

RESOLUTION NO. 02-12

A RESOLUTION OF THE RIDGECREST CITY COUNCIL APPROVING A CONTRACT WITH SHIELDS CONSULTING GROUP FOR PREPARING THE ANNUAL SB 90 (MANDATED COST) CLAIMS

WHEREAS, The City Council of the City of Ridgecrest desires to enhance its revenue without impacting the businesses and the residents of the City of Ridgecrest;

WHEREAS, There is a potential to recover the cost of Mandated Costs imposed upon the City of Ridgecrest;

WHEREAS, Shields Consulting Group has the professional and technical resources to provide such services to file such claims and recover such costs;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Ridgecrest that:

1. The Contract with Shields Consulting Group for the preparation and filing of SB 90 claims with the State of California is hereby approved; and
2. The agreement with Shields Consulting Group is deemed a professional service and is exempt from the bidding requirements under State of California Law and City of Ridgecrest Purchasing Policy.

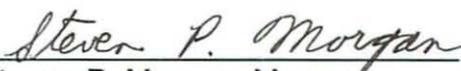
APPROVED AND ADOPTED this 6th day of February 2002, by the following vote:

AYES: Mayor Morgan, Council Members Carter, Holloway, Martin, and Rollins

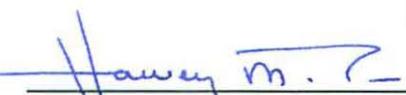
NOES: None

ABSENT: None

ABSTAIN: None


Steven P. Morgan, Mayor

ATTEST:


Harvey M. Rose
City Clerk

AGREEMENT FOR SERVICES

This Agreement is made and entered into, by and between the City of Ridgecrest, 100 West California Avenue, Ridgecrest, CA 93555 (hereinafter "Agency") and Shields Consulting Group, Inc., 1536 36th Street, Sacramento, California (hereinafter "Consultant").

Whereas, Agency has determined that mandated cost consulting services are desirable and;

Whereas, Consultant is an expert in the field of California's mandated cost program;

The parties hereby enter into this agreement for consulting services in consideration of and pursuant to the terms and conditions set forth herein.

Section 1 Services of Consultant

Consultant under this agreement will perform the following services, in consideration of the payment hereinafter set forth

Train Agency staff on the mandated cost reimbursement programs,

Work with Agency staff to identify all direct and indirect costs that are eligible for reimbursement through the mandated cost claiming process,

Work with Agency staff to ensure all claims are supported by proper documentation,

Prepare and file mandated cost claims for which the Agency is eligible to file during the contract period,

Represent Agency in mandated cost claim issues with the State Controller's Office and before the Commission on State Mandates.

Section 2 Period of Service

The service period for this Agreement extends through the fiscal year ending June 30, 2003. This Agreement will automatically expire as of June 30, 2003.

Section 3 Consultant Compensation

Agency agrees to pay Consultant a total fee of \$10,000 payable in monthly installments due on the last day of each month during the contract period. Agency agrees to make payment to Consultant no later than 30 days after Agency receives Consultant invoice. Consultant will determine when travel to Agency is necessary, subject to mutually convenient dates and times. All travel and lodging expenses incurred by Consultant are included in the fee.

Section 4 Reimbursable Services

Consultant and Agency believe that the costs services under this Agreement are reimbursable under the Mandate Reimbursement Process Claim and are less than the

actual costs that the Agency would necessarily incur if the services were to be performed by Agency staff. Agency and Consultant agree to work together, as necessary, to provide documentation required by the State Controller's Office.

Consultant agrees to refund to Agency any amount of fees paid by Agency to Consultant that the State does not reimburse to the Agency as a reimbursable cost. Consultant will make the refund to Agency no later than 30 days after Consultant accepts the disallowance of the claim and decides not to pursue incorrect claim reduction appeals.

Section 5 Termination of Agreement

Either party may terminate this Agreement, effective upon 30 days' prior written notice. Upon any termination of this Agreement, Consultant will bill Agency and Agency agrees to pay Consultant for the services actually performed by Consultant, on a time and material basis, plus travel and lodging costs. For purposes of determining costs of services actually performed, rates of \$125/hr for management staff and \$75/hr for associate level staff will be used. Agency agrees to make this payment to Consultant within 30 days after Agency receives Consultant invoice.

Section 6 Assistance of Agency

The Agency acknowledges that the services of Consultant within this Agreement are dependent upon the reasonable cooperation and assistance of Agency.

Section 7 Limitation of Consultant's Liability

In no event shall Consultant liability to the Agency, for any reason arising out of this Agreement, exceed the amount of fees actually received by Consultant from the Agency. Consultant shall not be liable for any consequential damages. Consultant shall not be liable for any incidental or consequential damages suffered by or allegedly suffered by any third party.

Section 8 Ownership of Work Product

8.1 All Work Product shall be and remain the property of Consultant. Consultant shall be entitled to obtain and hold in its name all copyrights with respect of the Work Product. Work Product shall include the sum or any portion of all computer programs and any source code or object code, all other computer files and portions thereof, including without limitation all executable files, text files, HTML files, CGI scripts, images and graphics designed or provided by Consultant, and any other computer files designed to be viewed, linked together or downloaded. It shall also include all tangible products and documents, papers and compilations, or any copies or variations or derivatives of the same provided to the Agency pursuant to this Agreement. This shall also include but not be limited to any documents, manuals, policies or procedures, however assembled, gathered or maintained, that is retained by Agency following the termination of this Agreement.

- a. **Patent Rights.** To the extent that the Work Product incorporates any methodology for which Consultant applies for a patent, Consultant may apply for that patent without the consent of Agency. Agency shall have no right, whatsoever, to any patent, proceeds or royalties generated by the same.
- b. **Consultant's Trade Name and Trademarks.** Notwithstanding anything else written in this Agreement, Agency shall have no rights in or license to the trade name or trademarks of Consultant.
- c. **License.** Consultant hereby grants Agency a nonexclusive, revocable, worldwide, royalty-free right and license to the Work Product allowing Agency to use the Work Product. Agency understands and acknowledges that the Work Product and the services of Consultant are not "work for hire" as that term is used under the U.S. Copyright Act.

8.2 Reverse Engineering or Copying. Notwithstanding any of the ownership or licensing provisions set forth herein, Agency agrees that it shall not, under any circumstances, reverse, engineer, copy or decompile, or allow any third party to reverse engineer, copy or decompile, the Work Product or any component parts so as to circumvent any license or ownership provisions identified or granted herein. This prohibition, as well as those set forth in Sections 8.1(a)-(c), shall survive the termination of this Agreement.

Section 9 Confidentiality

9.1 Treatment of Confidential Information. Agency hereby agrees and acknowledges that, under the terms of this Agreement, it may receive or be exposed to certain information that the Consultant reasonably believes is confidential. Agency, as part of its consideration to Consultant, shall: (a) not use such Confidential Information except in accordance with Agreement; (b) not make any copies of such Confidential Information or any part thereof without the express written consent of the Consultant; (c) not disclose for any purpose any such Confidential Information or any part thereof to any person who is not an employee of Agency; (d) limit dissemination of such Confidential Information to persons who are directly involved in the performance of services rendered for the Agency and who have the need to use such Confidential Information for the purposes of performing such services; and (e) return such Confidential Information and any copies thereof to the other party at the completion of the performance of all services or at such earlier date as the other party may request.

9.2 Definition of Confidential Information. Subject to the additional terms of this Section 9.2, Confidential Information shall mean all information, whether or not in written form, that is not generally known, about a party's products and services, customers, marketing, financial and business condition, information gathering and processing techniques and methods, and all accumulated data, listings or similar matter, used or useful in the business of the party including, but not limited to, its information files, business forms, and object and source code. As to all other Confidential Information, (a) if communicated in writing it must be conspicuously marked "CONFIDENTIAL" at the time of disclosure to the other party and (b) if communicated

orally, it should be identified as confidential at the time of disclosure and treated as such afterwards by the parties.

9.3 Exclusions from Confidential Information. Confidential Information shall not include information that the receiving party is able to demonstrate: (a) is, as of the time of its disclosure or thereafter becomes, part of the public domain through no fault of the receiving party; (b) was known to the receiving party as of the time of its disclosure; (c) is independently developed by the receiving party other than as part of the Work Product; (d) is subsequently learned from a third party having a right to disclose it to the recipient; or (e) is required to be disclosed pursuant to court order or government authority, whereupon the receiving party shall provide notice to the other party prior to such disclosure.

Section 10 Modifications

No modification or supplement to any provision of this Agreement shall be valid unless executed in writing by each party, through its duly appointed representative as designated in the party's signature block below.

Section 11 Governing Law

This Agreement shall be governed by and construed in accordance with the substantive laws of the State of California.

Section 12 Binding Arbitration

Any dispute or claim in law or equity arising out of this Agreement or any transaction resulting from this Agreement shall be decided by binding arbitration conducted in Sacramento, California, in accordance with the rules of the American Arbitration Association. No exemplary damages may be awarded. Judgment upon the award may be entered into any court having jurisdiction. Each party shall have the right to discovery under California Code of Civil Procedure section 1283.05. Arbitration shall not be mandatory, however, on actions to protect confidential/proprietary information.

Section 13 Severability

No provision of this Agreement shall be construed so as to require the commission of any act contrary to law. If any provision of this Agreement is held to be invalid or unenforceable, that provision shall be severed from the Agreement, and the remaining provisions of the Agreement shall remain in effect.

Section 14 Notices

All notices under this Agreement must be in writing. Notices shall be deemed effective upon actual receipt. However, a notice mailed by certified United States mail shall be deemed effective on the earlier of actual receipt or 3 days after mailing. Notices shall be directed to the parties at their respective addresses set forth below. A party may change the address by giving notice.

Section 15 Entire Agreement

This Agreement constitutes the entire Agreement between the parties with respect to the subject matter of this Agreement. There are no other agreements, understandings, representations, or warranties, whether written or oral, between the parties other than those set forth in this Agreement.

Section 16 Interpretation

Both parties have had an opportunity to review this Agreement in its entirety and to consult with their respect counsel regarding the same. For purposes of interpretation, the parties agree that the Agreement will not be construed against one party in favor of the other but at all times shall be construed even handedly to obtain the consent of the parties with respect to the same.

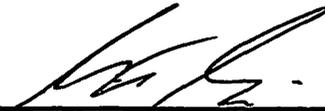
Section 17 Counterparts; Facsimile Signatures

This Agreement may be executed in counterparts. A facsimile signature will be treated as having the same effect as original signature.

IN WITNESS WHEREOF, the parties have affixed their hands on the _____ day of _____ 2001.

Consultant: Shields Consulting Group, Inc.
Address: 1536 36th Street
Sacramento, CA 95816

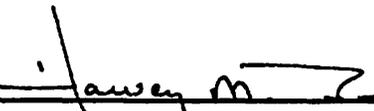
Bus: 916-454-7310
Fax: 916-454-7312

By 
Its President

Authorized Representative for Modifications:
Steve Shields, President

Client: City of Ridgecrest
Address: 100 West California Avenue
Ridgecrest, CA 93555

Bus: 760-371-3762
Fax: 760-371-1879

By 
Its City Manager

Authorized Representative for Modifications:
