

AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT is made and entered into this ____ day of _____, 2017, by and between the City of Merced, a California Charter Municipal Corporation, whose address of record is 678 West 18th Street, Merced, California 95340, (hereinafter referred to as "City") and Ralph Andersen and Associates, a California Corporation, whose address of record is 5800 Stanford Ranch Road #410, Rocklin, California 95765 (hereinafter referred to as "Consultant").

WHEREAS, City is undertaking a project to conduct a classification study; and,

WHEREAS, Consultant represents that it possesses the professional skills to provide the services in connection with said project.

NOW, THEREFORE, the parties hereto, in consideration of the mutual covenants hereinafter recited, hereby agree as follows:

1. **SCOPE OF SERVICES.** The Consultant shall furnish the following services: Consultant shall provide the services described in Exhibit "A" attached hereto.

No additional services shall be performed by Consultant unless approved in advance in writing by the City, stating the dollar value of the services, the method of payment, and any adjustment in contract time. All such services are to be coordinated with City and the results of the work shall be monitored by the Director of Support Services or her designee. However, the means by which the work is accomplished shall be the sole responsibility of the Consultant.

2. **TIME OF PERFORMANCE.** All of the work outlined in the Scope of Services shall be completed in accordance with the Schedule outlined in Exhibit "B" attached hereto and incorporated herein by reference. By mutual agreement and written addendum to this Agreement, the City and the Consultant may change the requirements in said Schedule.

3. **RESERVED.**

4. **COMPENSATION.** Payment by the City to the Consultant for actual services rendered under this Agreement shall be made upon presentation of an invoice detailing services performed under the Scope of Services, in accordance with the fee schedule set forth in Exhibit "C" attached hereto and incorporated herein by reference. The Consultant agrees to provide all services required under the Scope of Services in Exhibit "A" within the compensation amount set forth in Exhibit "C". For Consultant's services rendered under this Agreement, City shall pay Consultant the not to exceed sum of Eighty Thousand Dollars (\$80,000.00).

5. **METHOD OF PAYMENT.** Compensation to Consultant shall be paid by the City after submission by Consultant of an invoice delineating the services performed.

6. **RECORDS.** It is understood and agreed that all plans, studies, specifications, data magnetically or otherwise recorded on computer or computer diskettes, records, files, reports, etc., in possession of the Consultant relating to the matters covered by this Agreement shall be the property of the City, and Consultant hereby agrees to deliver the same to the City upon termination of the Agreement. It is understood and agreed that the documents and other materials including but not limited to those set forth hereinabove, prepared pursuant to this Agreement are prepared specifically for the City and are not necessarily suitable for any future or other use.

7. **CONSULTANT'S BOOKS AND RECORDS.** Consultant shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services or expenditures and disbursements charged to the City for a minimum of three (3) years, or for any longer period required by law, from the date of final payment to the Consultant to this Agreement. Any records or documents required to be maintained shall be made available for inspection, audit and/or copying at any time during regular business hours, upon oral or written request of the City.

8. **INDEPENDENT CONTRACTOR.** It is expressly understood that Consultant is an independent contractor and that its employees shall not be employees of or have any contractual relationship with the City. Consultant shall be responsible for the payment of all taxes, workers' compensation insurance and unemployment insurance. Should Consultant desire any insurance protection, the Consultant is to acquire same at its expense.

In the event Consultant or any employee, agent, or subcontractor of Consultant providing services under this Agreement is determined by a court of competent jurisdiction or the California Public Employees Retirement System (PERS) to be eligible for enrollment in PERS as an employee of the City, Consultant shall indemnify, protect, defend, and hold harmless the City for the payment of any employee and/or employer contributions for PERS benefits on behalf of Consultant or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of City.

9. INDEMNITY. Consultant shall indemnify, protect, defend (with legal counsel selected by the City), save and hold City, its officers, employees, and agents, harmless from any and all claims or causes of action for death or injury to persons, or damage to property resulting from intentional or negligent acts, errors, or omissions of Consultant or Consultant's officers, employees, volunteers, and agents during performance of this Agreement, or from any violation of any federal, state, or municipal law or ordinance, to the extent caused, in whole or in part, by the willful misconduct, negligent acts, or omissions of Consultant or its employees, subcontractors, or agents, or by the quality or character of Consultant's work, or resulting from the negligence of the City, its officers, employees, volunteers and agents, except for loss caused by the sole negligence or willful misconduct of the City or its officers, employees, volunteers or agents. It is understood that the duty of Consultant to indemnify and hold harmless includes the duty to defend as set forth in Section 2778 of the California Civil Code. Acceptance by City of insurance certificates and endorsements required under this Agreement does not relieve Consultant from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall survive the termination of this Agreement and shall apply to any damages or claims for damages whether or not such insurance policies shall have been determined to apply. By execution of this Agreement, Consultant acknowledges and agrees to the provisions of this Section and that it is a material element of consideration.

10. INSURANCE. During the term of this Agreement, Consultant shall maintain in full force and effect at its own cost and expense, the following insurance coverage:

a. Workers' Compensation Insurance. Full workers' compensation insurance shall be provided with a limit of at least One Hundred Thousand Dollars (\$100,000) for any one person and as required by law, including Employer's Liability limits of \$1,000,000.00 per accident. The policy shall be endorsed to waive the insurer's subrogation rights against the City.

b. General Liability.

- (i) Consultant shall obtain and keep in full force and effect general liability coverage at least as broad as ISO commercial general liability coverage occurrence Form CG 0001.
- (ii) Consultant shall maintain limits of no less than One Million Dollars (\$1,000,000) per occurrence for bodily injury, personal injury and property damage.
- (iii) The City, its officers, employees, volunteers and agents are to be named as additional insureds under the policy, as respects liability arising out of work or operations performed by or on behalf of the Consultant.
- (iv) The policy shall stipulate that this insurance will operate as primary insurance for work performed by Consultant and its sub-contractors, and that any other insurance or self insurance maintained by City or other named insureds shall be excess and non-contributory.
- (v) Consultant shall maintain its commercial general liability coverage for three (3) years after completion of the work and shall add an additional insured endorsement form acceptable to the City naming the City of Merced, its officers, employees, agents and volunteers for each year thereafter for at least three (3) years after completion of the work. Copies of the annual renewal and additional insured endorsement form shall be sent to the City within thirty (30) days of the annual renewal.

c. Automobile Insurance.

- (i) Consultant shall obtain and keep in full force and effect an automobile policy of at least One Million Dollars (\$1,000,000) per accident for bodily injury and property damage.
- (ii) The City, its officers, employees, volunteers and agents are to be named as additional insureds under the policy, as respects automobiles owned, leased, hired or borrowed by the Consultant.

- (iii) The policy shall stipulate that this insurance will operate as primary insurance for work performed by Consultant and its sub-contractors, and that any other insurance or self insurance maintained by City or other named insureds shall be excess and non-contributory.

d. Professional Liability Insurance. Consultant shall carry professional liability insurance appropriate to Consultant's profession in the minimum amount of One Million Dollars (\$1,000,000). Architects and engineers' coverage is to be endorsed to include contractual liability.

e. Qualifications of Insurer. The insurance shall be provided by an acceptable insurance provider, as determined by City, which satisfies all of the following minimum requirements:

- (i) An insurance carrier admitted to do business in California and maintaining an agent for service of process within this State; and,
- (ii) An insurance carrier with a current A.M. Best Rating of A:VII or better (except for workers' compensation provided through the California State Compensation Fund).

f. Certificate of Insurance. Consultant shall complete and file with the City prior to engaging in any operation or activity set forth in this Agreement, certificates of insurance evidencing coverage as set forth above and which shall provide that no cancellation or expiration by the insurance company will be made during the term of this Agreement, without thirty (30) days written notice to City prior to the effective date of such cancellation—including cancellation for nonpayment of premium.

g. Notwithstanding any language in this Agreement to the contrary, Consultant shall be entitled to be paid pursuant to the terms of this Agreement until Consultant has obtained the insurance required by this Section 10 and provided documentation of said insurance to the City. In addition to any other remedies City may have, City reserves the right to withhold payment if Consultant's insurance policies are not current.

11. ASSIGNABILITY OF AGREEMENT. It is understood and agreed that this Agreement contemplates personal performance by the Consultant and is based upon a determination of its unique personal competence and experience and upon its specialized personal knowledge. Assignments of any or all rights, duties or obligations of the Consultant under this Agreement will be permitted only with the express written consent of the City.

12. TERMINATION FOR CONVENIENCE OF CITY. The City may terminate this Agreement any time by mailing a notice in writing to Consultant that the Agreement is terminated. Said Agreement shall then be deemed terminated, and no further work shall be performed by Consultant. If the Agreement is so terminated, the Consultant shall be paid for that percentage of the phase of work actually completed, based on a pro rata portion of the compensation for said phase satisfactorily completed at the time the notice of termination is received.

13. CONFORMANCE TO APPLICABLE LAWS. Consultant shall comply with its standard of care regarding all applicable Federal, State, and municipal laws, rules and ordinances. No discrimination shall be made by Consultant in the employment of persons to work under this contract because of race, color, national origin, ancestry, disability, sex or religion of such person.

Consultant hereby promises and agrees to comply with all of the provisions of the Federal Immigration and Nationality Act (8 U.S.C.A. 1101 *et seq.*), as amended; and in connection therewith, shall not employ unauthorized aliens as defined therein. Should Consultant so employ such unauthorized aliens for the performance of work and/or services covered by this Agreement, and should any agency or instrumentality of the federal or state government, including the courts, impose sanctions against the City for such use of unauthorized aliens, Consultant hereby agrees to, and shall, reimburse City for the cost of all such sanctions imposed, together with any and all costs, including attorneys' fees, incurred by the City in connection therewith.

14. WAIVER. In the event that either City or Consultant shall at any time or times waive any breach of this Agreement by the other, such waiver shall not constitute a waiver of any other or succeeding breach of this Agreement, whether of the same or any other covenant, condition or obligation. Waiver shall not be deemed effective until and unless signed by the waiving party.

15. **INCONSISTENT OR CONFLICTING TERMS IN AGREEMENT AND EXHIBITS.** In the event of any contradiction or inconsistency between any attached document(s) or exhibit(s) incorporated by reference herein and the provisions of the Agreement itself, the terms of the Agreement shall control.

Any exhibit that is attached and incorporated by reference shall be limited to the purposes for which it is attached, as specified in this Agreement. Any contractual terms or conditions contained in such exhibit imposing additional obligations on the City are not binding upon the City unless specifically agreed to in writing, and initialed by the authorized City representative, as to each additional contractual term or condition.

16. **AMBIGUITIES.** This Agreement has been negotiated at arms' length between persons knowledgeable in the matters dealt with herein. Accordingly, any rule of law, including, but not limited to, Section 1654 of the Civil Code of California, or any other statutes, legal decisions, or common-law principles of similar effect, that would require interpretation of any ambiguities in this Agreement against the party that drafted this Agreement is of no application and is hereby expressly waived.

17. **VENUE.** This Agreement and all matters relating to it shall be governed by the laws of the State of California and any action brought relating to this agreement shall be held exclusively in a state court in the County of Merced.

18. **AMENDMENT.** This Agreement shall not be amended, modified, or otherwise changed unless in writing and signed by both parties hereto.

19. **INTEGRATION.** This Agreement constitutes the entire understanding and agreement of the parties and supersedes all previous and/or contemporaneous understanding or agreement between the parties with respect to all or any part of the subject matter hereof.

20. **AUTHORITY TO EXECUTE.** The person or persons executing this Agreement on behalf of the parties hereto warrants and represents that he/she/they has/have the authority to execute this Agreement on behalf of their entity and has/have the authority to bind their party to the performance of its obligations hereunder.

21. COUNTERPARTS. This Agreement may be executed in one or more counterparts with each counterpart being deemed an original. No counterpart shall be deemed to be an original or presumed delivered unless and until the counterparts executed by the other parties hereto are in the physical possession of the party or parties seeking enforcement thereof.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on the date first above written.

CITY OF MERCED
A California Charter Municipal
Corporation

BY: _____
City Manager

ATTEST:
STEVE CARRIGAN, CITY CLERK

BY: _____
Assistant/Deputy City Clerk

APPROVED AS TO FORM:

BY:  5-3 2017
City Attorney Date

ACCOUNT DATA:

BY: _____
Verified by Finance Officer

CONSULTANT
RALPH ANDERSEN &
ASSOCIATES,
A California Corporation

BY: Heather Renschler
(Signature)

Heather Renschler
(Typed Name)

Its: President/CEO
(Title)

BY: Robert Burg
(Signature)

Robert Burg
(Typed Name)

Its: Executive Vice President
(Title)

Taxpayer I.D. No. 94-2299383

ADDRESS: 5800 Stanford Ranch Rd.
#410
Rocklin, CA 95765

TELEPHONE: (916) 630-4900
FAX: (916) 630-4911
E-MAIL: info@ralphandersen.com

EXHIBIT A

SCOPE OF SERVICES

Work Plan and Methodology

Ralph Andersen & Associates will apply several technical and administrative methodologies in creating the City's updated classification plan. An overview of all key methodologies is described below.

Background Data Analysis

The consultant team will identify a wide range of background data that will be collected from the City as part of the study. The consultant team will provide the City with a complete list of background needs upon initiation of the project.

Materials collected and reviewed during this initial stage of the project will, at a minimum, include:

- Organization charts
- Existing class specifications
- Budgets
- Current pay plan and related salary schedules
- Benefits summaries
- Memorandums of Understanding
- Relevant administrative rules and procedures.

These materials provide an understanding of the City's personnel system and of current applicable policies and procedures.

Job Analysis Questionnaires

Project consultants will distribute a Job Analysis Questionnaire (JAQ) to all employees included in the classification analysis. The questionnaire provides an opportunity for employees to fully describe the duties and responsibilities of their position. The questionnaire is also designed to record data regarding other job related information such as the knowledge, skills, abilities, education, and physical requirements necessary to perform the work, as well as supervisory and managerial responsibilities.

Each questionnaire will be reviewed by the employee's supervisory and managerial staff to ensure completeness and accuracy. Once completed, the questionnaires will be forwarded to the consultants for examination prior to the job analysis interviews. The questionnaire will be distributed and explained in detail during an employee briefing session at the initiation of the project. Appendix B includes a sample Job Analysis Questionnaire, however, all questionnaires used by Ralph Andersen & Associates can be tailored to each specific client and study.

Job Analysis Interviews

As a supplement to the questionnaires, project consultants will conduct interviews with a high sampling of employees included in the classification study. This will ensure that the consultants are able to obtain information regarding any existing job classification issues as well as confirm the job duties and tasks performed.

Project Tasks

Task 1 - Project Kick-off Meetings

The consultants will begin all administrative and coordinative efforts in support of the project initiation meetings and briefings. Among other things, this will include:

- Preparation of a project schedule
- Identification and review of background data including existing class specifications, organization charts, employee listings, salary schedules, and related information
- Identification of scheduling parameters for meetings and interaction with various City employee groups.

This initial step in the study process will be used to identify significant classification concerns that should be clarified during the initial meeting or addressed during the course of the study.

The consultants will meet with the City's Project Manager and other staff as appropriate to ensure a full understanding of project objectives and deliverables. The project work plan and schedule will be adapted to achieve the objectives.

Task 2 - Employees Complete Questionnaires

The JAQ provides employees with an opportunity to describe the duties and responsibilities of their positions with an emphasis on job related information such as knowledge, skills, abilities, and physical capabilities required to perform the work assigned. Space is also provided on the questionnaire for employees to make any additional comments they wish. The completed questionnaires are reviewed by supervisory and managerial staff, with space provided for their comments. Appendix B includes a sample JAQ which will be reviewed with the project committee before distribution to employees.

Task 3 - Conduct Job Analysis Interviews

Prior to conducting interviews, the consultants will thoroughly review the completed questionnaires. The consultants will evaluate position duties and responsibilities, classification series, class titles, job families, reporting relationships, and internal relationships. Based on this preliminary analysis, the project team will identify areas of concern that will be clarified or probed during the job analysis interviews.

A high percentage of employees will be included in the interviews including single position classes, issue areas, and employees requesting an interviews. The consultants will assume responsibility for the preparation of the employee interview schedule. The City's Project Manager, or designee, will be responsible for scheduling interview rooms, notifying employees, and related coordinative activities.

Task 4 - Prepare and Review Preliminary Classification Report

With the completion of the employee interviews, a preliminary classification report will be

prepared. Key components of the preliminary report will include:

- Identification of all key issues identified in the classification analysis
- Recommended job titles
- Preliminary employee allocations.

In preparing the preliminary classification report, each position is analyzed according to the criteria set forth at initial review meetings. Such criteria typically will include factors relating to job knowledge, experience, training, decision making, management control, working conditions, and outside contacts. Like positions are grouped into tentative classes forming the basis for initial class definition.

The preliminary classification report will be reviewed with key management staff prior to preparing class specifications. Because the concepts provide the foundation for the resulting classification plan, management review of the recommendations in their respective areas of responsibility is essential.

Task 5 - Prepare Class Specifications

Once the preliminary classification recommendations have been reviewed, the project consultants will revise, update, or create new class specifications based on the issues identified in previous tasks. The City's current job description format will be maintained if appropriate. The class specifications will be drafted and undergo a management/ employee review process to ensure they accurately and adequately describe the scope of responsibilities. Once finalized, they will be provided to the City in both an electronic and hard-copy format.

Task 6 - Undertake Management/Employee Review Process

As an important component of the overall classification study, the project consultant team will provide additional opportunities for employee participation and input through the conduct of an employee review process. These steps will (1) build and facilitate the City's understanding of the newly developed classification plan; (2) enhance employee commitment and understanding of the recommended system by giving each employee the opportunity to comment on the system; and (3) ensure that the consultants receive as much information as possible regarding the nature and responsibilities of the various positions in order to make appropriate and equitable final classification recommendations. The various subtasks within this portion of the project are as follows.

Task 6.1 – Distribute class specifications to all employees included within the study scope – Each employee will receive an individual copy of the specification for the class to which his/her position has been allocated along with a Position Allocation Notice and Employee Review Form. This will provide employees with an opportunity to review and comment on their proposed classification and allocation. These comments will then be forwarded to management for review and comment.

Task 6.2 – Review written comments received from employees – All written comments or suggestions from employees regarding the recommended class plan will be thoroughly reviewed and analyzed by the project consultants. Based upon written responses received, the consultant team will incorporate appropriate suggested revisions into the final classification plan.

Task 6.3 – Conduct follow-up telephone interviews as necessary – Based upon the analysis of written comments forwarded to the project consultants

and where consultant staff needs further information prior to finalizing recommendations, follow-up interviews will be conducted by the project consultants with individual employees. This step will further clarify and refine any remaining problems or issues.

Task 7 - Finalize the Classification Recommendations

With the completion of the employee appeal process, the consultants will finalize all classification study recommendations. Supporting the finalization of the classification plan, each employee who submitted a notice for review will receive a direct response from the project consultants. This response will specifically outline the consultant's understanding of the employee's concern, specify the steps taken to resolve the concern, and indicate to the employee the substance of the consultant's final recommendation.

Task 8 - Prepare and Submit Final Report

The Final Reports will incorporate any appropriate revisions identified and submitted during the review of draft reports. The submittal of final reports will also include on-site presentations to managers, employees, and City Council.

EXHIBIT B

Time Schedule

Projects of this nature are highly sensitive. Because of this sensitivity and the anxiety experienced by many employees when going through this type of process, it is beneficial to complete the analysis in the most expedient manner feasible. Assuming full cooperation of the City and the survey agencies, our project schedule assumes that all study activities will be completed within sixteen (16) weeks.

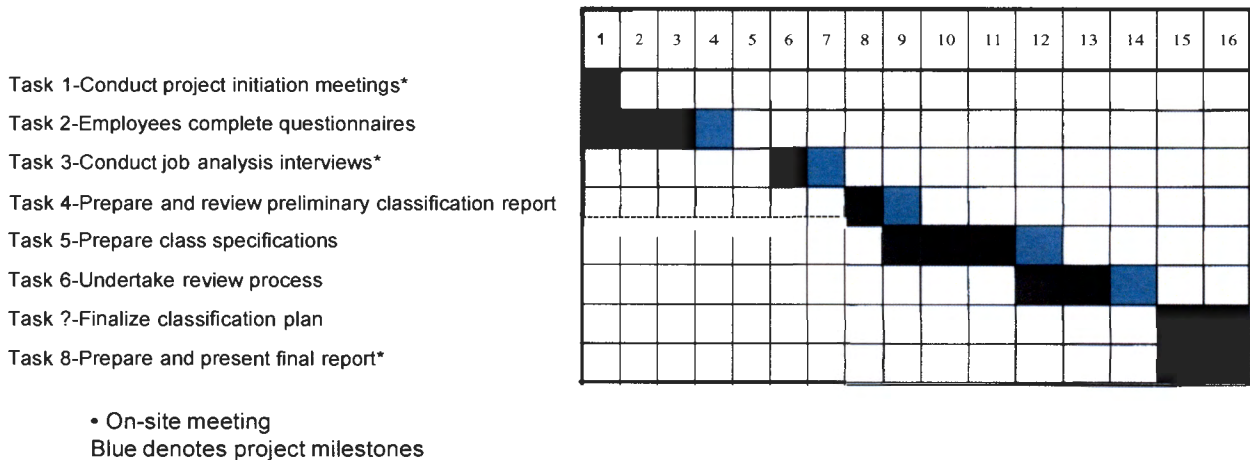


EXHIBIT C

Project Fee

Flat Rate for Services included in Exhibit A:

Professional Services:	\$62,800
Expense Reimbursement:	<u>\$ 9,800</u>

\$72,600

Flat rate includes up to four onsite meetings. Five or more onsite meetings are billed at the reduced hourly billing rate of **\$125.00/hour** for a maximum of **\$1,250/day**, plus expense reimbursement.

\$7,400 (Not to exceed)

Grand Total	\$80,000
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