




MEETING DATE: 6/6/05
ITEM NO. 5

COUNCIL AGENDA REPORT

DATE: MAY 20, 2005

TO: MAYOR AND TOWN COUNCIL

FROM: DEBRA J. FIGONE, TOWN MANAGER 

SUBJECT: PROJECT 04-64 - CHILLER/COOLING TOWER REPLACEMENT AT THE CIVIC CENTER
ADOPT RESOLUTION AUTHORIZING THE TOWN MANAGER TO EXECUTE PROFESSIONAL ENGINEERING CONSULTANT SERVICES AGREEMENT WITH INTEGRATED ENGINEERING SERVICES FOR MECHANICAL, ELECTRICAL, AND STRUCTURAL ENGINEERING SERVICES IN THE AMOUNT NOT TO EXCEED \$27,350.00.

RECOMMENDATION:

Adopt resolution (Attachment 1) authorizing the Town Manager to execute professional engineering consultant services agreement (Exhibit A) with Integrated Engineering Services to perform mechanical, electrical, and structural engineering services in the amount not to exceed \$27,350.00.


BACKGROUND:

The consulting firm of Integrated Engineering Systems (IES) was hired last year to assist the Town with design of the outside air ventilation system for the Neighborhood Center as part of this contract. IES also evaluated the Civic Center chiller and made a recommendation regarding an appropriate replacement for the system at that time.

DISCUSSION:

Over the past few months, staff has been working on the various elements of the HVAC system at the Civic Center. Thorough evaluation of the HVAC system at the Civic Center determined that the original scope of work for repair was inadequate. It is necessary to broaden the scope to include other components which requires appropriate design and engineering to assure successful correction of the HVAC deficiencies. This approach is important towards successful project implementation and minimizing any inconveniences to the Civic Center operations.

PREPARED BY:


JOHN E. CURTIS
Director of Parks and Public Works

Reviewed by: PS Assistant Town Manager OK Attorney _____ Clerk Administrator _____
Finance SC Community Development Revised: 6/2/05 2:53 pm

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MAYOR AND TOWN COUNCIL

SUBJECT: PROJECT 04-64 - CHILLER/COOLING TOWER REPLACEMENT AT THE
CIVIC CENTER

MAY 20, 2005

Integrated Engineering Services (IES) has provided design services to the Town most recently for the Neighborhood Center outside air ventilation system. IES has provided written scope of services to staff related to repair, aging, heating, and air-conditioning systems (HVAC). IES specializes in (HVAC) retrofit projects that the Town is currently undertaking and specializes in Trane equipment and logic controls systems that we are in the process of purchasing through the Federal GSA process.

CONCLUSION:

It is recommended that the Council adopt the attached Resolution authorizing the Town Manager to execute a Professional Services Agreement with Integrated Engineering Services to perform mechanical, electrical, and structural engineering services for the Chiller/Cooling Tower replacement at the Civic Center.

ENVIRONMENTAL ASSESSMENT:

The project is Categorically Exempt pursuant to Sections 15301 (c), 15303(e) and 15304(b) of the State CEQA guidelines.

FISCAL IMPACT:

Town Council approved a budget adjustment for replacement of HVAC cooling system components in December of 2004. Funding will be allocated from account number 6695-84553.

Attachments:

Resolution approving Professional Services Agreement with Integrated Engineering Services
(with Exhibit A) Agreement

RESOLUTION

**RESOLUTION OF THE TOWN COUNCIL
OF THE TOWN OF LOS GATOS
APPROVING AN AGREEMENT FOR PROFESSIONAL CONSULTANT SERVICES
WITH INTEGRATED ENGINEERING SERVICES TO PROVIDE
MECHANICAL, ELECTRICAL, AND STRUCTURAL ENGINEERING SERVICES
FOR PROJECT 04-64 - CHILLER/COOLING TOWER REPLACEMENT
AT THE CIVIC CENTER**

WHEREAS, it is necessary for the Council to secure professional consultant services to provide assistance to the Town in the implementation of tasks related to mechanical, electrical, and structural engineering services for the Chiller/Cooling Tower Replacement at the Civic Center; and

WHEREAS, the Town Council has selected the firm of Integrated Engineering Services to provide professional engineering services in connection with the Chiller/Cooling Tower Replacement; and

NOW, THEREFORE, IT IS RESOLVED that the Town Council of the Town of Los Gatos hereby approves the attached Agreement (Exhibit A) for Professional Services with Integrated Engineering Services to provide professional engineering services in connection with the Chiller/Cooling Tower Replacement at the Civic Center; and

BE IT FURTHER RESOLVED that the Town Manager is hereby authorized and directed to execute said agreement on behalf of the Council.

PASSED AND ADOPTED at a regular meeting of the Town Council of the Town of Los Gatos held on the th day of , 2005, by the following vote:

AYES:

NAYS:

ABSENT:

ABSTAIN:

SIGNED:

MAYOR OF THE TOWN OF LOS GATOS
LOS GATOS, CALIFORNIA

ATTEST:

CLERK ADMINISTRATOR
LOS GATOS, CALIFORNIA

AGREEMENT FOR PROFESSIONAL ENGINEERING CONSULTANT SERVICES

THIS AGREEMENT is entered into this _____ day of _____, 20____, by and between the **Town of Los Gatos**, State of California, herein called the "Town", and **Integrated Engineering Systems**, engaged in providing professional engineering consultant services herein called the "Consultant".

RECITALS

- A. The Town is considering undertaking activities to perform mechanical, electrical, and structural engineering services in connection with Project 04-64 - Chiller/Cooling Tower Replacement at the Civic Center.
- B. The Town desires to engage a professional engineering consultant to provide consulting services in conjunction with the Chiller/Cooling Tower Replacement at the Civic Center because of Consultant's experience and qualifications to perform the desired work.
- C. The Consultant represents and affirms that it is qualified and willing to perform the desired work pursuant to this Agreement.

AGREEMENTS

NOW, THEREFORE, THE PARTIES HERETO AGREE AS FOLLOWS:

Scope of Services. The Consultant shall provide the following services listed below.

- 1. Time of Performance. The services of the Consultant are to commence upon the execution of this Agreement and issuance of a Town purchase order, with completion of the project by _____.
- 2. Compliance with Laws. The Consultant shall comply with all applicable laws, codes, ordinances, and regulations of governing federal, state and local laws. Consultant represents and warrants to Town that it has all licenses, permits, qualifications and approvals of whatsoever nature which are legally required for Consultant to practice its profession. Consultant represents and warrants to Town that Consultant shall, at its sole cost and expense, keep in effect or obtain at all times during the term of this Agreement any licenses, permits, and approvals which are legally required for Consultant to practice its profession. Consultant shall maintain a Town of Los Gatos business license pursuant to Chapter 14 of the Code of the Town of Los Gatos.
- 3. Sole Responsibility. Consultant shall be responsible for employing or engaging all persons necessary to perform the services under this Agreement.

4. Information/Report Handling. All documents furnished to Consultant by the Town and all reports and supportive data prepared by the Consultant under this Agreement are the Town's property and shall be delivered to the Town upon the completion of Consultant's services or at the Town's written request. All reports, information, data, and exhibits prepared or assembled by Consultant in connection with the performance of its services pursuant to this Agreement are confidential until released by the Town to the public, and the Consultant shall not make any of these documents or information available to any individual or organization not employed by the Consultant or the Town without the written consent of the Town before such release. The Town acknowledges that the reports to be prepared by the Consultant pursuant to this Agreement are for the purpose of evaluating a defined project, and Town's use of the information contained in the reports prepared by the Consultant in connection with other projects shall be solely at Town's risk, unless Consultant expressly consents to such use in writing. Town further agrees that it will not appropriate any methodology or technique of Consultant which is and has been confirmed in writing by Consultant to be a trade secret of Consultant.
5. Compensation. Compensation for Consultant's professional services shall not exceed \$27,350.00, and payment shall be based upon Town approval of each task.

Billing shall be accompanied by a detailed explanation of the work performed by whom at what rate and on what date. Also, plans, specifications, documents or other pertinent materials shall be submitted for Town review, even if only in partial or draft form.

Payment shall be net thirty (30) days.

All invoices and statements to the Town shall reference the Town's purchase order number and be addressed as follows:

Invoices:
Town of Los Gatos
Attn: Accounts Payable
P.O. Box 655
Los Gatos, CA 95031

Statements:
Town of Los Gatos
Attn: Finance Department
P.O. Box 655
Los Gatos, CA 95031

6. Availability of Records. Consultant shall maintain the records supporting this billing for not less than three years following completion of the work under this Agreement. Consultant shall make these records available to authorized personnel of the Town at the Consultant's offices during business hours upon written request of the Town.
7. Project Manager. The Project Manager for the Consultant for the work under this Agreement shall be Erland Jannesson.

8. Assignability and Subcontracting. The services to be performed under this Agreement are unique and personal to the Consultant. No portion of these services shall be assigned or subcontracted without the written consent of the Town.
9. Notices. Any notice required to be given shall be deemed to be duly and properly given if mailed postage prepaid, and addressed to:

To Town:

John E. Curtis
Director of Parks and Public Works
Town of Los Gatos
41 Miles Avenue
Los Gatos, CA 95030

To Consultant:

Erland Jannesson
Integrated Engineering Services
70 Saratoga Avenue
Santa Clara, CA 95051-7301

or personally delivered to Consultant to such address or such other address as Consultant designates in writing to Town.

10. Independent Contractor. It is understood that the Consultant, in the performance of the work and services agreed to be performed, shall act as and be an independent contractor and not an agent or employee of the Town. As an independent contractor he/she shall not obtain any rights to retirement benefits or other benefits which accrue to Town employee(s). With prior written consent, the Consultant may perform some obligations under this Agreement by subcontracting, but may not delegate ultimate responsibility for performance or assign or transfer interests under this Agreement.

Consultant agrees to testify in any litigation brought regarding the subject of the work to be performed under this Agreement. Consultant shall be compensated for its costs and expenses in preparing for, traveling to, and testifying in such matters at its then current hourly rates of compensation, unless such litigation is brought by Consultant or is based on allegations of Consultant's negligent performance or wrongdoing.

11. Conflict of Interest. Consultant understands that its professional responsibilities is solely to the Town. The Consultant has and shall not obtain any holding or interest within the Town of Los Gatos. Consultant has no business holdings or agreements with any individual member of the Staff or management of the Town or its representatives nor shall it enter into any such holdings or agreements. In addition, Consultant warrants that it does not presently and shall not acquire any direct or indirect interest adverse to those of the Town in the subject of this Agreement, and it shall immediately disassociate itself from such an interest should it discover it has done so and shall, at the Town's sole discretion, divest itself of such interest. Consultant shall not knowingly and shall take reasonable steps to ensure that it does not employ a person having such an interest in this performance of this Agreement.

If after employment of a person, Consultant discovers it has employed a person with a direct or indirect interest that would conflict with its performance of this Agreement, Consultant shall promptly notify Town of this employment relationship, and shall, at the Town's sole discretion, sever any such employment relationship.

12. Equal Employment Opportunity. Consultant warrants that it is an equal opportunity employer and shall comply with applicable regulations governing equal employment opportunity. Neither Consultant nor its subcontractors do and neither shall discriminate against persons employed or seeking employment with them on the basis of age, sex, color, race, marital status, sexual orientation, ancestry, physical or mental disability, national origin, religion, or medical condition, unless based upon a bona fide occupational qualification pursuant to the California Fair Employment & Housing Act.

13. Insurance.

- A. Minimum Scope of Insurance:

- i. Consultant agrees to have and maintain, for the duration of the contract, General Liability insurance policies insuring him/her and his/her firm to an amount not less than: one million dollars (\$1,000,000) combined single limit per occurrence for bodily injury, personal injury and property damage.
- ii. Consultant agrees to have and maintain for the duration of the contract, an Automobile Liability insurance policy ensuring him/her and his/her staff to an amount not less than one million dollars (\$1,000,000) combined single limit per accident for bodily injury and property damage.
- iii. Consultant shall provide to the Town all certificates of insurance, with original endorsements effecting coverage. Consultant agrees that all certificates and endorsements are to be received and approved by the Town before work commences.
- iv. Consultant agrees to have and maintain, for the duration of the contract, professional liability insurance in amounts not less than \$1,000,000 which is sufficient to insure Consultant for professional errors or omissions in the performance of the particular scope of work under this agreement.

- B. General Liability:

- i. The Town, its officers, officials, employees and volunteers are to be covered as insured as respects: liability arising out of activities performed by or on behalf of the Consultant; products and completed operations of Consultant, premises owned or used by the Consultant. This requirement does not apply to the professional liability insurance required for professional errors and omissions.

- ii. The Consultant's insurance coverage shall be primary insurance as respects the Town, its officers, officials, employees and volunteers. Any insurance or self-insurances maintained by the Town, its officers, officials, employees or volunteers shall be excess of the Consultant's insurance and shall not contribute with it.
 - iii. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the Town, its officers, officials, employees or volunteers.
 - iv. The Consultant's insurance shall apply separately to each insured against whom a claim is made or suit is brought, except with respect to the limits of the insurer's liability.
- C. All Coverages: Each insurance policy required in this item shall be endorsed to state that coverage shall not be suspended, voided, cancelled, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the Town. current certification of such insurance shall be kept on file at all times during the term of this agreement with the Clerk Administrator.
- D. In addition to these policies, Consultant shall have and maintain Workers' Compensation insurance as required by California law and shall provide evidence of such policy to the Town before beginning services under this Agreement. Further, Consultant shall ensure that all subcontractors employed by Consultant provide the required Workers' Compensation insurance for their respective employees.
- 14. Indemnification. The Consultant shall save, keep and hold harmless indemnify and defend the Town its officers, agent, employees and volunteers from all damages, liabilities, penalties, costs, or expenses in law or equity that may at any time arise or be set up because of damages to property or personal injury received by reason of, or in the course of performing work which may be occasioned by a willful or negligent act or omissions of the Consultant, or any of the Consultant's officers, employees, or agents or any subconsultant.
 - 15. Waiver. No failure on the part of either party to exercise any right or remedy hereunder shall operate as a waiver of any other right or remedy that party may have hereunder, nor does waiver of a breach or default under this Agreement constitute a continuing waiver of a subsequent breach of the same or any other provision of this Agreement.
 - 16. Governing Law. This Agreement, regardless of where executed, shall be governed by and construed to the laws of the State of California. Venue for any action regarding this Agreement shall be in the Superior Court of the County of Santa Clara.

17. Termination of Agreement. The Town and the Consultant shall have the right to terminate this agreement with or without cause by giving not less than 15 days written notice of termination. In the event of termination, the Consultant shall deliver to the Town all plans, files, documents and reports performed to date by the Consultant. In the event of such termination, Town shall pay Consultant an amount that bears the same ratio to the maximum contract price as the work delivered to the Town bears to completed services contemplated under this Agreement pursuant to Exhibit ____ hereto, unless such termination is made for cause, in which event, compensation, if any, shall be adjusted in light of the particular facts and circumstances involved in such termination.
18. Amendment. No modification, waiver, mutual termination, or amendment of this Agreement is effective unless made in writing and signed by the Town and the Consultant.
19. Disputes. In any dispute over any aspect of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees, including costs of appeal.
20. Entire Agreement. This Agreement, including (Exhibit A) attached hereto, constitutes the complete and exclusive statement of the Agreement between the Town and Consultant. No terms, conditions, understandings or agreements purporting to modify or vary this Agreement, unless hereafter made in writing and signed by the party to be bound, shall be binding on either party.

IN WITNESS WHEREOF, the Town and Consultant have executed this Agreement as of the date indicated on page one (1).

Town of Los Gatos, by:

Consultant, by:

Integrated Engineering Services

Debra J. Figone, Town Manager

Signature

Recommended by:

Print Name

John Curtis
Director of Parks and Public Works

Title

Approved as to form:

Orry P. Korb, Town Attorney

Attest:

Town of Los Gatos, Los Gatos, California

Marlyn Rasmussen, Clerk Administrator