



REPORT TO CITY COUNCIL

Approved by: 

Daniel Foss, Department Director



Arnaldo Rodriguez, City Manager

Council Meeting of: September 16, 2020

Agenda Number: D-1

SUBJECT:

Project Authorization Agreement with Aviation Managing Consulting Group (AMCG) for Co-Pilot (CAT II) Program.

RECOMMENDATION:

Adopt a Resolution approving the Project Authorization Agreement with AMCG for Co-Pilot (CAT II) Program Airport Management Support.

SUMMARY:

The City has an existing consulting services agreement with AMCG for consulting services related to the Madera Municipal Airport; however, due to increased demand from stakeholders, a graduated plan is being recommended. The proposed agreement would supersede the current agreement and would extend the term one-year to November 30, 2021. The existing agreement has a sunset clause of November 30, 2020.

The subject agreement would allow for additional services. More specifically, the current plan costs \$250 per month and allows for 60 minutes of airport management co-pilot support, whereas the new plan would cost \$490 per month and include 120 minutes of co-pilot support (see Table 1).

Table 1: Plan Comparison		
<i>Plan</i>	<i>Monthly Rate</i>	<i>Contract Period</i>
Current Plan	\$250 for 60 minutes	November 30, 2020
Graduated Plan	\$490 for 120 minutes	November 30, 2021

The need for additional services may be attributed to:

- Renewed interest in land leases at the airport, similar to the agreement that the Council approved on July 15, 2020 between the City and WSD, LLC, a California limited liability company for a 37,000 square foot airplane hanger
- Upcoming Capital Improvement Projects that will necessitate greater coordination with the Federal Aviation Administration (FAA)
- Coordination with the FAA on potential through-the-fence agreements
- Consultation on the City's desire to establish a recharge basin just west of the airport at the golf course
- Need to prepare a commercial land lease rate study similar to the study that was recently prepared for noncommercial land leases

DISCUSSION:

The AMCG Co-Pilot program provides a blend of uniquely talented consultants with over 125 years of combined experience in aviation experience. Some services offered by AMCG include: Strategic Planning, Rent/ Fee studies, RFP development, Through the fence assessments, and general aviation lease analyses. These services are integral to the airport's current state of affairs. There has been increased interest from stake holders, which makes AMCG's co-pilot program a valuable asset to the Madera Municipal Airport.

FINANCIAL IMPACT:

This agreement will be financed by funds set aside for this purpose in the Airport Operations budget.

CONSISTENCY WITH THE VISION MADERA 2025 PLAN:

Approval of this agreement is not addressed in the Vision or Action Plans and is not in conflict with the actions or goals contained in that plan.

ALTERNATIVES:

Council may request that staff provide additional information or identify alternate consulting firms.

ATTACHMENTS:

1. Resolution
 - a. Exhibit 1 – AMCG Agreement

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MADERA,
CALIFORNIA APPROVING PROJECT AUTHORIZATION AGREEMENT WITH
AVIATION MANAGING CONSULTING GROUP (AMCG) FOR CO-PILOT
PROGRAM – CAT II AIRPORT MANAGEMENT SUPPORT**

WHEREAS, the City entered into services consulting agreement with Aviation Managing Consulting Group (AMCG) on June 1, 2020; and

WHEREAS, the existing agreement service rate is \$250 for 60 minutes of consultation time per month; and

WHEREAS, the City has identified the need to upgrade the existing AMCG co-pilot program services package and extend the term by one-year; and

WHEREAS, AMCG has been identified as a firm having the necessary experience and qualifications to provide airport consulting services; and

WHEREAS, the upgraded package service rate will be \$490 for 120 minutes of consultation time per month; and

WHEREAS, the upgraded package includes an agreement that will extend for a period of one-year.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MADERA HEREBY finds, orders, and resolves as follows:

1. The above recitals are true and correct.
2. The City Council approves the Project Authorization Agreement with Aviation Managing Consulting Group (AMCG) for Co-Pilot Program – CAT II Airport Management Support.
3. The current Project Authorization Agreement shall be deemed null and void and superseded by the Project Authorization Agreement effective August 31, 2020.
4. This resolution is effective immediately upon adoption.

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PROJECT AUTHORIZATION AGREEMENT

- Client:** City of Madera, Madera Municipal Airport
1030 South Gateway
Madera, California 93637
- Contact:** Mr. Dan Foss, Interim Operations Director
Email Address (for notices): dfoss@madera.gov
- Consultant:** Aviation Management Consulting Group, Inc.
9085 E. Mineral Circle, Suite 315
Centennial, Colorado 80112
- Contact:** Jeff Kohlman, Managing Principal
Email Address (for notices): jkohlman@amcg.aero
- Services:** Co-Pilot Program – CAT II Airport Management Support
- Scope:** Aviation Management Consulting Group (AMCG) will provide airport management co-pilot support to Client from September 1, 2020 to November 30, 2021 (as outlined in the *AMCG Airport Management Co-Pilot Program Brochure provided by email to Dan Foss on May 14, 2020*).
- Fees:** The Scope will be provided for \$490 per month for 120 minutes of airport management co-pilot support.
- Additional airport management co-pilot support beyond the allocated and purchased minutes will be provided at the discounted hourly rate of \$225 per hour.
- If Client refers another party that purchases a co-pilot support package from AMCG, Client will receive one additional month of airport management co-pilot support for each referral.
- Expenses:** The Client agrees to reimburse AMCG (at cost without mark-up) for any direct (project-related) expenses incurred by AMCG. AMCG does not anticipate any expenses associated with the scope. Client's approval is required prior to incurring any direct (project-related) expenses.
- Direct (project-related) expenses include air and ground transportation, lodging, subsistence, and costs for outside services (e.g., overnight or courier service, copying, printing, and document production/duplication, etc.).*
- Terms:** A signed Agreement will be required to commence work. Fees for services rendered (and reimbursement for expenses incurred) by AMCG will be payable on a progressive basis predicated upon the work performed and the expenses incurred by AMCG each billing period (terms net 15 with interest at 15% per annum accrued on any unpaid balance). AMCG shall for all purposes be deemed an independent contractor of Client. While AMCG typically invoices on a monthly basis, AMCG may invoice the Client on a more frequent basis in AMCG's discretion. If any payment due and owing is not made promptly by the Client, AMCG may discontinue work. The Client agrees to pay all costs of collection including attorney's fees and related costs/expenses and all interest incurred if payments are not made as agreed. In the event of any other dispute, the prevailing party shall be entitled to recover attorney's fees, court costs, and related costs/expenses.
- This Agreement is subject to the terms and conditions included in **Attachment A – General Terms and Conditions**.



PROJECT AUTHORIZATION AGREEMENT

AMCG does not employ any attorneys, certified public accountants, or engineers. As such, AMCG will not directly provide any legal, tax, or engineering reviews, render any legal, tax, or engineering findings, observations, opinions, or recommendations, or provide any legal, tax, or engineering advice to the Client.

The Client understands that AMCG provides a wide range of aviation management consulting services to current and prospective owners and operators of airports and aviation businesses (and other entities) located throughout the United States and abroad. While AMCG has determined (and the Client has agreed) that no conflict of interest exists at this time (relating to the services identified in this Agreement), the Client understands that potential conflicts of interest (which cannot be anticipated at this time) may arise relating to future work (not related to the services identified in this Agreement) and if AMCG identifies a potential conflict and the conflict cannot be resolved, AMCG may not be able and would not be obligated to provide services to the Client as it relates to future work that is or may be perceived as being in conflict. In such a case, AMCG will identify and refrain from performing the services that are or may be perceived as being in conflict. All other aspects of this Agreement or any other agreement between AMCG and the Client shall not be affected.

This Agreement is subject to change (including withdrawal in part or whole) if not executed by the Client by 5:00 pm (Mountain) on September 15, 2020.

By: _____ Date: _____
Jeff A. Kohlman, Managing Principal
Aviation Management Consulting Group, Inc.

Client's Acceptance, Agreement, and Authorization:

I am authorized to sign for and bind City of Madera, California to the terms and conditions of this Agreement.

By: _____ Date: _____
(Signature)

Name: _____ Title: _____
(Print) (Print)

1. Entire Agreement

This Agreement, together with these General Terms and Conditions, any attachments, and/or written amendments hereto which may be agreed on by the Parties, constitutes the entire understanding and agreement between the Parties with respect to the Services to be provided hereunder and supersedes all previous negotiations, writings, and/or other agreements with respect to the subject matter hereof. If a proposal is attached hereto for purposes of scope and/or fee, then any additional terms or conditions contained in such proposal are void and not a part hereof.

2. Amendments

This Agreement and said attachments may only be amended by a written instrument signed by an authorized representative of each of the Parties hereto.

3. Indemnification

AMCG and Client each agree to indemnify, hold harmless, and defend their respective directors, officers, employees, agents, and representatives from and against all suits, actions, claims, demands, judgments, and liabilities including property damage and bodily injury or death and reasonable attorneys' fees to the extent resulting from indemnifying party's negligent acts, errors, or omissions or breach of contract relative to this Agreement.

4. Insurance

Without limiting AMCG's indemnification of Client, and prior to commencement of Services, AMCG shall obtain, provide, and continuously maintain at its own expense during the term of the Agreement policies of insurance of the type and amounts described below and in form satisfactory to the Client.

Minimum Scope and Limits of Insurance

AMCG 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.
- **Worker's Compensation** as required by the State of California and \$1,000,000 Employer's Liability per accident for bodily injury or disease. AMCG shall submit to the Client, along with the certificate of insurance, a Waiver of Subrogation endorsement in favor of the Client, its officers, agents, employees, and volunteers.
- **\$1,000,000 Professional Liability** (Errors & Omissions) per claim and in the aggregate. AMCG 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 AMCG agrees to maintain continuous coverage through a period no less than three years after completion of the Services required by this Agreement.

Proof of Insurance

AMCG shall provide to the Client 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 Client prior to commencement of performance. Current evidence of insurance shall be kept on file with the Client 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 Client, its elected or appointed officers, agents, officials, employees, and volunteers, or shall specifically allow AMCG, or others providing insurance evidence in compliance with these specifications, to waive their right of recovery prior to a loss. AMCG hereby waives its own right of recovery against the Client.

Enforcement of Contract Provisions (non estoppel)

AMCG acknowledges and agrees that any actual or alleged failure on the part of the Client to inform AMCG of non-compliance with any requirement imposes no additional obligations on the Client, 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 AMCG

maintains higher limits than the minimums required above, the entity shall be entitled to coverage at the higher limits maintained by AMCG.

Notice of Cancellation

AMCG agrees to oblige its insurance agent or broker and insurers to provide to the Client 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 Client. The Client 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 Client's Risk Manager.

Timely Notice of Claims

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

Additional Insurance

AMCG 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.

5. AMCG's Liability; Remedy for Breach

AMCG is not liable to Client, in contract or tort or otherwise, for any special, indirect, consequential, or liquidated damages including specifically, but without limitation, loss of profit or revenue, loss of capital, delay damages, loss of goodwill, claim of third parties, or similar damages. IN NO EVENT SHALL AMCG'S AGGREGATE LIABILITY FOR ALL CLAIMS EXCEED THE AMOUNTS PAID BY CLIENT TO AMCG IN THE PRECEDING 12 MONTHS.

In the event of any breach of this Agreement by AMCG with respect to the provision of Services, AMCG shall promptly correct or re-perform all such Services, which shall be the sole and exclusive remedy of Client for any such breach of this Agreement.

6. Mediation

In the event of a dispute arising out of or relating to this Agreement or the Services to be rendered hereunder, the Parties agree to: (i) attempt to resolve the disputes through direct negotiations between the appropriate representatives of each party for a period of at least 60 days and (ii) if such negotiations are not

fully successful, the parties agree to attempt to resolve any remaining dispute by formal nonbinding mediation conducted in accordance with rules of the American Arbitration Association.

In the event a dispute shall arise under or about this Agreement, the prevailing party as determined by the mediator (defined as the one recovering or defending more than 50% of the claim) shall be entitled to recover from the other party as part of the prevailing party's costs, its reasonable attorney's fees and mediation fees.

7. Termination

This Agreement may be terminated by either Party upon a material breach by the other Party which goes uncorrected for a period of 15 days after such Party's receipt of notice thereof from the non-breach Party. In the event of termination, Client shall pay AMCG for Services completed through the effective date of termination.

8. Assignment

Client may not assign, sublet, or transfer its rights and/or obligations under this Agreement without the prior express written consent of AMCG and any attempted assignment, sublet, or transfer without such consent shall be null and void.

9. Conflicts

If any provision of this Agreement is found to be in conflict with another provision in this Agreement, the provision that establishes the higher or stricter standard shall prevail.

10. Saving Clause

If any provision of this Agreement is held unenforceable, then such provision will be modified to reflect AMCG'S intention. All remaining provisions of this Agreement shall remain in full force and effect.

11. Severability

The various terms, provisions, and covenants herein contained shall be deemed to be separable and severable, and the invalidity or unenforceability of any of them shall in no manner affect or impair the validity or enforceability of the remainder hereof.

12. Notice

Any and all notices required or authorized to be given pursuant to this Agreement between the Parties will be considered as having been legally delivered if sent via hand-delivery, email, sent by overnight courier service, or sent by U.S. First class Certified or Registered Mail, postage prepaid, and return receipt requested to the addresses of each party identified in this Agreement. Either party may change its addresses for notices by providing written notice to the other Party as set forth in this Section.