraft, twin-engine general aviation aircraft, and business jets.

3. SPECIFICATIONS

The purpose of this RFP is to solicit qualified professional consultants with a strong background in the architectural, engineering, and construction management of airport improvements to provide services in support of City staff for future projects at the Madera Municipal Airport. The ideal Firm will have substantial experience consisting of at least 10 years providing airport architectural, engineering, and construction management services. The experience should include identifying future FAA grant projects; preparation of FAA grant applications and documentation; preparation of design and project plans and specifications for FAA grant projects; providing assistance in the contractor bid process; serving as grant manager and project manager during the construction phase of airport planning and development projects involving the FAA. The contents of this document are provided as background and general information for Firms and as a guide for the City to evaluate submittals. The City reserves the right to accept or reject any submittal and/or negotiate with any or all of the firms.

The City wishes to retain these services for a five-year contract period. The selected firm will assist City staff with proposed projects and improvements at the Madera Municipal Airport (Airport). The types of services include, but are not limited to, the following:

- architectural service;
- general engineering services;
- providing engineering design and other services as required;
- providing construction administration, inspection, and testing services during

construction projects.

The ideal Firm will have substantial experience consisting of at least 10 years providing airport architectural, engineering, and construction management services. The experience should include identifying future FAA grant projects; preparation of FAA grant applications and documentation; preparation of design and project plans and specifications for FAA grant projects; providing assistance in the contractor bid process; serving as grant manager and project manager during the construction phase of airport planning and development projects involving the FAA.

In accordance with FAA Advisory Circular 150/5100-14E, the City is seeking statements of qualified consultants to provide the architectural, engineering, and construction administration and management services as detailed herein. All work shall be accomplished in accordance with all federal, state, and local guidelines and regulations, including FAA advisory circulars. Additional work includes representing the Airport with California Division of Aeronautics and the FAA for the purposes of the Capital Improvement Plan coordination and other related engineering coordination. Also, the consultant will assist the City in grant applications and/or management in the process of executing capital projects.

The airport consultant services required for typical airport development projects involves services generally of an architectural, civil, geotechnical, structural, mechanical, and electrical engineering nature. The basic services that will be required are the following:

A. Preliminary Phase

This phase involves those activities required for defining the scope of a project and establishing preliminary requirements. Some examples of activities within this phase of a project include:

- Coordinating with the City on project scope requirements, finances, schedules, operational safety and phasing considerations, site access and other pertinent matters.
- Planning, procuring, and/or preparing necessary surveys, geotechnical engineering investigations, field investigations, and architectural and engineering studies required for design considerations.
- Developing design schematics, sketches, environmental and aesthetic considerations, project recommendations, and preliminary layouts and cost estimates.

B. Design Phase

This phase includes all activities required to undertake and accomplish a full and complete project design. Examples include:

- Conducting and attending meetings and design conferences to obtain information and to coordinate or resolve design matters.
- Collecting engineering data and undertaking field investigations; performing geotechnical engineering studies; and architectural and engineering studies.
- Preparing necessary engineering reports and recommendations.
- Preparing detailed plans, specifications, and cost estimates.
- Preparing Construction Safety and Phasing Plan (CSPP).

- Printing and providing necessary copies of engineering drawings and contract specifications.

C. Construction Phase

This phase includes all activities to construct the project. Examples include:

- Assisting the City in advertising and securing bids, negotiating for services, analyzing bid results, furnishing recommendations on the award of contracts, and preparing contract documents.
- Representing the City at preconstruction conferences.
- Onsite construction inspection and/or management involving the services of a part-time or full-time resident engineer(s), inspector(s), or manager(s) during the construction or installation phase of a project.
- Providing consultation and advice to the City during all phases of construction.
- Inspecting work in progress periodically and providing appropriate reports to the City.
- Reviewing and approving shop and construction drawings submitted by contractors for compliance with design concept.
- Reviewing, analyzing, and approving laboratory and mill test reports of materials and equipment.
- Preparing and negotiating change orders and supplemental agreements.
- Observing or reviewing performance tests required by specifications.
- Preparation of as-constructed plans.
- Determining amounts owed to contractors and assisting the City in the preparation of payments required for amounts reimbursable from grant projects.
- Making final inspections and submitting a report of the completed project to the City.

The projects are funded in the Airport Fund Budget, as well as with grants from both the State of California and the Federal Aviation Administration. The amount allocated for professional and technical services fees will be negotiated with the Firm found best qualified. A detailed scope of work and cost for each project will be negotiated on an individual project basis. All projects will be subject to the availability of funding and nothing shall obligate the City to proceed with any or all of the projects. All work shall be accomplished in compliance with all State, Federal, and Local guidelines and regulations including the Environmental Protection Agency and California Environmental Statutes.

4. FIVE-YEAR AIRPORT CAPITAL IMPROVEMENT PLAN

The Airport has submitted a five-year \$1,430,000 Airport Capital Improvement Plan (ACIP) to the FAA that includes the following design and construction projects. Below is a synopsis of the 5-year ACIP showing the total estimated cost of the projects.

Year	Development Type	Description	Total Estimated Cost
2020	Design	Airfield Drainage Improvements	\$ 135,000
2021	Construction	Airfield Drainage Improvements	\$ 952,000
2022		Carryover	\$ -
2023		Carryover	\$ -
2024	Design	Runway 12-30 Mill and Fill	\$ 343,000
5-year ACIP TOTAL			\$ 1,430,000

5. SUBMITTAL REQUIREMENTS

Proposals shall include:

- A. Firm Information
 - Legal name of entity, entities, or joint venture.
 - Contact information to include mailing address, phone, and fax.
 - Attach a description or organizational chart of the Firm’s proposed management structure depicting project staff personnel and their responsibilities, including sub-contractors, if any.
 - Identify the key personnel (including sub-consultants) that will be the primary day-to-day contact on this project.
- B. Firm Experience
 - List the number of years of experience Firm has had in airport development projects.
 - Provide a list and brief description of relevant airport architectural, engineering, and construction management projects that have been completed and associated work performed by the Firm within the last ten (10) years (limit relevant projects to five projects).
- C. Understanding of the required services
 - Detailed description of the Firm’s approach and information pertinent to the projects listed for the Madera Municipal Airport.
- D. Evidence of general liability and professional liability insurance.

6. EVALUATION AND SELECTION PROCESS

The City will review and evaluate each proposal to determine whether each proposer’s qualifications are in accordance with the needs of the Airport and the proposed projects outlined. The City will deem proposals not including qualifications submitted in accordance with these documents to be non-responsive and may reject all non-responsive proposals.

Selection of the top ranked proposer will be based upon the following criteria in conjunction with FAA Advisory Circular 150/5100-14E and relative importance of the required information:

Criteria	Points
Specific qualifications, experience, and skillset fit of the primary staff required for the work	20
Experience and availability of key personnel	20
Knowledge, experience, and requirements related to FAA funded projects	30
References	20
Project approach	10
TOTAL	100

Upon the request of and at the discretion of the City, proposers may be required to supply additional information, or to make assigned personnel available for interviews, or to make additional or supplemental submissions under secondary selection criteria, if deemed necessary by the selection committee.

Please note that this request is for a proposal providing your statement of interest and qualifications.

A cost proposal should not be included with your submittal. Upon completion of the evaluation process the highest ranking firm will be asked to provide a cost schedule and final project costs will be determined through negotiations with the selected firm. The City reserves the right to enter into negotiations with more than one firm.

**CITY OF MADERA
PROPOSAL AUTHORIZATION
AIRPORT ENGINEERING AND CONSTRUCTION MANAGEMENT SERVICES
RFP #201920-07**

COMPANY NAME _____

STREET ADDRESS _____

CITY / STATE / ZIP _____

PHONE NUMBER _____

EMAIL _____

PERSON PREPARING PROPOSAL _____

POSITION _____

SIGNATURE _____

DATE _____

MADERA BUS. LIC. NO. _____

Attachment A

Insurance Requirements for Service Providers

Without limiting Service Provider's indemnification of City, and prior to commencement of Work, Service Provider 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

Service Provider shall maintain limits no less than:

- **\$2,000,000 General Liability** (including operations, products and completed operations) per occurrence, \$4,000,000 general 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 using ISO form CG 20 10 that the City and its officers, officials, employees and agents shall be additional insureds under such policies.
- **\$1,000,000 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 Service Provider 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 and **\$1,000,000 Employer's Liability** per accident for bodily injury or disease. Service Provider shall submit to the City, along with the certificate of insurance, a Waiver of Subrogation endorsement in favor of the City, its officers, agents, employees, and volunteers.

Maintenance of Coverage

Service Provider 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 Service Provider, its agents, representatives, employees, subcontractors or subconsultants as specified in this Agreement.

Proof of Insurance

Service Provider 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 Service Provider, or others providing insurance evidence in compliance with these specifications, to waive their right of recovery prior to a loss. Service Provider 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)

Service Provider acknowledges and agrees that any actual or alleged failure on the part of the Agency to inform Service Provider 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 Service Provider maintains higher limits than the minimums required above, the entity shall be entitled to coverage at the higher limits maintained by Service Provider.

Notice of Cancellation

Service Provider 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

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

Additional Insurance

Service Provider 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.

Attachment B

DRAFT

**CITY OF MADERA
AIRPORT ENGINEERING AND CONSTRUCTION MANAGEMENT SERVICES**

THIS AGREEMENT made and entered into the ___ day of _____, 2020, by and between the CITY OF MADERA, a municipal corporation of the State of California, hereinafter called "City" and _____, hereinafter called "Service Provider";

RECITALS

- A. The City is in need of Airport Engineering and Construction Management Services and the City has issued a Request for Proposals (RFP) for Airport Engineering and Construction Management Services.
- B. City requires an Airport Engineering and Construction Management Services Agreement from a qualified professional service provider.
- C. Service Provider is a firm having the necessary experience and qualifications to provide services under this Airport Engineering and Construction Management Services Agreement.
- D. After conducting an RFP process for Airport Engineering and Construction Management Services and after review and consideration, City desires to retain Service Provider to provide said services.

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 Service Provider as follows:

1. Services. The City hereby employs Service Provider to provide Airport Engineering and Construction Management Services, herein set forth at the compensation and upon the terms and conditions herein expressed, and Service Provider hereby agrees to perform such services for said compensation, and upon said terms and conditions City hereby authorizes Service Provider to commence work on _____, 2020.

2. Obligations, duties and responsibilities of Service Provider. It shall be the duty, obligation and responsibility of the Service Provider, in a skilled and professional manner, to perform, furnish and supply to the City the services and supplies in accordance with the minimum service requirements as listed below:

INSERT SCOPE OF WORK

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

3.1 Fees. For all the work and services, including supplies and equipment, pertaining to the AIRPORT ENGINEERING AND CONSTRUCTION MANAGEMENT SERVICES AGREEMENT and supplies required to be furnished by the Service Provider to the City, City agrees to pay to Service Provider and Service Provider agrees to accept and receive as payment in full the following fees and compensation which shall be known as the "Fee" to be paid as hereinafter set forth.

A. Fee Schedule

INSERT FEE SCHEDULE

4. Term of Agreement. This Agreement shall be effective on _____, 2020, after approval by the City Council at a duly scheduled meeting thereof and shall continue in full force and effect through _____, 2022, unless otherwise terminated earlier by one of the parties pursuant to Section 8 of this Agreement. This Agreement may be extended by mutual written consent annually thereafter, not to exceed two (2) additional years, by providing such notice to the parties as identified in Section 8 of this Agreement. Fees and Costs for the optional extensions may be adjusted based upon the Consumer Price Index, Pacific Cities and U. S. Average for all urban consumers, Western Cities Category "C" or 2.5%, whichever is less.

5. Hold Harmless and Insurance Requirements.

5.1 Independent contractor. In the furnishing of the services provided herein, the Service Provider is acting as an independent contractor and not as an employee of the City. Service Provider acknowledges and agrees that at all times, Service Provider or any agent or employee of Service Provider shall be deemed at all times to be an independent contractor and is wholly responsible for the manner in which it performs the services and work requested by City under this Agreement. Service Provider, its agents, and employees will not represent or hold themselves out to be employees of the City at any time. Service Provider or any agent or employee of Service Provider shall not have employee status with City, not be entitled to participate in any plans, arrangements, or distributions by City pertaining to or in connection with any retirement, health or other benefits that City may offer its employees. Service Provider or any agent or employee of Service Provider is liable for the acts and omissions of itself, its employees, and its agents. Service Provider shall be responsible for all obligations and payments, whether imposed by federal, state, or local laws, including, but not limited to, FICA, income tax withholdings, unemployment compensation, insurance, and other similar responsibilities related to Service Provider's performing services and work, or any agent or employee of Service Provider providing same. Nothing in this Agreement shall be construed as creating an employment or agency relationship between City and Service Provider or any agent or employee of Service Provider. Any terms in this Agreement referring to direction from City shall be construed as providing for direction as to policy and the result of Service Provider's work only, and not as to the means by which such a result is obtained. City does not retain the right to control the means or the method by which Service Provider performs work under this Agreement

5.2 Indemnification and Waivers. Service Provider shall defend, indemnify, save, protect, and hold harmless the City of Madera, the members of the City Council of said City and all other officers, volunteers and employees of said City against and from all claims, suits, actions, demands or liability whatsoever to any person or persons by reason of personal injuries or death or damage or destruction of property caused by or arising out of Service Provider's operations under the terms of this Agreement, or extension thereof, or by Service Provider's failure to comply with any of the terms or provisions of said Agreement. Service Provider shall and does hereby waive any claim against the City of Madera, its officers, volunteers and employees, for any damage to equipment or other property connected with Service Provider's operations under this Agreement arising from any cause.

5.3 Insurance. During the term of this Agreement, Service Provider shall maintain, keep in force and pay all premiums required to maintain and keep in force liability and property damage insurance. The limits of such policy shall be as required by the City of Madera. A copy of the City's requirements for such insurance coverage is attached hereto as Exhibit "A".

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 this 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.

A. This Agreement may be terminated at any time by either party upon fifteen (15) calendar days written notice. In the event the Agreement is terminated by either party, Service Provider shall be compensated for services performed to the date of termination based upon the compensation rates and subject to the maximum amounts payable agreed to together with such additional services performed after termination which are authorized in writing by the City representative to wind up the work performed to date of termination.

B. City may immediately suspend or terminate this Agreement in whole or in part by written notice where, if in the determination of City, there is:

1. An illegal use of funds by Service Provider;
2. A failure by Service Provider to comply with any material term of this Agreement;
3. A substantially incorrect or incomplete report submitted by Service Provider to City.

In no event shall any payment by City or acceptance by Service Provider constitute a waiver by such party of any breach of this Agreement or any default which may then exist on the part of either party. Neither shall such payment impair or prejudice any remedy available to either party with respect to such

breach or default. City shall have the right to demand of Service Provider the repayment to City of any funds disbursed to Service Provider under this Agreement which, as determined by the appropriate court or arbitrator, were not expended in accordance with the terms of this Agreement.

All notices shall be mailed to the City:

City of Madera
Public Works Department
1030 South Gateway Drive
Madera, CA 93637

To Service Provider:

9. Compliance with Laws.

A. Laws Incorporated by Reference. The full text of the laws listed in this Section, including enforcement and penalty provisions, are incorporated by reference into this Agreement.

B. Conflict of Interest. By executing this Agreement, Service Provider certifies that it does not know of any fact which constitutes a violation of Title 9, Chapter 7 of the California Government Code (Section 87100 et seq.), or Title 1, Division 4, Chapter 1, Article 4 of the California Government Code (Section 1090 et seq.), and further agrees promptly to notify the City if it becomes aware of any such fact during the term of this Agreement.

C. Proprietary Information. In the performance of Services, Service Provider may have access to City's proprietary or confidential information, the disclosure of which to third parties may damage City. If City discloses proprietary or confidential information to Service Provider, such information must be held by Service Provider in confidence and used only in performing the Agreement. Service Provider shall exercise the same standard of care to protect such information as a reasonably prudent Service Provider would use to protect its own proprietary or confidential information.

D. Nondiscrimination Requirements. Service Provider shall comply with all state and federal laws in the administration of this Agreement.

E. Alcohol and Drug-Free Workplace. City reserves the right to deny access to, or require Service Provider to remove from, City facilities personnel of any Service Provider or subcontractor who City has reasonable grounds to believe has engaged in alcohol abuse or illegal drug activity which in any way impairs City's ability to maintain safe work facilities or to protect the health and well-being of City employees and the general public. City shall have the right of final approval for the entry or re-entry of any such person previously denied access to, or removed from, City facilities. Illegal drug activity means possessing, furnishing, selling, offering, purchasing, using or being under the influence of illegal drugs or other controlled substances for which the individual lacks a valid prescription. Alcohol abuse means possessing,

furnishing, selling, offering, or using alcoholic beverages, or being under the influence of alcohol.

F. Public Records Act. Contractor acknowledges that this Agreement and all records related to its formation, Contractor's performance of services, and City's payment are subject to the California Public Records Act, (California Government Code §6250 et seq.). Such records are subject to public inspection and copying unless exempt from disclosure under federal, state, or local law.

10. Notices. All notices and communications from the Service Provider shall be to City's Fleet Operations Manager. Verbal communications shall be confirmed in writing. All written notices shall be provided and addressed as indicated above.

11. Assignment. Neither the City nor the Service Provider will assign its interest in this Agreement without the written consent of the other.

12. Entire Agreement. This contract sets forth the entire Agreement between the parties and supersedes all other oral or written provisions. Any changes to this Agreement requested by either City or Service Provider may only be effected if mutually agreed upon in writing by duly authorized representatives of the parties hereto. This Agreement shall not be modified or amended or any rights of a party to it waived except by such a writing.

13. Venue. The formation, interpretation, and performance of this Agreement shall be governed by the laws of the State of California. Venue for all litigation relative to the formation, interpretation, and performance of this Agreement shall be in the County of Madera.

This Agreement and the attachments and exhibits incorporated herein, 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: _____

BY: _____

ATTEST:

Alicia Gonzales, City Clerk

APPROVED AS TO FORM

|

Hilda Cantú Montoy, City Attorney