

Resolution No. 04-15

**A RESOLUTION OF THE VILLAGE OF EAST DUNDEE,
COOK AND KANE COUNTIES, ILLINOIS, TO APPROVE AN ORDER FOR
PROFESSIONAL SERVICES BETWEEN THE VILLAGE OF EAST DUNDEE AND
FEHR GRAHAM**

WHEREAS, the Village of East Dundee, Cook and Kane Counties, Illinois (the "Village") is a duly organized and validly existing home-rule municipality created in accordance with the Constitution of the State of Illinois of 1970 and the laws of the State; and,

WHEREAS, the Village desires to re-paint the Illinois Route 25 water tower, and the President and Board of Trustees of the Village have determined that it is in the best interests of the Village to enter into an agreement with Fehr Graham to provide design, bidding, and construction phase engineering services for said water tower improvement.

NOW, THEREFORE, BE IT RESOLVED by the President and Board of Trustees of the Village of East Dundee, Cook and Kane Counties, Illinois, as follows:

Section 1. That the Order for Professional Services, attached hereto and made a part hereof, is hereby approved and the Village Administrator is hereby authorized to execute and deliver said agreement on behalf of the Village.

Section 2. That this Resolution shall be in full force and effect from and after its passage and approval as provided by law.

PASSED this 5th day of Jan, 2015, pursuant to a roll call vote as follows:

AYES: Trustees Gorman, Lynam, Skillicorn, Selep and Wood

NAYS: Ø

ABSENT: Trustee Ruffulo

APPROVED this 5th day of Jan, 2015


Lael Miller, Village President

Attest: 
Heather Maieritsch, Village Clerk

October 21, 2014

Mr. Robert Skurla
Village Administrator
Village of East Dundee
120 Barrington Avenue
East Dundee, Illinois 60118-1311

RE: Updated Proposal - IL Route 25 Water Tower Painting

Dear Mr. Skurla:

The general purpose of the project is to provide design, bidding, and construction phase engineering services for a re-paint of the Illinois Route 25 water tower in conformance with AWWA requirements. It is anticipated that the tower will need to be enclosed in a curtain to prevent damage from occurring on adjacent properties for the duration of the project.

This updated proposal is based on the July 12, 2013 proposal as previously provided, as well as the site meeting with Mr. Tim Wilson to review the project scope.

SCOPE OF SERVICES:

The scope of the Design and Bidding Phase Services is summarized in the following tasks.

1. Obtain tank/site construction record drawings and inspection reports from the Village as a basis of design.
2. Obtain limited topographic field survey to supplement record drawing information and to verify the clearance between the tank and the existing cell tower and the tank and existing car dealer parking lots.
3. Prepare bidding and technical specifications, site plan, and probable project cost. The specifications will detail the maintenance activities for various tank areas, specify the standards for tank cleaning, detail the containment system, specify the coating system and application methods and define warranty requirements. The specifications will include cleaning and painting of the exterior, interior dry, and interior wet tank areas. Vents will be replaced and installation of a handrail is recommended.
4. Incorporate Village review comments in the final Contract Documents.
5. Provide bidding phase services including reproduction of bid documents, distribution of contract documents, attend bid opening, prepare bid tabulation, review contractor's bids, check contractor's references, and deliver a recommendation of award to the Village.

The scope of the construction phase services is summarized in the following tasks:

1. Provide review of the successful contractor's agreement/bonds with the Village and recommend execution by the Village (Insurance certificates will need to be reviewed by the Village's insurance consultant).
2. Review contractor's shop drawings and product data submittals and pay requests.
3. Provide part-time construction observation, testing, and documentation in conformance with AWWA Standards at key elements of the project, as well as upon request.
4. A Village staff member will be designated as a field contact for Fehr Graham's inspector. This Village staff member will stay up to date on the contractor's progress so that Fehr Graham's construction observation and testing trips can be scheduled appropriately. This collaboration will supplement the direct contact Fehr Graham has with the contractor's representative. This effort is intended to help control the Village's costs during the construction observation and testing phase of the project.
5. Review the contractor's record drawing mark-ups, final pay request and lien waivers, and recommend final payment and project closeout.

QUALIFICATIONS

1. The Village will publish the advertisement for bids and will set up and host the bid opening.
2. The Village has a plan in place to drain and discharge the tank and also to fill the tank and put it back in service. Contractor only needs to provide disinfectant. Specifications will only note the operations to be completed by the Village. Village will operate the water system, engineering of system improvements is not required.
3. The Village may want to include an Alternate Bid for painting the car dealer logos on the tank.
4. The anticipated project schedule will be to bid the project in early 2014 with the construction taking place during the 2015 season as determined by the availability of paint contractors capable of this type of project.

FEES

The lump sum fee to complete the scope of services for the Design and Bidding Phase Services is \$21,050.

FEHR GRAHAM
ENGINEERING & ENVIRONMENTAL

ORDER
FOR PROFESSIONAL SERVICES

Client Mr. Robert Skurla
Village of East Dundee
120 Barrington Avenue
East Dundee, IL 60118-1311

847-426-2822

Description of Services:

Village of East Dundee - Illinois Route 25 Water Tower Painting

Fehr Graham to provide design, bidding, and construction phase engineering services to re-paint the Illinois Route 25 water tower in conformance with AWWA requirements as detailed in updated proposal letter dated October 21, 2014.

COST:

The fee for performing the above services is \$44,950. *This amount will not be exceeded unless by mutual agreement between the parties.*
The attached General Conditions are incorporated into and made a part of this Agreement. *RS*

ACCEPTED AND AGREED TO:

I/we, the undersigned, authorize Fehr Graham to provide services as outlined above, and also agree that I/we are familiar with and ACCEPT THE TERMS OF THE ATTACHED GENERAL CONDITIONS.

CLIENT:

Signature Robert J. Skurla
Name Robert J. Skurla
Title Village Administrator
Date Accepted January 14, 2015

CONSULTANT:

By Michael W. Gronewold
Name Michael W. Gronewold
Title Principal / Engineering Division Manager
Date Proposed October 21, 2014
MWG 14-947

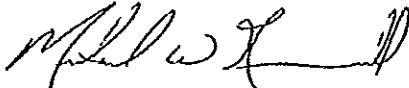
October 21, 2014
Mr. Robert Skurla, Village of East Dundee
Water Tower Painting Proposal
Page 3

The fee to complete the scope of services for Construction Phase Services is to be invoiced on a time and material basis. The standard rate sheets to be utilized are attached to this proposal letter. At this time, we will provide a fee estimate of \$23,900 for budgeting purposes. Note time is based on an estimated 20 half day type visits. Additional costs may be incurred should contractor's performance require additional visits. As discussed with Tim Wilson, a better estimate for the Construction Phase would be available once the tank is cleaned.

If this proposal is acceptable, please have the enclosed Order for Professional Services executed and returned to our office.

If you have any questions, please do not hesitate to contact me.

Sincerely,



Michael W. Gronewold, PE
Engineering Division Manager

MWG:cld

Enclosure

N:\Proposals\2014\Wick Gronewold\MWG A14-85 - East Dundee - Water Tower Painting Updated Proposal.docx

GENERAL CONDITIONS TO AGREEMENT FOR PROFESSIONAL SERVICES

1. The Client orders the professional services of Fehr Graham hereinafter called "The Consultant" as described herein.
2. The Consultant agrees to furnish and perform the professional service described in this Order in accordance with accepted professional standards. Consultant agrees to provide said services in a timely manner, provided, however, that Consultant shall not be responsible for delays in completing said services that cannot reasonably be foreseen on date hereof or for delays which are caused by factors beyond his control or delays resulting from the actions or inaction of any governmental agency. Consultant makes no warranty, expressed or implied, as to his findings, recommendations, plans and specifications or professional advice except that they were made or prepared in accordance with the generally accepted engineering practices.
3. It is agreed that the professional services described in the Order shall be performed for Client's account and that Client will be billed monthly for said services. A 1½% per month service charge will be incurred by Client for any payment due herein and not paid within 30 days of such billing which is equal to an ANNUAL PERCENTAGE RATE OF 18%. Partial payments will be first credited to the accrued service charges and then to the principal.
4. The Client and the Consultant each binds himself, his partners, successors, executors, and assigns to the other party to this agreement and to the partners, successor, executors, and assigns of such other party in respect to this agreement.
5. The Client shall be responsible for payment of all costs and expenses incurred by the Consultant for his account, including any such monies that the Consultant may advance for Client's account for purposes consistent with this Order.
6. The Consultant reserves the right to withdraw this Order if not accepted within 30 days.
7. A claim for lien will be filed within 75 days of the date of an invoice for services (last day of services rendered) unless the account is paid in full or other prior arrangements have been made. All attorney fees incurred by the Consultant due to the filing of said lien or the foreclosure thereof shall be borne by the Client.

In the event suit must be filed by Consultant for the collection of fees for services rendered, Client will pay all reasonable attorney's fees and court costs.

If Client defaults in payment of fees or costs due under the terms of this Order and Consultant incurs legal expenses as a result of such failure, Client shall be responsible for payment for Consultant's reasonable attorney fees and costs so incurred.

8. The Consultant shall present, for the consideration of the Client, engineering and technical alternatives, based upon its knowledge and experience in accordance with accepted professional standards, with selection of alternatives and final decisions as requested by the client to be the sole responsibility of the Client.
9. Construction Phase Activities (When applicable) - In connection with observations of the work of the Contractor(s) while it is in progress the Consultant shall make visits to the site at intervals appropriate to the various stages of construction as the Consultant deems necessary in order to observe as an experienced and qualified design professional the progress and quality of the various aspects of the Contractor(s)'s work. Based on information obtained during such visits and on such observation, the Consultant shall endeavor to determine in general if such work is proceeding in accordance with the Contract Documents and the Consultant shall keep the Client informed of the progress of the work.

The purpose of the Consultant's visits to the site will be to enable the Consultant to better carry out the duties and responsibilities assigned to and undertaken by the Consultant during the Construction Phase, and, in addition, by exercise of the Consultant's efforts as an experienced and qualified design professional, to provide for the Client a greater degree of confidence that the completed work of the Contractor(s) will conform generally to the Contract Documents and that the integrity of the design concept as reflected in the Contract Documents has been implemented and preserved by the Contractor(s). The Consultant shall not, during such visits or as a result of such observations of Contractor(s)' work in progress, supervise, direct or have control over Contractor(s)' work nor shall the Consultant have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected by Contractor(s), for safety precautions and programs incident to the work of Contractor(s) or for any failure of Contractor(s) to comply with laws, rules, regulations, ordinances, codes, or orders applicable to Contractor(s) furnishing and performing their work. Accordingly, the Consultant can neither guarantee the performance of the construction contracts by Contractor(s) nor assume responsibility for Contractor(s)' failure to furnish and perform their work in accordance with the Contract Documents.

10. Estimates of Fees - When fees are on a time and material basis the estimated costs required to complete the services to be performed are made on the basis of the Consultant's experience, qualifications, and professional judgment, but are not guaranteed. If the costs appear likely to exceed the estimate in excess of 20%, the Consultant will notify the Client before proceeding. If the Client does not object to the additional costs within seven (7) days of notification, the increased costs shall be deemed approved by the Client.
11. The Consultant is responsible for the safety on site of his own employees. This provision shall not be construed to relieve the Client or the Contractor(s) from their responsibility for maintaining a safe work site. Neither the professional services of the Consultant, nor the presence of his employees or subcontractors shall be construed to imply that the Consultant has any responsibility for any activities on site performed by personnel other than the Consultant's employees or subcontractors.
12. Original survey data, field notes, maps, computations, studies, reports, drawings, specifications and other documents generated by the Consultant are instruments of service and shall remain the property of the Consultant. The Consultant shall provide copies to the Client of all documents specified in the Description of Services.

Any documents generated by the Consultant are for the exclusive use of the Client and any use by third parties or use beyond the intended purpose of the document shall be at the sole risk of the Client. To the fullest extent permitted by law, the Client shall indemnify, defend and hold harmless the Consultant for any loss or damage arising out of the unauthorized use of such documents.

13. No claim may be asserted by either party against the other party unless an action on the claim is commenced within two (2) years after the date of the Consultant's final invoice to the Client.
14. If a Client's Purchase Order form or acknowledgment or similar form is issued to identify the agreement, authorize work, open accounts for invoicing, provide notices, or document change orders, the preprinted terms and condition of said Purchase Order shall be superseded by the terms hereof.
15. Standard of Care - Services performed by Consultant under this agreement will be conducted in a manner consistent with that level of care and skill ordinarily exercised by members of the profession currently practicing under similar conditions. No other representation expressed or implied, and no warranty or guarantee is included or intended in any report, opinion or document under this agreement.
16. Liability Insurance - Consultant will maintain such liability insurance as is appropriate for the professional services rendered as described in this Order. Consultant shall provide Certificates of Insurance to Client, upon Client's request, in writing.
17. Indemnification and Limitation of Liability - Client and Consultant each agree to indemnify and hold the other harmless, including their respective officers, employees, agents, members, and representatives, from and against liability for all claims, costs, losses, damages and expense, including reasonable attorney's fees, to the extent such claims, losses, damages or expenses are caused by the indemnifying party's acts, errors or omissions.

The Client understands that for the compensation herein provided Consultant cannot expose itself to liabilities disproportionate to the nature and scope hereunder. Therefore, the Client agrees to limit Consultant's liability to the Client arising from Consultant's professional acts, errors or omissions, such that the total aggregate liability of Consultant shall not exceed \$50,000 or Consultant's total fee for services rendered on this Project, whichever is less.

18. Allocation of Risk - Consultant and Client acknowledge that, prior to the start of this Agreement, Consultant has not generated, handled, stored, treated, transported, disposed of, or in any way whatsoever taken responsibility for any toxic substance or other material found, identified, or as yet unknown at the Project premises. Consultant and Client further acknowledge and understand that the evaluation, management, and other actions involving toxic or hazardous substances that may be undertaken as part of the Services to be performed by Consultant, including subsurface excavation or sampling, entails uncertainty and risk of injury or damage. Consultant and Client further acknowledge and understand that Consultant has not been retained to serve as an insurer of the safety of the Project to the Client, third parties, or the public.

Client acknowledges that the discovery of certain conditions and/or taking of preventative measures relative to these conditions may result in a reduction of the property's value. Accordingly, Client waives any claim against Consultant and agrees to indemnify, defend, and hold harmless Consultant and its subcontractors, consultants, agents, officers, directors, and employees from any claim or liability for injury or loss allegedly arising from procedures associated with environmental site assessment (ESA) activities or the discovery of actual or suspected hazardous materials or conditions. Client releases Consultant from any claim for damages resulting from or arising out of any pre-existing environmental conditions at the site where the work is being performed which was not directly or indirectly caused by and did not result from, in whole or in part, any act or omission of Consultant or subcontractor, their representatives, agents, employees, and invitees.

If, while performing the Services set forth in any Scope of Services, pollutants are discovered that pose unanticipated or extraordinary risks, it is hereby agreed that the Scope of Services, schedule, and costs will be reconsidered and that this Agreement shall immediately become subject to renegotiation or termination. Client further agrees that such discovery of unanticipated hazardous risks may require Consultant to take immediate measures to protect health and safety or report such discovery as may be required by law or regulation. Consultant shall promptly notify Client upon discovery of such risks. Client, however, hereby authorizes Consultant to take all measures Consultant believes necessary to protect Consultant and Client personnel and the public. Furthermore, Client agrees to compensate Consultant for any additional costs associated with such measures.

19. In the event of legal action to construe or enforce the provisions of this work order, the prevailing party shall be entitled to collect reasonable attorney fees, court costs and related expenses from the losing party and the court having jurisdiction of the dispute shall be authorized to determine the amount of such fees, costs and expenses and enter judgment thereof.
20. Termination - The obligation to provide further services under this Agreement may be terminated by either party upon seven (7) days written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party. In the event of any termination, Consultant will be paid for all services rendered to the date of receipt of written notice of termination, at Consultant's established chargeout rates, plus for all Reimbursable Expenses including a 15% markup.
21. Provision Severable - The unenforceability or invalidity of any provisions hereof shall not render any other provisions herein contained unenforceable or invalid.
22. Governing Law and Choice of Venue - Client and Consultant agree that this Agreement will be governed by, construed, and enforced in accordance with the laws of the State of Illinois which is the principal place of business of Consultant. If there is a lawsuit, Client and Consultant agree that the dispute shall be submitted to the jurisdiction of the Courts of the 15th Judicial Circuit, Stephenson County, Illinois.