



REPORT TO CITY COUNCIL

Approved by:

Anthony R. Forestiere

Anthony R. Forestiere, Interim Director of Finance

Arnoldo Rodriguez

Arnoldo Rodriguez, City Manager

Council Meeting of: March 2, 2022

Agenda Number: B-9

SUBJECT:

Amendment to Existing Consultant Contract between the City and NBS Relating to Utility Rate Studies

RECOMMENDATION:

Adopt Resolution approving Second Amendment to the Agreement for Professional Services between the City and NBS relating to utility rate studies for additional services at a cost of \$30,000.

SUMMARY:

The City and NBS (Consultant) entered into a professional services agreement in October 2020 for services related to utility rate studies. The First Amendment was approved October 6, 2021 for additional services at a cost of \$17,800. Those additional services were to evaluate the impact on future utility rates should grant funds, such as those received through the American Rescue Plan Act (ARPA), be utilized for capital improvement projects that would otherwise be funded by rate payers. The City requested that additional analysis be conducted on how Senate Bill (SB) 1383 will impact the rates for solid waste services. Those additional services were provided at a cost of \$17,800, increasing the total contract for rate study consulting services from \$114,320 to \$132,120. At this time, staff is recommending a second amendment to agreement for additional services. The City has requested the Consultant perform additional analysis related to updates to Operations & Maintenance and Capital Improvement budgets resulting in multiple versions of the utility rate reports, requiring additional presentations to City Council. These additional services have extended the anticipated completion date by almost a year, increasing the cost from \$132,120 to \$162,120.

DISCUSSION:

The City contracted with Consultant to conduct utility rate studies for water, sewer, solid waste, and drainage utilities on October 21, 2020. The original agreement amount for the full scope of the project as defined was \$114,320. The original estimated date of completion was April, 2021. The First Amendment extended the estimated completion date to December 2021 and increased the cost to \$132,120.

On October 6, 2021 the First Amendment was approved for additional services at a cost of \$17,800, increasing the total amount of the Agreement to \$132,120. Over the course of the studies, the customer/consumption data required some clean up, increasing the required hours. Since that time, additional analysis and presentations have been conducted by the consultant upon the request of the City. Staff have been working closely with the Consultant to gather relevant data, study the financial statements, updated budgets and draft rate study reports for all utilities. The objectives of the utility rate reports include analysis to confirm:

- Revenues are adequate to sustain services, address capital needs and system depreciation
- Appropriate fee classifications (i.e. single family, multi-family, etc.)
- Projections for facility replacement, taking into account deferred maintenance
- Revenues are adequate to meet debt service coverage
- Water rates are consistent with 2014 Sustainable Groundwater Management Act
- Compliance with all applicable laws, including provisions of Prop 218

The scope of the project has been expanded as a result of the COVID-19 pandemic, which posed challenges to the work timeline and the introduction of pandemic related grants, such as ARPA, requiring additional analysis and alternate scenarios. City staff requested additional work and graphics that show the impact on rates using grant funds for capital projects.

On August 4, 2021, the Council considered a presentation on the \$23 Million received in ARPA funds received by the City. This federal grant was provided to the City to assist in recovery from the consequences of the pandemic. ARPA's funding has multiple goals intended to mitigate the effect of the pandemic, including effects on public health, the economy, revenues, essential workers, water/sewer infrastructure, and broadband infrastructure.

Additional work was requested from the consultant related to the impact of SB 1383 on solid waste rates. SB 1383, effective January 1, 2022, will require the City to fully implement organic waste collection including collection, diversion to an appropriate processing facility, customer outreach, reporting requirements, etc. This was not anticipated in the original scope of the contract.

Since approval of the First Amendment, there were additional updates to the Operations & Maintenance and Capital Projects budgets after the initial draft reports were issued. The updates

were necessary as current budget data became available. The Consultant has prepared multiple revisions, including those to address the City attorney's questions and requested revisions, which were not anticipated in the scope of the work. There were additional workshops (pre-Prop 218) requested beyond what was included in the original agreement. The original agreement anticipated completing the studies approximately a year ago, hence the delay has required additional meetings and revision of the reports. These additional services have increased the amended Agreement by \$30,000, increasing the cost from \$132,120 to \$162,120.

FINANCIAL IMPACT:

The Agreement fee amount for total services will increase \$30,000, from \$132,120 to \$162,120. The fees for rate studies are paid by the Water, Sewer, Drainage and Solid Waste Enterprise Funds. The Enterprise Funds have sufficient appropriations to cover the additional consulting fees.

CONSISTENCY WITH THE VISION MADERA 2025 PLAN:

Approval of this item is consistent with Strategy 115 of the Vision Plan – Economic Resource Provision: Ensure sufficient economic resources to provide adequate City services and prepare for future growth.

ALTERNATIVES:

Council may direct staff to further amend the agreement for additional services and analysis.

ATTACHMENT:

1. Resolution approving the Second Amendment to the Agreement with NBS
 - a. Exhibit A: Amendment to Agreement with NBS

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MADERA,
CALIFORNIA, APPROVING SECOND AMENDMENT TO PROFESSIONAL
SERVICES AGREEMENT BETWEEN THE CITY OF MADERA AND NBS
RELATING TO RATE STUDIES FOR ADDITIONAL SERVICES AND INCREASE
OF FEES**

WHEREAS, the City of Madera (City) sought assistance from NBS to prepare a Water, Sewer, Storm Drainage and Solid Waste Rate Studies; and

WHEREAS, on October 21, 2020, the City Council adopted a resolution to enter into an agreement with NBS for the provision of consulting services for preparation of the rate studies; and

WHEREAS, on October 6, 2021, the City Council adopted a resolution to amend the agreement for additional services related to the use of American Rescue Plan Act grant funds for water and sewer infrastructure and analysis of SB 1383's effect on solid waste rates; and

WHEREAS, updated operations and maintenance and capital projects budget data requires additional analysis to measure the cost and effect on user rates; and

WHEREAS, additional public workshops are required to provide education and public outreach on the updates to the utility rate studies; and

WHEREAS, the parties wish to amend the agreement by revising the scope of services to include this additional analysis and work product and increasing the consultant fee by \$30,000 to an amount not to exceed \$162,120; and

WHEREAS, the City and NBS have drafted an Amendment to the Professional Services Agreement that is in the best interests of both parties.

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

1. The above recitals are true and correct.
2. The Second Amendment to Agreement with NBS, a copy of which is attached to this Resolution as Exhibit A, is approved.
3. The resolution is effective immediately upon adoption.

**SECOND AMENDMENT TO PROFESSIONAL SERVICES BETWEEN THE CITY
OF MADERA AND NBS**

This SECOND Amendment to Professional Services Agreement between the City of Madera and NBS (“Second Amendment”) is made by and between the City of Madera, a California municipal corporation (“City”), and NBS (“Consultant”).

RECITALS

WHEREAS, City and Consultant entered into an Agreement for Consultant services on October 21, 2020, to provide consulting services relating to the preparation of studies for consideration of adoption of new fees for water, sewer, solid waste and storm drainage services (hereinafter referred to as “rate studies”); and

WHEREAS, City and Consultant agreed to the First Amendment to the Agreement for additional work and fees on October 6, 2021; and

WHEREAS, Consultant has provided services under the Agreement and the First Amendment to the Agreement; and

WHEREAS, City has requested additional work to update utility reports with current budget data for operations and maintenance and capital projects; and

WHEREAS, City has requested additional workshops to educate public on utility rate studies; and

WHEREAS, the parties wish to amend the Agreement by amending Scope of Services, and adopting new fees applicable to the amended Scope of Services; and

WHEREAS, the parties wish to document the additional work and fees by way of this Second Amendment to Agreement.

AGREEMENT

In consideration of the recitals listed above and the mutual obligations of the parties herein, City and Consultant agree that the Agreement for Professional Services dated October 21, 2020, and described above shall be amended as follows:

1. Section 1.2 of the Agreement entitled “Schedule of Performance” is amended to read as follows:

“Consultant shall furnish to City, following the approval of this Agreement by City Council, proof of insurance coverage as required under Article t, insurance. After receipt of satisfactory proof of insurance, City will promptly issue a written Notice to Proceed authorizing Consultant to commence performance of work. Consultant is not authorized to

perform and will not be paid for performing any work under this Agreement until the effective date of the Notice to Proceed. Consultant shall begin work under the Agreement within five (5) days of the effective date of the Notice to Proceed. Consultant shall exercise reasonable diligence to have the services set forth in Exhibit "A" completed and submitted to City for final approval as soon as reasonably practicable, but not later than June 30, 2022, provided that Consultant shall be entitled to an extension of time for any delays caused by events or occurrences beyond Consultant's reasonable control."

2. Section 3.1 of the Agreement entitled "Payment Schedule: Maximum Payment Amount" is amended to read as follows:

"Subject to any limitations set forth in this Agreement, City agrees to pay Consultant per monthly invoice. Both parties agree that Consultant's total fee to complete the services under this Agreement shall not exceed \$162,120 including all amounts payable to Consultant for its overhead, payroll, profit, and all costs of whatever nature, including without limitation all costs for subcontracts, materials, equipment, supplies, and costs arising from or due to termination of this Agreement.

Billings are to be made directly to the following address:

City of Madera
Department of Finance
Attn: Vicki Crow
205 West 4th Street
Madera, CA 93637

Each month Consultant shall invoice City for all work performed and expenses incurred during the preceding month. The invoice shall detail charges by the following categories: labor (by subcategory), travel, materials, equipment, supplies and sub-consultant contracts.

City shall independently review each invoice submitted by the Consultant to determine whether the work performed and expenses incurred are in compliance with the provisions of this Agreement. The invoiced amount shall be paid within 30 calendar days unless City disputes any charges or expenses. If any charges or expenses are disputed, City shall pay the undisputed amount, and notify Consultant of the nature and amount of the disputed charge or expense. The parties shall seek to resolve the disputed item(s) by mutual agreement."

3. Exhibit "A" – Scope of Services is amended by adding subsection "1.9" to read as follows:

"1.9 Additional Work Requested by City:

Consultant will provide additional services requested by City including additional scenarios for water, sewer, solid waste and drainage, with updated budget data and additional

graphics that show cumulative rate increases across water, sewer, solid waste and storm drainage fees. City requested additional public education workshops. City requested additional analysis related to SB 1383 related to solid waste utility rates. City requested additional analysis related to water rates so that they are compliant with legal precedents.”

4. This Second Amendment to Agreement for Consulting Services is effective March 2, 2022.
5. Except as set forth in this Second Amendment, all terms and conditions in the Agreement for Consultant Services shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Second Amendment to Agreement as follows.

NBS

CITY OF MADERA

By: _____
Michael Rentner, President & CEO

By: _____
Santos Garcia, Mayor

Date: _____

Date: _____