

CONTRACT FOR EXECUTIVE RECRUITMENT SERVICES

THIS CONTRACT is made and entered into this 2nd day of December, 2020, by and between the CITY OF CHARLOTTESVILLE VIRGINIA (Hereinafter "City"), a political subdivision of the Commonwealth of Virginia, and RALPH ANDERSEN & ASSOCIATES (hereinafter "Contractor"), whose address is 5800 Stanford Ranch Road, Suite 410, Rocklin, California 95765.

"This public body does not discriminate against faith-based organizations in accordance with the Code of Virginia, § 2.2-4343.1 or against a bidder or offeror because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment."

In consideration of the mutual covenants and promises herein stated, the City and Contractor hereby agree as follows:

1. SCOPE OF SERVICES

For the compensation specified within Section 6 herein, the Contractor shall provide executive recruitment services for the next City Manager for the City of Charlottesville, Virginia as per RFQ# CITY MANAGER SEARCH/2020 dated September 30, 2020 and Contractor's response to same dated October 8, 2020, and Contractor's response to negotiations dated November 12, 2020 and November 20, 2020. Contractor's work product shall result in completion of and acceptance by the City of the following tasks/deliverables as per the following schedule:

Date	Activity
Upon Notice to Proceed	Stakeholders Meeting • Review Recruitment Process • Discuss the process for development of the City Manager Profile, recruitment brochure, and gather feedback on the following: ○ Opportunities and Challenges the new City Manager faces ○ Desired Professional Characteristics and Personal Qualities of the position
2 Weeks	City Manager Profile draft submitted for review.
January 4, 2021	Published Brochure/Placement of Ads and Candidate Recruitment • 60-day search process
March 8, 2021	Deadline for priority review of applications • Search Consultant conducts preliminary screenings via Zoom
March 22, 2021	Search Consultant reviews and recommends candidates to Search Committee for review and consideration
March 22, 2021	Search Consultant invites candidates for interview
Week of April 5, 2021	Candidate Interviews • Finalist Interviews • Deliberations to select new City Manager
Week of April 12, 2021	Contract offer and negotiations with selected candidate
Week of April 12, 2021	Ralph Andersen & Associates conducts Background and References (5-10 business days)

2. TERM

Contractor shall commence work upon ratification of the contract, and complete the contract on or before July 1, 2021.

3. AMERICANS WITH DISABILITIES ACT COMPLIANCE

If the City requests a formal report or work product, the Contractor is required to deliver the report to comply with the Americans with Disabilities Act (ADA) and, as may be applicable, the Rehabilitation Act of 1973. The formal report shall be provided in a .PDF; HTML or other text-based format in which optical character recognition is provided, and in which any photographs, images, diagrams, maps, etc. are marked by adequate "alt tags" and "long description tags," to the end that the contents of the report will be readable by a screen reader for the sight impaired.

4. AUTHORIZATION TO CONDUCT BUSINESS IN THE COMMONWEALTH

A contractor organized as a stock or nonstock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership shall be authorized to transact business in the Commonwealth as a domestic or foreign business entity if so required by Title 13.1 or Title 50 of the *Code of Virginia* or as otherwise required by law. Any business entity described above that enters into a contract with a public body pursuant to the *Virginia Public Procurement Act* shall not allow its existence to lapse or its certificate of authority or registration to transact business in the Commonwealth, if so required under Title 13.1 or Title 50, to be revoked or cancelled at any time during the term of the contract. A public body may void any contract with a business entity if the business entity fails to remain in compliance with the provisions of this section.

5. BINDING EFFECT OF CONTRACT

The terms, provisions and conditions of this Contract shall bind and inure to the benefit of the respective parties hereto and to their representatives, successors, and (where permitted by this Contract) their assigns.

6. COMPENSATION

Contractor shall provide the Service(s) for the firm fixed-price of \$42,500.

If the City engages the Contractor to conduct reference calls on more than one candidate, the engagement will be in the form of a fully executed amendment to this contract. A background fee of \$1,800 per candidate will be charged.

If the City engages the Contractor to conduct an Organizational and Community Survey with summarized results for this City Manager search, the engagement will be in the form of a fully executed amendment to this contract. The fee for this service shall be \$5,000.

If the City engages the contractor to provide additional executive recruitment services for this City Manager search, the engagement will be in the form of a fully executed amendment to this contract. The hourly rates for these additional services shall not exceed the following:

Project Director - \$315 per hour
Recruitment Coordinator - \$80 per hour
Graphics Designer - \$75 per hour
Researcher - \$60 per hour
Support Services - \$50 per hour

The Contractor shall not exceed the firm fixed-price of \$42,500 without the advance written approval of the City in the form of a fully executed amendment to this contract.

7. CANDIDATE TRAVEL

The City defines travel expenses to include reasonable lodging and transportation only. Lodging expenses shall not exceed the United States General Services Administration per diem rates for the Charlottesville, Virginia area. Airfare is limited to the lowest economy fare available. Contractor shall verify candidate travel meets these requirements before Candidates submit a reimbursement request to the City for reimbursement of the actual expenses. The City reserves the right, at its own discretion, to deny any reimbursement request in whole or in part that the City determines to be unreasonable.

8. CONFLICTS OF INTEREST

The Contractor represents to the City that its entering into this Contract with the City and its performance through its agents, officers and employees does not and will not involve, contribute to nor create a conflict of interest prohibited by the Virginia State and Local Government Conflict of Interest Acts (Va. Code 2.2-3100 *et seq*), the Virginia Ethics In Public Contracting Act (Va. Code 2.2-4367 *et seq*), the Virginia Governmental Frauds Act (Va. Code 18.2-498.1 *et seq*) and any other applicable law or regulation.

9. CONTRACT ADMINISTRATOR

The individual named below will service as the Contract Administrator and will be the point of contact at the City of Charlottesville for day-to-day operations under this Contract. The Contract Administrator cannot approve amendments or price changes to this Contract. The Contractor will channel all communications through:

Name: Heather Hill, Councilor
City of Charlottesville, City Hall:
Address: PO Box 911, Charlottesville, VA 22902
Phone: (434) 825-7374
Email: hhill@charlottesville.gov

In addition, the Contractor will email all written communications to Mayor Walker at nwalker@charlottesville.gov.

The Contractor will not make any commitments or comments, or actions on behalf of the City of Charlottesville without the explicit direction of the Contract Administrator. The City reserves the right to change its Contract Administrator, upon notice to the Contractor.

10. CONTRACT DOCUMENTS

This contract shall consist of (i) this Form of Contract, (ii) the requirements of the City of Charlottesville's original Request for Quotations/Proposals, including all addenda, general and special conditions, specifications and (iii) the bid/offer submitted by the Contractor, together with all modifications thereof, all of which documents are incorporated herein by reference.

11. CONTRACTOR'S CONTACT PERSON

Contractor's designated representative to receive all communications, claims and correspondence regarding this Contract is:

Name: Robert Burg, Executive Vice President
Ralph Andersen & Associates
Address: 5800 Stanford Ranch Road, Suite 410, Rocklin, CA 95765
Phone: (916) 630-4900
Email: robert@ralphandersen.com

12. CONTRACTUAL CLAIMS

Contractual claims, whether for money or other relief, shall be submitted in writing no later than 60 days after final payment; however, written notice of the contractor's intention to file a claim shall be given at the time of the occurrence or beginning of the work upon which the claim is based. The City has established an administrative procedure for consideration of contractual claims, and a copy of such procedure is available upon request from the City's Procurement and Risk Management Services Division. Contractual disputes shall also be subject to the provisions of Va. Code §2.2-4363(D) and (E) (exhaustion of administrative remedies) and §2.2-4364 (legal actions).

13. ENTIRE CONTRACT

This Contract represents the entire contract between the parties, and there are no other contracts or understandings between the parties, either verbal or written, which have not been incorporated herein.

14. GOVERNING LAW

This Contract shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia, without regard to conflicts of laws provisions. All litigation arising out of this Contract shall be commenced and prosecuted in the Circuit Court for the City of Charlottesville, Virginia.

15. HEADINGS

Section, article and paragraph headings contained within this Contract have been inserted only as a matter of convenience and for reference, and they in no way define, limit, or describe the scope or intent of any term, condition or provision of this Contract.

16. INDEMNIFICATION

Contractor hereby assumes, and shall defend, indemnify and save the City and all of its officers, agents and employees harmless from and against any and all liability, loss, claim, suit, damage, charge or expense including attorney's fees which the City and all of its officers, agents and employees may suffer, sustain, incur or in any way be subjected to, on account of death of or injury to any person (including, without limitation, City officers, agents, employees, licensees and invitees) and for damage to, loss of, and destruction of any property whatsoever, which arises out of, results from, or is in any way connected with actions taken by the Contractor in the performance of its obligations under this Contract, or which occurs as a consequence of any negligence, omission or misconduct of the Contractor and any of Contractor's subcontractors, agents or employees in the performance of Contractor's or any of its subcontractors, agents or employees in performing work under this contract, regardless of whether such loss or expense is caused in part by a party indemnified hereunder.

17. INDEPENDENT CONTRACTOR

Neither Contractor, nor its agents, employees, assignees or subcontractors shall be deemed employees or agents of the City by virtue of any services performed pursuant to this Contract or the contractual relationship established hereby. Contractor shall have sole responsibility for its staff, including their work, personal conduct, directions and compensation.

18. INSURANCE REQUIREMENTS

Contractor shall obtain and maintain insurance as per the requirements of RFQ# CITY MANAGER SEARCH/2020 with the following types of coverages and minimum limits:

- a. Workers' Compensation - Statutory requirements and benefits. Coverage is compulsory for employers of three or more employees, to include the employer. Contractors who fail to notify the City of increases in the number of employees that change their workers' compensation requirements under the Code of Virginia during the course of the contract shall be in noncompliance with the contract. This policy shall specifically list Virginia as a covered state.
- b. Employer's Liability - \$100,000. This policy shall specifically list Virginia as a covered state.
- c. Commercial General Liability - \$1,000,000 per occurrence. Commercial General Liability is to include bodily injury and property damage, personal injury, advertising injury, contractual liability, and products and completed operations coverage. The City of Charlottesville and its officers, employees, agents and volunteers must be named as an additional insured and so endorsed on the policy.
- d. Automobile Liability - \$1,000,000 per occurrence. (Only used if motor vehicle is to be used in the contract.)

Contractor may not, and shall not, perform any work or services under this Contract during any period of time in which the Required Insurance is not in effect. Contractor's failure to comply with the requirements of this section shall constitute a material breach of this Contract entitling the City to terminate this Contract without notice to Contractor and without penalty to the City.

WORKER'S COMPENSATION INSURANCE REQUIRED

Contractor shall not perform any work on this project unless he has obtained, and continues to maintain for the duration of such work, such workers' compensation coverage as may be required pursuant to the provisions of Chapter 8 (§65.2-800 et seq.) of Title 65.2 of the Code of Virginia, 1950, as amended.

Contractor shall not allow any subcontractor to perform any work on a City construction project unless the subcontractor has obtained, and continues to maintain for the duration of such work, such worker's compensation coverage as may be required pursuant to the provisions of Chapter 8 (§65.2-800 et seq.) of Title 65.2 of the Code of Virginia, 1950, as amended. Contractor shall include the provisions of this paragraph within each of its subcontracts, so as to bind each subcontractor.

ENDORSEMENTS TO REQUIRED INSURANCE POLICIES

Each insurance policy required by this Contract shall be endorsed to include the following clauses ("Required Endorsements"):

- (A) Should any of the insurance policies be canceled before the expiration date thereof, the issuing insurance company will endeavor to mail written notice of such cancellation to the City at least 30 days in advance; and
- (B) The City of Charlottesville, its officers, agents, employees, representatives and volunteers are added as additional insureds as respects the operations and activities of (or on behalf of) the named insured, performed under contract with the City of Charlottesville.

PROOF OF INSURANCE

Contractor shall provide the City with one or more certificate(s) of insurance confirming the insurance required by this Contract, signed by a person authorized by the insurance company to bind it to the representations contained therein. These certificates shall be provided to the City by Contractor upon execution of this Contract, then again (without demand by the City) on or before the expiration date of any policy and upon each anniversary of the Commencement Date of this Contract. Also, a certificate of insurance shall be provided to the City by the Contractor at other times throughout the Term of this Contract within ten days of a request therefor by the City. Upon demand by the City, Contractor shall furnish the City with copies of the Contractor's insurance policies, together with the Required Endorsements.

19. INTELLECTUAL PROPERTY RIGHTS/DISCLOSURE

Unless expressly agreed to the contrary in writing, all goods, products, materials, documents, reports, writings, video image, photographs or papers of any nature including software or computer images prepared or provided by the Contractor (or its subcontractors) for the City will not be disclosed to any other person or entity without the written permission of the City. The Contractor warrants to the City that the City will own all rights, title and interest in and any and all intellectual property rights created in the performance or otherwise arising from any contract resulting from this RFQ and will have full ownership and beneficial use free and clear of claims of any nature by any third party including without limitation copyright infringement claims. The Contractor will execute any assignments or other documents needed for the City to perfect such rights

20. INTERPRETATION OF PROVISIONS

In the event of any conflict, discrepancy or inconsistency between this document and any other documents which have been incorporated into this document by reference or made exhibits or attachments hereto, then the provisions set forth within the body of this document shall govern the parties' contract.

In the event of any conflict between documents incorporated herein by reference then the following documents shall take precedence over the other incorporated documents in the order listed:

- (A) This Contract
- (B) The RFQ
- (C) The Proposal/Offer

21. MODIFICATION

This Contract may be modified by the parties during performance, but no modification shall be valid or enforceable unless in writing and signed by each of the parties hereto in the same manner and with the

same formality as this Contract. This contract may only be amended by a vote of the Charlottesville City Council.

22. NO ASSIGNMENTS

Contractor shall have no right to assign, in any manner or fashion, any of the rights, privilege or interests accruing to it under this Contract to any other individual or entity, without the prior written consent of the City. In the event of an assignment, Contractor shall remain fully liable for the performance of all obligations imposed by this Contract unless otherwise agreed, in writing, by the City.

23. NO WAIVER OF RIGHTS

No failure on the part of the City to enforce any of the terms or conditions set forth in this Contract shall be construed as or deemed to be a waiver of the right to enforce such terms or conditions. No waiver by the City of any default or failure to perform by Contractor shall be construed as or deemed to be a waiver of any other and/or subsequent default or failure to perform. The acceptance or payment of any rentals, fees and/or charges by the City, and/or the performance of all or any part of this Contract by the City, for or during any period(s) following a default or failure to perform by the Contractor, shall not be construed as or deemed to be a waiver by the City of any rights hereunder, including, without limitation, the City's right to terminate this Contract.

24. NONDISCRIMINATION

During the performance of this contract, Contractor agrees as follows:

- (A) Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, sexual orientation, national origin, age, disability or any other basis prohibited by law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the contractor. The General Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause. Also, the General Contractor, in all solicitations or advertisements for employees placed by or on behalf of the contractor, will state that it is an equal opportunity employer.
- (B) Contractor will, in all solicitations or advertisements for employees, state that it is an equal opportunity employer; provided, however, that notices, advertisements and solicitations placed in accordance with federal law, rule of regulation shall be deemed sufficient for the purpose of meeting the requirements of this contract.
- (C) Contractor agrees as follows: (i) to provide a drug-free workplace for the contractor's employees; (ii) to post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; and (iii) state in all solicitations or advertisements for employees placed by or on behalf of the contractor that the contractor maintains a drug-free workplace. For the purposes of this paragraph, "drug-free workplace" means a site for the performance of work done in connection with the contract awarded to a contractor in accordance with this procurement transaction, where the contractor's employees are prohibited from engaging in the unlawful manufacture, sale distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract.
- (D) Contractor will include the provisions of the foregoing paragraphs (A) and (B) in every subcontract or purchase order of over ten thousand (\$10,000), so that such provisions will be binding upon each subcontractor or vendor.

25. PAYMENT BY THE CITY

- (A) The City shall pay for completed services and delivered goods, on or before the required payment date. The required payment date shall be either: (i) the date on which payment is due under the

terms of this contract for the delivery of goods or the completion of services; or (ii) if such date is not established by this contract, not more than forty-five days after goods or services are received or not more than forty-five days after an invoice in a form acceptable to the City is rendered, whichever is later.

- (B) Invoices and other requests for payment must be supported by documentation acceptable to the City, in its sole discretion, confirming that the goods or services referenced within the invoice have been delivered or performed in accordance with this Contract. Within twenty days after the receipt of an invoice from the Contractor for goods delivered or services completed, the City shall notify the Contractor of any defect or impropriety which would prevent payment by the required payment date.
- (C) If Contractor is an individual, then he shall provide the City with his Social Security Number on or before commencement of performance of this Contract. If Contractor is a proprietorship, partnership, or corporation Contractor shall provide its federal employer identification number(s) to the City on or before its commencement of performance of this Contract.
- (D) The City agrees to pay the Contractor upon the satisfactory execution of this Contract, in lawful money of the United States according to the following mutually agreed upon schedule:
Upon completion of the following tasks/deliverables by the Contractor and acceptance by the City, the Contractor will invoice the City as follows:
 - Following kick-off and finalization of recruitment brochure - \$12,750
 - After the closing date - \$12,750
 - After finalist interviews - \$12,750
 - Upon placement - \$4,250

Submit invoices to: City of Charlottesville, Attn: Kyna Thomas, thomaskn@charlottesville.gov. Copy the City's Contract Administrator, Councilor Hill, and Mayor Walker on the invoice submission. The City's Contract Administrator is responsible for confirming the City's acceptance of the task/deliverable prior to payment and approving the invoice prior to payment processing.

26. PAYMENT OF SUBCONTRACTORS

- (A) Contractor shall take one of the two following actions within seven (7) days after receipt of amounts paid to the contractor by the City for work performed by a subcontractor:
 1. Pay the subcontractor for the proportionate share of the total payment received from the City attributable to the work performed by the subcontractor under that contract; or
 2. Notify the City and the subcontractor, in writing, of his intention to withhold all or a part of the subcontractor's payment with the reason for nonpayment.
- (B) Contractor shall pay interest to subcontractors on all amounts owed by the contractor that remain unpaid after seven (7) days following receipt by the contractor of payment from the City for work performed by the subcontractor, except for amounts withheld as allowed in subdivision A 2 of this section. Unless otherwise provided under the terms of this contract, interest shall accrue at the rate of one percent per month. Contractor's obligation to pay an interest charge to a subcontractor pursuant to the payment clause in this section may not be construed to be an obligation of the City. No contract modification may be made for the purpose of providing reimbursement for such interest charge. No cost reimbursement claim may include any amount for reimbursement for such interest charge.

Contractor shall include in each of its subcontracts a provision requiring each subcontractor to include or otherwise be subject to the same payment and interest requirements as stated in this section, with respect to each lower-tier subcontractor.

27. PUBLIC DISCLOSURE OF CONTRACT DOCUMENTS

Contractor acknowledges and understands that this Contract, and all related public proceedings and records, shall be open to the inspection of any citizen, or any interested person, firm or corporation, in accordance with the Virginia Freedom of Information Act (§ 2.2-3700 et seq.) and the Virginia Public Procurement Act (§ 2.2-4300 et seq.) Trade secrets or proprietary information submitted by the Contractor to the City in connection with this procurement transaction shall not be subject to public disclosure, provided that the Contractor timely invoked the protection of Va. Code § 2.2-4342 (F), prior to or upon submission of the data or materials to the City, in the manner prescribed by that statute.

28. SEVERABILITY

In the event that any term, provision or condition of this Contract, or the application thereof to any person or circumstances, shall be held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Contract, and the application of any term, provision or condition contained herein to any person or circumstances other than those to which it has been held invalid or unenforceable, shall not be affected thereby.

29. TERMINATION

The City may terminate this Contract at any time, for any reason or for no reason, upon thirty days' advance written notice to the Contractor. In the event of such termination the Contractor shall be compensated for services and work performed prior to termination.

IN WITNESS WHEREOF, the parties hereto have executed or caused to be executed by their duly authorized officials this Contract in four (4) copies, each of which shall be deemed an original on the date first above written.

CITY OF CHARLOTTESVILLE:

John C. Blair, II 12-9-20
(Signature) Date

By: John C. Blair, II
(Print name)

Title: Acting City Manager

CONTRACTOR:

Robert Burg 12/2/2020
(Signature) Date

By: Robert Burg
(Print name)

Title: Executive Vice President

Approved as to Form:

(Signature) Date

By: _____
(Print name)

Title: _____

Approved as to Form:

Allyson Manson Davies
Deputy City Attorney

FUNDS AVAILABILITY:

Christopher V. Cullinan 12-4-2020

CHRISTOPHER V. CULLINAN
Director of Finance