

TO: James L. App, City Manager
FROM: Doug Monn, Public Works Director
SUBJECT: Replacement of HVAC Components at the City Hall/Library Building (HVAC project)
DATE: January 5, 2010

NEEDS: For the City Council to consider a contract to PMSM Architects for engineering design work associated with Conference Center HVAC units and City Hall/Library building Chiller replacement.

FACTS:

1. The City Hall/Library building has been in operation since 1995.
2. In 2003 the San Simeon earthquake opened a sulfur hot spring in the parking lot. The sulfur fumes have accelerated wear on the HVAC system(s)
3. Currently the HVAC units above the Conference Center are non operational. Additionally the Library/City Hall Chiller is showing signs of corrosion that could soon result in a unit failure.
4. The existing units serving the Council Chambers are obsolete and no longer manufactured.
5. The planned replacement units are physically larger and will not fit in the existing space. That space needs to be redesigned and modified to accommodate new units.
6. Request of proposals (RFP's) for design services were distributed in November 2009. Two proposals were returned.
7. The City's selection panel unanimously recommended retaining PMSM Architects to provide design services for the HVAC project.
8. The suggested scope of work and project schedule is attached for review. Project (design and construction) completion date is end of May 2010.

ANALYSIS & CONCLUSION: The age of the HVAC units along with sulfur fumes from the hot springs in the City Hall parking lot has rendered the HVAC units above the conference room inoperable. The roof area housing the units must be altered to accommodate installation of new HVAC units.

POLICY REFERENCE: Paso Robles Purchasing Policy

FISCAL IMPACT: Proposed engineering design services fees total \$21,000; payment will come from the facilities repairs fund 119.

- OPTIONS:**
- a. Adopt Resolution No. 10-xx appropriating \$21,000 from the Facilities Repair Fund No. 119-310-xxxx-175 and authorize the City Manager to enter into a contract with PMSM Architects in the amount of \$20,900 to provide professional engineering design services associated with the design of replacement HVAC components at the City Hall/Library Building.
 - b. Amend, modify, or reject the above option.

Prepared by Dennis Fansler

Attachments (2)

- 1) Sample contracts with attached Scope of Work
- 2) Resolution

RESOLUTION NO. 10-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PASO ROBLES
AWARDING A CONTRACT TO PMSM ARCHITECTS FOR DESIGN OF REPLACEMENT OF
HVAC COMPONENTS AT CITY HALL/LIBRARY BUILDING

WHEREAS, the City Hall/Library building has been in operation since 1995 and the HVAC units above the Conference Center are non operational in conjunction with the Library/City Hall Chiller showing signs of corrosion; and

WHEREAS, in 2003 the San Simeon earthquake opened up a sulfur hot spring in the parking lot accelerating the wear on the HVAC system(s); and

WHEREAS, the existing units serving the Council Chambers are obsolete and are no longer manufactured; and

WHEREAS, the replacement units are physically larger and will not fit in the existing space requiring the roof space housing the units be redesigned and modified to accommodate installation of new HVAC units; and

WHEREAS, request of proposals (RFP's) for design services were distributed in November 2009, two proposals were returned; and

WHEREAS, staff reviewed the proposals submitted and unanimously recommended retaining PMSM Architects to provide design services for the HVAC project; and

WHEREAS, proposed design services fees total \$21,000; and

WHEREAS, it is suggested that payment come from the facilities repairs fund 119.

THEREFORE, BE IT RESOLVED AS FOLLOWS:

SECTION 1. The City Council of the City of El Paso de Robles does hereby appropriate a total of \$21,000 from the Facilities Repairs fund Account No. 119-310-5224-175.

SECTION 2. The City Council of the City of Paso Robles does hereby award a contract to PMSM Architects in the amount of \$20,900 to provide professional engineering design services associated with the design of replacement HVAC components at the City Hall/Library building and authorizes the City Manager to execute the contract.

PASSED AND ADOPTED by the City Council of the City of Paso Robles this 5th day of January 2010 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

Lonnie Dolan, Deputy City Clerk

Duane Picanco, Mayor



CITY OF EL PASO DE ROBLES

"The Pass of the Oaks"

PUBLIC WORKS DEPARTMENT
1000 Spring Street
Paso Robles, CA 93446

AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES
TO PREPARE PLANS AND SPECIFICATIONS
TO REPLACE HVAC AT CITY HALL
DPW 09-20

THIS AGREEMENT (hereinafter referred to as "Agreement") is made by and between the **City of El Paso de Robles**, a public body, corporate and politic, (herein "CITY") and PMSM Architects, having a principal place of business at 1233 Vine Street, Paso Robles, CA 93446 (herein "Consultant"), wherein Consultant agrees to provide the City and City agrees to accept the services specified herein in connection with preparing plans and specifications to replace the HVAC at City Hall, DPW 09-20 (the "Project").

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, the parties agree as follows:

1. CONTRACT ADMINISTRATOR. **Dennis Fansler**, Maintenance Services Superintendent, at telephone number **(805) 237-3873** will administer this Agreement on behalf of City (herein "Contract Administrator"). **Alan Kroeker** at telephone number **(805) 227-4540**, is the authorized representative for Consultant. Changes in designated representatives shall be made only after advance written notices to the other party.

2. NOTICES. Any notice or consent required or permitted to be given under this Agreement shall be given to the respective parties in writing, by first-class mail, postage prepaid, or otherwise delivered as follows:

CITY:
City of El Paso de Robles
Public Works Department
Attn: Dennis Fansler
1000 Spring Street
Paso Robles, CA 93446
Phone: (805) 237-3873
Facsimile: (805) 237-4047

CONSULTANT:
PMSM Architects
Attn: Alan Kroeker, President
1233 Vine Street
Paso Robles, CA 93446
Phone: (805) 227-4540
Facsimile: (805) 227-0712

or at such other address or to such other person that the parties may from time to time designate. Notices and consents under this section, which are sent by mail or facsimile, shall be deemed to be received five (5) days following their deposit in the U.S. mail or upon receipt if sent by facsimile.

3. EXHIBITS. Attached to this Agreement are the following Exhibits. Said Exhibits shall be initialed by Consultant. Said Exhibits are incorporated herein by reference:

Exhibit A Description of Scope of Services to be performed by Consultant, including a timeline for submittals and Project completion.

Exhibit B Fees for Consultant's personnel, Consultant's agents and contractors applicable to providing services under this Agreement. A definition of reimbursable costs, along with a contract budget for the services described in Exhibit "A".

Exhibit C. Key Personnel, as described in Section 18.

Exhibit D. Insurance Requirements.

4. SCOPE OF SERVICES.

A. Consultant shall provide the services, and make submittals to City in accordance with Exhibit "A", subject to the direction of the City Contract Administrator, as provided from time to time.

B. Consultant shall perform its services in accordance with the Schedule for the Project set forth in Exhibit "A", or as otherwise mutually agreed with City.

5. TERM. Consultant shall commence performance within **ten (10) working days** of City's Notice to Proceed, and diligently prosecute the Services through to completion, as provided in Exhibit "A", unless otherwise directed by City or unless earlier terminated.

6. COMPENSATION OF CONSULTANT.

A. The Consultant will be paid for services provided to City in accordance with the schedule set forth in Exhibit "B".

B. Payment of undisputed amounts is due within forty-five (45) days of receipt of invoices. Invoices shall reflect the phase or task to which the request for payment is being invoiced in accordance with the "Scope of Service" (Exhibit "A") and the percentage of completion of each phase.

C. The City shall not pay Consultant more than the sum of Twenty Thousand Nine Hundred Dollars (\$20,900.00), as stated in Exhibit "B" without the written authorization of the City's Contract Administrator.

D. Consultant shall be reimbursed at cost for reimbursable costs as provided in Exhibit "B".

E. Payment to Consultant shall be considered as full compensation for all personnel, materials, supplies, and equipment used in carrying out the services as stated in Exhibit "A".

F. City's failure to discover or object to any unsatisfactory work or billing prior to payment will not constitute a waiver of City's right to:

1. Require Consultant to correct such work or billings; or
2. Seek any other legal remedy.

7. ADDITIONAL SERVICES. Should services be requested by Consultant which are considered to be beyond the Scope of Services (Exhibit "A"), the Consultant shall provide a written request for consideration of Additional Services to the City Contract Administrator. The City Contract Administrator will make due consideration of the request for Additional Services. Consultant shall not provide Additional Services until Consultant has received written approval from the City Contract Administrator to perform same. Should the Consultant elect to proceed prior to receiving written approval by the City or Additional Services, the Consultant does so at Consultant's own risk.

8. INDEPENDENT CONTRACTOR. Consultant, its agents and contractors, are independent contractors, responsible for all methods and means used in performing the Consultant's services under this agreement, and are not employees, agents or partners of City.

9. PERFORMANCE STANDARDS.

A. Compliance with laws.

(1) Consultant shall (and shall cause its agents and contractors), at its sole cost and expense, to comply with all City, County, State and Federal ordinances, regulations and statutes now in force or which may hereafter be in force with regard to the Project and this Agreement. Any corrections to Consultant's instruments of professional service which become necessary as a result of the Consultant's failure to comply with these requirements shall be made at the Consultant's expense.

(2) Should the requirements referenced in subparagraph 1 above change after the date of design or drawing preparation, Consultant shall be responsible for notifying City of such change in requirements. Consultant will bring the instruments of professional service into conformance with the newly issued requirements at the written direction of City. Consultant's costs for providing services pursuant to this paragraph shall be submitted to City as Additional Services.

B. Standard of Performance. Consultant represents that it has the skills, expertise, and licenses/permits necessary to perform the services required under this Agreement. Accordingly, Consultant shall perform all such services in the manner and according to the standards observed by a competent practitioner of the same profession in which Consultant is engaged. All products of whatsoever nature which Consultant delivers to City pursuant to this Agreement shall conform to the standards of quality normally observed by a person practicing in Consultant's profession. Consultant shall correct or revise any errors or omissions at the Contract Administrator's request without additional compensation. Permits and/or licenses shall

be obtained and maintained by Consultant without additional compensation throughout the term of this Agreement.

C. **Professional Seal.** Consultant shall have documents stamped by registered professionals, at Consultant's cost, for the disciplines covered by Consultant's instruments of professional service when required by prevailing law, usual and customary professional practice, by City, or by any governmental agency having jurisdiction over the Project.

10. TAXES. Consultant shall pay all taxes, assessments and premiums under the federal Social Security Act, any applicable unemployment insurance contributions, Workers Compensation insurance premiums, sales taxes, use taxes, personal property taxes, or other taxes or assessments now or hereafter in effect and payable by reason of or in connection with the services to be performed by Consultant.

11. CONFLICT OF INTEREST. Consultant covenants that neither it, nor any officer or principal of its firm, has, or shall acquire any interest, directly or indirectly, which would conflict in any manner with the interests of City or which would in any way hinder Consultant's performance of services under this Agreement. Consultant further covenants that in the performance of the Agreement, no person having any such interest shall be employed by it as an officer, employee, agent or subcontractor without the express written consent of the City Contract Administrator. Consultant agrees to at all times avoid conflicts of interest, or the appearance of any conflicts of interest, with the interests of the City in the performance of this Agreement.

12. RESPONSIBILITIES OF CITY. City shall provide all information requested by Consultant that is reasonably necessary in performing the services provided herein.

13. OWNERSHIP OF DOCUMENTS.

A. The plans, specifications, estimates, programs, reports, models, and other material prepared by or on behalf of Consultant under this Agreement including all drafts and working documents, and including electronic and paper forms (collectively the "Documents"), shall be and remain the property of the City, whether the Project is completed or not, and to the extent that Consultant has been paid for satisfactorily completed Services. Consultant shall deliver all Documents to City upon (1) the substantial completion date of the Project, (2) the date of termination of this Agreement for any reason, or (3) at any time requested by City, upon five (5) days written notice.

B. The Documents may be used by City and its agents, employees, representatives, and assigns, in whole or in part, or in modified form, for all purposes City may deem advisable in connection with completion and maintenance of, and addition to, the Project, without further employment of or payment of any compensation to Consultant; provided, however, that if this Agreement is terminated for any reason prior to completion of the Project and if under such circumstances City uses, or engages the services of and directs another Consultant to use, such Documents to complete the Project, City agrees to release Consultant from any responsibility for the conformance of the incomplete portions of the Project to the Documents and to hold Consultant harmless from any and all liability, costs, and expenses (including reasonable legal fees and disbursements), relative to claims arising out of matters and/or events which occur subsequent to the termination of this Agreement as a result of causes other than the fault or negligence of Consultant, or anyone for whose acts it is responsible, in preparation of the Documents. Consultant shall not be responsible for deficiencies to the extent attributable

to modifications to the Documents performed by others, or that arise from use of the Documents on a site other than that shown in the Documents.

C. Consultant retains the copyright in and to the intellectual property depicted in the Documents subject to Consultant's limitations and City's rights and licenses set forth in this Agreement. City's ownership interest in the Documents includes the following single, exclusive license from Consultant for the Project: Consultant, for itself, its employees, heirs, successors and assigns, hereby grants (and if any subsequent grant is necessary, agrees to grant) to City an irrevocable, perpetual, royalty-free, fully paid-up, sole and exclusive license and right to use and exercise any and all of the copyrights or other intellectual property rights that Consultant may author or create, alone or jointly with others, in or with respect to the Documents, including without limitation all drawings, designs and graphic representations. City's license shall include the right to sublicense, shall be for all purposes with respect to each right of copyright, and shall be without restriction, except that City may not build or sublicense others to build an additional work of improvement that embodies Consultant's copyright protected designs without Consultant's prior written consent, which consent Consultant may condition solely upon additional payment to Consultant which shall be determined through reasonable and good faith negotiations between Consultant and City. Notwithstanding the foregoing, City may use the Documents to construct or have constructed at the location of the Project a work of improvement similar or identical to the Project if the Project does not proceed as contemplated in this Agreement, and such work of improvement shall not constitute an "additional work of improvement" under this paragraph 13(C).

D. Consultant shall cause to be included in all subcontracts and agreements with respect to the design and construction of the Project that Consultant negotiates, language which is consistent with this Section 13.

E. 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 City 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 City without the written consent of the City before any such release.

14. PREVAILING WAGE. Consultant and Consultant's sub-Consultants, to the extent required by the California Labor Code, shall pay not less than the latest prevailing wage rates to workers and professionals as determined by the Director of Industrial Relations of the State of California pursuant to California Labor Code, Part 7, Chapter 1, Article 2. Copies of the applicable wage determination are on file at the City's Public Works Department office.

15. RECORDS, AUDIT AND REVIEW. Consultant shall keep such business records pursuant to this Agreement as would be kept by a reasonably prudent practitioner of Consultant's profession and shall maintain such records for at least four (4) years following the termination of this Agreement. All accounting records shall be kept in accordance with generally accepted accounting practices. City shall have the right to audit and review all such documents and records at any time during Consultant's regular business hours or upon reasonable notice.

16. INDEMNIFICATION.

A. To the fullest extent permitted by law, Consultant shall indemnify, protect, defend and hold harmless City and any and all of its officials, employees and agents ("Indemnified Parties") from and against any and all losses, liabilities, damages, costs and expenses,

including attorney's fees and costs which arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Consultant, its officers, employees, subcontractors or agents.

B. Limitation on indemnity obligations. Without affecting any of the rights of City under any provision of this Agreement, Consultant shall not be required to indemnify and hold harmless City for liability attributable to the active negligence of City, provided such active negligence is determined by agreement between the parties or by the findings of a court of competent jurisdiction. In instances where City is shown to have been actively negligent and where City's active negligence accounts for only a percentage of the liability involved, the obligation of Consultant will be for that entire portion or percentage of liability not attributable to the negligence of City.

C. Submission of insurance certificates or submission of other proof of compliance with the insurance requirements in this Agreement does not relieve Consultant from the obligations of this Section 16. The obligations of this Section 16 shall apply whether or not such insurance policies shall have been determined to be applicable to any of such damages or claims for damages.

17. INSURANCE. Consultant shall provide insurance in accordance with the requirements of Exhibit D.

18. PERSONNEL.

A. The Consultant represents that it has, or will secure at its own expense, all personnel required in performing the services under this Agreement. All of the services required hereunder will be performed by the Consultant or under Consultant's supervision, and all personnel engaged in the work shall be qualified to perform such services.

B. Continuity: Consultant shall make every reasonable effort to maintain stability and continuity of Consultants Key Personnel assigned to perform the Services. Key Personnel are identified in Exhibit C. Consultant shall provide City with a minimum twenty (20) days prior written notice of any changes in Consultant's Key Personnel assigned to the Project, and shall not replace any Key Personnel with anyone to whom the City has a reasonable objection.

19. NONEXCLUSIVE AGREEMENT. Consultant understands that this is not an exclusive Agreement and that City shall have the right to negotiate with and enter into contracts with others providing the same or similar services as those provided by Consultant as the City desires.

20. ASSIGNMENT. Consultant shall not assign any of its rights nor transfer any of its obligations under this Agreement without the prior written consent of City and any attempt to so assign or so transfer without such consent shall be void and without legal effect and shall constitute grounds for termination.

21. TEMPORARY SUSPENSION. The City's Contract Administrator shall have the authority to suspend this Agreement and the services contemplated herein, wholly or in part, for such period as he/she deems necessary due to unfavorable conditions or to the failure on the part of the Consultant to perform any provision of this Agreement. Consultant will be paid for satisfactory services performed through the date of temporary suspension. In the event that Consultant's services hereunder are delayed for a period in excess of six (6) months due to

causes beyond Consultant's reasonable control, Consultant's compensation shall be subject to renegotiation.

22. TERMINATION.

A. Right to terminate. City retains the right to terminate this Agreement for any reason by notifying Consultant in writing ten (10) days prior to termination. Upon receipt of such notice, Consultant shall promptly cease work and notify City as to the status of its performance. City shall pay Consultant for its reasonable costs and expenses through the date of termination. However, if this Agreement is terminated for fault of Consultant, then City shall be obligated to compensate Consultant only for that portion of Consultant services which are of benefit to City, up to and including the day Consultant receives notice of termination from City.

B. Return of materials. Upon such termination, Consultant shall immediately turn over to the City Documents, whether or not completed, prepared by or on behalf of Consultant, or given to Consultant in connection with this Agreement. Consultant, however, shall not be liable for City's use of incomplete materials or for City's use of complete documents if used for other than the Project or Scope of Services contemplated by this Agreement.

C. Should City fail to pay Consultant undisputed payments set forth in Section 6, above, Consultant may, at Consultant's options, suspend its services or terminate this agreement if such failure is not remedied by City within thirty (30) days of written notice to City of such late payment.

23. DISPUTE RESOLUTION. City and Consultant agree that disputes between them arising out of or relating to this Agreement shall be submitted to nonbinding mediation, unless the parties mutually agree otherwise.

24. CITY NOT OBLIGATED TO THIRD PARTIES. City shall not be obligated or liable for payment hereunder to any party other than the Consultant.

25. NON-DISCRIMINATION. Consultant shall not discriminate in any way against any person on the basis of race, color, religious creed, national origin, ancestry, sex, sexual orientation, age, physical handicap, medical condition or marital status in connection with, or related to, the performance of this Agreement.

26. UNAUTHORIZED ALIENS. Consultant hereby promises and agrees to comply with all 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 performance of work and/or services covered by this Agreement, and should any liability or sanctions be imposed against City for such use of unauthorized aliens, Consultant hereby agrees to and shall reimburse City for the cost of all such liabilities or sanctions imposed, together with any and all costs, including attorneys' fees, incurred by City.

27. COSTS AND ATTORNEY'S FEES. The prevailing party in any action between the parties to this Agreement brought to enforce the terms of this Agreement or arising out of this Agreement may recover its reasonable costs and attorney's fees expended in connection with such an action from the other party.

28. SECTION HEADINGS. The headings of the several sections, and any table of contents appended hereto, shall be solely for convenience of reference and shall not affect the meaning, construction or effect hereof.

29. SEVERABILITY. If any one or more of the provisions contained herein shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions hereof, and such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had not been contained herein.

30. REMEDIES NOT EXCLUSIVE. Except as provided in Sections 22 and 23, no remedy herein conferred upon or reserved to City is intended to be exclusive of any other remedy or remedies, and each and every such remedy, to the extent permitted by law, shall be cumulative and in addition to any other remedy given hereunder or now or hereafter existing at law or in equity or otherwise.

31. TIME IS OF THE ESSENCE. Time is of the essence in this Agreement and each covenant and term is a condition herein. The foregoing notwithstanding, neither party shall be liable for damages or delays arising out of circumstances beyond its reasonable control.

32. NO WAIVER OF DEFAULT. No delay or omission of City to exercise any right or power arising upon the occurrence of any event of default shall impair any such right or power or shall be construed to be a waiver of any such default of an acquiescence therein; and every power and remedy given by this Agreement to City shall be exercised from time to time and as often as may be deemed expedient in the sole discretion of City.

32. ENTIRE AGREEMENT AND AMENDMENT. In conjunction with the matters considered herein, this Agreement contains the entire understanding and agreement of the parties and there have been no promises, representations, agreements, warranties or undertakings by any of the parties, either oral or written, of any character or nature hereafter binding except as set forth herein. This Agreement may be altered, amended or modified only by an instrument in writing, executed by the parties to this Agreement and by no other means. Each party waives their future right to claim, contest or assert that this Agreement was modified, canceled, superseded, or changed by any oral agreements, course of conduct, waiver or estoppel.

33. SUCCESSORS AND ASSIGNS. All representations, covenants and warranties set forth in this Agreement, by or on behalf of, or for the benefit of any or all of the parties hereto, shall be binding upon and inure to the benefit of such party, its successors and assigns.

34. CALIFORNIA LAW. This Agreement shall be governed by the laws of the State of California. Any litigation regarding this Agreement or its contents shall be filed in the County of San Luis Obispo, if in state court, or in the federal court nearest to San Luis Obispo County, if in federal court.

35. EXECUTION OF COUNTERPARTS. This Agreement may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original; and all such counterparts, or as many of them as the parties shall preserve undestroyed, shall together constitute one and the same instrument.

36. AUTHORITY. All parties to this Agreement warrant and represent that they have the power and authority to enter into this Agreement in the names, titles, and capacities herein stated and on behalf of any entities, persons, or firms represented or purported to be represented by such entity(ies), person(s), or firm(s) and that all formal requirements necessary or required by any state and/or federal law in order to enter into this Agreement have been fully complied with. Furthermore, by entering into this Agreement, Consultant hereby warrants that it shall not have breached the terms or conditions of any other contract or agreement to which Consultant is obligated, which breach would have a material effect hereon.

IN WITNESS WHEREOF, the parties have executed this Agreement to be effective on the date executed by City.

CONSULTANT: PMSM Architects

Alan Kroeker, President

Date: _____

CITY OF EL PASO DE ROBLES

James L. App, City Manager

Date: _____

EXHIBIT A: DESCRIPTION OF SCOPE OF SERVICES

Project Description

Prepare plans and specifications to remove and replace two (2) HVAC units for the City Hall Conference Center and one (1) chiller for the City Hall/Library. Services include architectural, mechanical engineering and electrical engineering for the work described below:

City Hall Conference Center HVAC Units. Remove the existing steel structure and louvers, remove the existing units, remove existing curbs, roofing and flashing, install new curbs, roofing and flashing, install two (2) HVAC units. Units to be changed to gas units, if feasible. A new gas line to be run from the existing meter, over the roof, and to the units. If the existing steel beams are structural, they will be reinstalled. Final status of the steel louvers to be determined during design meetings with City staff.

City Hall/Library Chiller. Remove and replace the chiller. Design a new two pump system to work with existing HVAC system components.

Project Schedule

The following is a preliminary schedule based on our discussions:

Authorization to Proceed.....	01-07-10
Plans submitted to City Building Department.....	01-28-10
Start solicitation of bids.....	02-15-10
Receive bids.....	03-11-10
Award - Notice to Proceed.....	04-01-10
Substantial Completion of Construction.....	05-31-10

This schedule assumes that the City will purchase the Chiller and HVAC units directly.

Base Services

A. Construction Documents

1. One (1) site visit to determine existing conditions.
2. Two (2) meeting with City staff to review and finalize project scope.
3. Preparation of necessary calculations, plans and technical specifications. The plans and technical specifications shall be prepared with the chiller work as an additive alternate.
4. Engineer's estimate of project cost.
5. Estimated construction schedule

B. Construction Administration

1. Submittal review
2. Respond to requests for information
3. Evaluate change orders if requested

Other Services -- City Hall/Library Chiller

Prepare plans and specifications to revise the existing chilled water piping to include a primary and secondary pumping system. The primary system will be an integral pump inside the chiller. The secondary system will be 2 base mounted pumps in the chiller enclosure with variable frequency

drives (VFD's). These pumps will be redundant to each other so if one fails the other will handle the system GPM. Completion plan for these services mirrors Base Services – Construction Documents noted above.

EXHIBIT B: FEES

1.	Constructions Documents	\$17,500.00
2.	Construction Administration	\$525.00
3.	Other Services	\$2,875.00
Total:		\$20,900.00

REIMBURSABLE EXPENSES

There are no reimbursable expenses anticipated for this project. If any reimbursable expenses do arise, PMSM shall notify the Owner and get authorization prior to incurring said expense. Reimbursable expenses will be billed at a rate of 1.1 times the actual cost to PMSM.

Bid set printing is not included in Consultant's scope of work and shall be paid directly by the Owner to the print vendor. Bid set printing includes plans and specifications for: Contractor(s), Owner (includes owner's representative and/or Construction manager, as applicable), Testing Lab, Soils Engineer, Inspector (if applicable), Design Team and Plan Rooms (if applicable).

EXCLUSIONS

If structural engineering is required to modify the structural beams or provide another solution, it will be an additional service. Structural services would be provided by Craig A. Dobbs on an hourly basis of \$110 / hour. Any additional services will be agreed upon prior to their commencement.

The following are not included in our services described above: plan review application fees and photocopying costs for bid sets.

EXHIBIT C: KEY PERSONNEL

(to be supplied by Consultant)

**EXHIBIT D: INSURANCE REQUIREMENTS
TO
PROFESSIONAL SERVICES AGREEMENT**

Design Professional shall, at all times it is performing services under this Agreement, provide and maintain insurance in the following types and with limits in conformance with the requirements set forth below. Design Professional will use existing coverage to comply with these requirements. If that existing coverage does not meet the requirements set forth here, Design Professional agrees to amend, supplement or endorse the existing coverage to do so. Design Professional acknowledges that the insurance coverage and policy limits set forth in this section constitute the minimum amount of coverage required. Any insurance proceeds available to Design Professional in excess of the limits and coverage required in this agreement and that is applicable to a given loss will be available to City.

1. Commercial General Liability Insurance, occurrence form, using Insurance Services Office ("ISO") "Commercial General Liability" policy form CG 00 01 or the exact equivalent. Defense costs must be paid in addition to limits. There shall be no cross liability exclusion for claims or suits by one insured against another. Limits are subject to review, but in no event shall be less than \$2,000,000 each occurrence. If such insurance contains a general aggregate limit, it shall apply separately to this Agreement or be no less than two (2) times the occurrence limit;

2. Business Auto Coverage on ISO Business Automobile Coverage form CA 00 01 including symbol 1 (Any Auto) or the exact equivalent. Limits are subject to review, but in no event shall be less than \$1,000,000 each occurrence. If Design Professional or its employees will use personal autos in any way on this Project, Design Professional shall provide evidence of personal auto liability coverage for each such person.

3. Workers Compensation on a state-approved policy form providing statutory benefits as required by law with employers liability insurance, with minimum limits of \$1 million per occurrence.

4. Excess or Umbrella Liability Insurance (Over Primary) if used to meet limit requirements shall provide coverage at least as broad as specified for the underlying coverages. Any such coverage provided under an umbrella liability policy shall include a drop down provision providing primary coverage above a maximum self-insured retention for liability not covered by primary but covered by the umbrella. Coverage shall be provided on a "pay on behalf of" basis, with defense costs payable in addition to policy limits. Policy shall contain a provision obligating insurer at the time insured's liability is determined, not requiring actual payment by insured first. There shall be no cross-liability exclusion precluding coverage for claims or suits by one insured against another. Coverage shall be applicable to City for injury to employees of Design Professional, subconsultants or others involved in the Project. The scope of coverage provided is subject to approval of City following receipt of proof of insurance as required herein. Limits are subject to review but in no event less than \$1 million per occurrence.

5. Professional Liability or Errors and Omissions Insurance as appropriate shall be written on a policy form coverage specifically designed to protect against acts, errors or omissions of the Design Professional and "Covered Professional Services" as designated in the policy must specifically include work performed under this agreement. The policy limit shall be no less than \$1,000,000 per claim and in the aggregate. The policy must "pay on behalf of" the insured and must

include a provision establishing the insurer's duty to defend. The policy retroactive date shall be on or before the effective date of this agreement.

6. Insurance procured pursuant to these requirements shall be written by insurers that are admitted carriers in the State of California and with an A.M. Bests rating of A- or better and a minimum financial size VII.

7. General conditions pertaining to provision of insurance coverage by Design Professional. Design Professional and City agree to the following with respect to insurance provided by Design Professional:

a. Design Professional agrees to have its insurer endorse the third party general liability coverage required herein to include as additional insureds City, its officials, employees and agents. Design Professional also agrees to require all contractors, and subcontractors to do likewise. The additional insured endorsement proposed by Design Professional, G17957-G99, is acceptable for this contract only.

b. No liability insurance coverage provided to comply with this Agreement shall prohibit Design Professional, or Design Professional's employees, or agents, from waiving the right of subrogation prior to a loss. Design Professional agrees to waive subrogation rights against City regardless of the applicability of any insurance proceeds, and to require all contractors and subcontractors to do likewise.

c. All insurance coverage and limits provided by Contractor and available or applicable to this agreement are intended to apply to the full extent of the policies. Nothing contained in this Agreement or any other agreement relating to the City or its operations limits the application of such insurance coverage.

d. None of the coverages required herein will be in compliance with these requirements if they include any limiting endorsement of any kind that has not been first submitted to City and approved of in writing.

e. No liability policy shall contain any provision or definition that would serve to eliminate so-called "third party action over" claims, including any exclusion for bodily injury to an employee of the insured or of any contractor or subcontractor.

f. All coverage types and limits required are subject to approval, modification and additional requirements by the City, as the need arises. Design Professional shall not make any reductions in scope of coverage (e.g. elimination of contractual liability or reduction of discovery period) that may affect City's protection without City's prior written consent.

g. Proof of compliance with these insurance requirements, consisting of certificates of insurance evidencing all of the coverages required and an additional insured endorsement to Design Professional's general liability policy, shall be delivered to City at or prior to the execution of this Agreement. In the event such proof of any insurance is not delivered as required, or in the event such insurance is canceled at any time and no replacement coverage is provided, City has the right, but not the duty, to obtain any insurance it deems necessary to protect its interests under this or any other agreement and to pay the premium. Any premium so paid by City shall be charged to and promptly paid by Design Professional or deducted from sums due Design Professional, at City's option.

- h. Certificate(s) are to reflect that the insurer will provide 30 days notice to City of any cancellation of coverage. Design Professional agrees to require its insurer to modify such certificates to delete any exculpatory wording stating that failure of the insurer to mail written notice of cancellation imposes no obligation, or that any party will "endeavor" (as opposed to being required) to comply with the requirements of the certificate.
- i. It is acknowledged by the parties of this agreement that all insurance coverage required to be provided by Design Professional or any subcontractor, is intended to apply first and on a primary, noncontributing basis in relation to any other insurance or self insurance available to City.
- j. Design Professional agrees to ensure that subcontractors, and any other party involved with the project who is brought onto or involved in the project by Design Professional, provide the same minimum insurance coverage required of Design Professional. Design Professional agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this section. Design Professional agrees that upon request, all agreements with subcontractors and others engaged in the project will be submitted to City for review.
- k. Design Professional agrees not to self-insure or to use any self-insured retentions or deductibles on any portion of the insurance required herein and further agrees that it will not allow any contractor, subcontractor, Architect, Engineer or other entity or person in any way involved in the performance of work on the project contemplated by this agreement to self-insure its obligations to City. City acknowledges that Design Professional's existing coverage includes a deductible or self-insured retention in the amount of \$50,000. At that time the City shall review options with the Design Professional, which may include reduction or elimination of the deductible or self-insured retention, substitution of other coverage, or other solutions.
- l. The City reserves the right at any time during the term of the contract to change the amounts and types of insurance required by giving the Design Professional ninety (90) days advance written notice of such change. If such change results in substantial additional cost to the Design Professional, the City will negotiate additional compensation proportional to the increased benefit to City.
- m. For purposes of applying insurance coverage only, this Agreement will be deemed to have been executed immediately upon any party hereto taking any steps that can be deemed to be in furtherance of or towards performance of this Agreement.
- n. Design Professional acknowledges and agrees that any actual or alleged failure on the part of City to inform Design Professional of non-compliance with any insurance requirement in no way imposes any additional obligations on City nor does it waive any rights hereunder in this or any other regard.
- o. Design Professional will renew the required coverage annually as long as City, or its employees or agents face an exposure from operations of any type pursuant to this agreement. This obligation applies whether or not the agreement is canceled or terminated for any reason. Termination of this obligation is not effective until City executes a written statement to that effect.
- p. Design Professional shall provide proof that policies of insurance required herein expiring during the term of this Agreement have been renewed or replaced with other policies

providing at least the same coverage. Proof that such coverage has been ordered shall be submitted prior to expiration. A coverage binder or letter from Design Professional's insurance agent to this effect is acceptable. A certificate of insurance and/or additional insured endorsement as required in these specifications applicable to the renewing or new coverage must be provided to City within five days of the expiration of the coverages.

q. The provisions of any workers' compensation or similar act will not limit the obligations of Design Professional under this agreement. Design Professional expressly agrees not to use any statutory immunity defenses under such laws with respect to City, its employees, officials and agents.

r. Requirements of specific coverage features or limits contained in this section are not intended as limitations on coverage, limits or other requirements nor as a waiver of any coverage normally provided by any given policy. Specific reference to a given coverage feature is for purposes of clarification only as it pertains to a given issue, and is not intended by any party or insured to be limiting or all-inclusive.

s. These insurance requirements are intended to be separate and distinct from any other provision in this agreement and are intended by the parties here to be interpreted as such.

t. The requirements in this Section supersede all other sections and provisions of this Agreement to the extent that any other section or provision conflicts with or impairs the provisions of this Section.

u. Design Professional agrees to be responsible for ensuring that no contract used by any party involved in any way with the project reserves the right to charge City or Design Professional for the cost of additional insurance coverage required by this agreement. Any such provisions are to be deleted with reference to City. It is not the intent of City to reimburse any third party for the cost of complying with these requirements. There shall be no recourse against City for payment of premiums or other amounts with respect thereto.

v. Design Professional agrees to provide immediate notice to City of any claim or loss against Design Professional arising out of the work performed under this agreement. City assumes no obligation or liability by such notice, but has the right (but not the duty) to monitor the handling of any such claim or claims if they are likely to involve City.