



AGENDA SECTION	CONSENT
MEETING DATE	NOVEMBER 23, 2020

CITY OF COLUMBIA HEIGHTS - COUNCIL LETTER

ITEM:	EXTENSION OF GIS RANGE RIDER CONTRACT		
DEPARTMENT:	Public Works	CITY MANAGER'S APPROVAL:	
BY/DATE:	Kevin Hansen / November 18, 2020	BY/DATE:	<i>Kell Bonney</i> 11/20/20
CITY STRATEGY:	#7: Strong Infrastructure/Public Services		
Additional Strategy?	#3: Affordability		
SHORT TERM GOAL (IF APPLICABLE):	#6 Build On and Expand Collaboration with the School District and Other Public Entities		
Additional Goal?			

BACKGROUND: In 1996 the City Council approved a Joint Powers Agreement (Tri-City Agreement) with the cities of Andover and Fridley to hire an outside consultant to provide GIS technical assistance. The consulting firm of Plan Sight was hired and performed work under the Tri-Cities Agreement beginning in 1997, reviewable annually. The firm has evolved over the years and is now RE/SPEC, Inc. The agreement remains essentially the same. The Consulting Services Agreement terminates annually on December 31 unless extended by further agreement of the parties.

STAFF RECOMMENDATION: The cities of Andover, Fridley and Columbia Heights staff are interested in continuing the contract for 2021. Continuing with RE/SPEC provides the continuity we need to keep the program moving forward. The City benefits from work done under this contract as well as from the other cities.

The 2021 goals for the City of Columbia Heights are as follows:

- Import and support sanitary sewer televising records (video and logs)
- Develop asset management program for parks
- Add and support interactive interfaces on web-site for refuse and parks
- Expansion of Tree Manager program with inventory and maintenance activities for city-owned trees
- Update existing Sign Management and SWAMP (MS4 related) data sets
- Conversion and support of mobile applications
- Update Anoka County pictometry features (Aerials)
- Incorporate Anoka County property data and GIS into Special Assessment program
- Provide assistance to Community Development Department
- Additional tasks as identified

Columbia Heights previously reduced the number of consultant hours from 700 hours per year to less than 400 hours per year (one day per week). City staff is able to prepare some of the routine maps, but still relies on RE/SPEC for technical aspects of the program, including software maintenance and program updates. The software includes ArcMap, Granite XP/Cues, Cartegraph, Tree Manager, Street Maintenance, and SWAMP. Columbia Heights' share for the 2021 Tri-City GIS Range Rider remains the same as 2020, \$31,280. RE/SPEC remains less expensive than other comparable consultants. In addition, hourly rates are discounted for the Tri-City group. This amount is budgeted in various departments of the 2021 Public Works budget.

RECOMMENDED MOTION(S): Move to approve a one-year extension to the GIS Joint Powers Agreement in the amount of \$31,280; and, authorize the Mayor and City Manager to enter into an agreement for the same.

ATTACHMENT(S): Consulting Services Agreement for 2021 GIS Contract

CONSULTING SERVICES AGREEMENT

This Agreement is made as of _____, 20__ (the “Effective Date”), by and between RE/SPEC INC.(“Contractor”) and the Tri-City GIS Joint Powers Organization, consisting of the Cities of Fridley, Columbia Heights and Andover, hereinafter “Tri-City.” CONTRACTOR and Tri-City are collectively referred to as “Parties” and individually as a “Party.”

WHEREAS, Tri-City requires services to provide GIS technical assistance to the Cities of Andover, Columbia Heights and Fridley;

WHEREAS, Contractor desires to and is capable of providing the necessary services according to the terms and conditions stated herein;

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

1. TERM

1.1 Term.

The term of this Contract shall be from January 1, 2021, through December 31, 2021, unless earlier terminated by law or according to the provisions of this Contract.

2. CONTRACTOR’S OBLIGATIONS

2.1 General Description.

Contractor will provide GIS technical assistance to Tri-City which includes the cities of Andover, Columbia Heights and Fridley. Additional work may be contracted as provided in Section 3.4.

2.2 Conformance to Specification.

The Contractor will provide the Services as set forth in Exhibit A.

2.3 Limited Warranty

Contractor warrants that the Services will be performed in a safe, professional and workmanlike manner consistent with the applicable industry standards and this Agreement.

CONTRACTOR MAKES NO OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTY OF MERCHANTABILITY, THE IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE AND ANY IMPLIED WARRANTY ARISING OUT OF A COURSE OF DEALING, A CUSTOM OR USAGE OF TRADE.

3. PAYMENT

3.1 Service Fees

The Contractor's fees for Services are set forth below (Service Fees"). Service Fees do not include any taxes that may be due based on the Service Fees, or for reimbursable expenses, for which Tri-City agrees to pay directly or reimburse Contractor.

Total Service Fees: \$144,176 to be allocated as follows:

Andover: \$60,480

Fridley: \$52,416

Columbia Heights: \$31,280

3.2 Invoices.

Contractor shall, within fifteen (15) working days following the last day of each calendar month in which services were provided, submit an invoice on an invoice form acceptable to Tri-City. This invoice shall itemize 1) the hours of services rendered listed by classification, 2) the date such services were provided, 3) a general description of the services provided, 4) the name of client receiving services, 5) the amount and type of all reimbursable expenses being charged to the Contract, 6) the dates of the performance period covered by the invoice.

3.3 Time of Payment.

All invoices are due within thirty days from the invoice date. If Tri-City disputes any portion of Contractor's invoice, then Tri-City will: (a) pay any amount not in dispute by the due date; and (b) within five business days after receipt of that invoice, inform Contractor in writing of the disputed amount and the specific reason(s) for withholding payment. On Contractor's receipt of this, the Parties will work together in good faith to resolve such disputes in a prompt and mutually acceptable manner. Tri-City agrees to pay any disputed amounts within five days after the issues have been resolved.

3.4 Changes to Scope

Tri-City shall have the right to request changes to the scope of the Services; however, all such changes are subject to acceptance by Contractor. If any change to the scope of the Services will cause an increase or decrease in the Service Fees, or in the time required for performance, prior to commencing the services required by the requested change, Contractor shall notify Tri-City of such increase or decrease by e-mail. Contractor shall not proceed with performance and shall have no obligation to proceed with performance pursuant to any requested change to the scope of the Services by Tri-City unless and until Contractor has received Tri-City's agreement to such

increased or decreased Service Fees or time for performance via e-mail.

4. COMPLIANCE WITH LAWS/STANDARDS

4.1 General.

Contractor shall abide by all Federal, State or local laws, statutes, ordinances, rules and regulations now in effect or hereinafter pertaining to this Contract or to the facilities, programs and staff for which Contractor is responsible.

5. INDEPENDENT CONTRACTOR STATUS

Contractor is an independent contractor and nothing herein contained shall be construed to create the relationship of employer and employee between Tri-City and Contractor. Contractor shall at all times be free to exercise initiative, judgment and discretion as to how to best perform or provide services.

6. INDEMNIFICATION

Contractor shall indemnify, hold harmless and defend Tri-City, its members, officers and employees against any and all liability, loss, costs, damages, expenses, claims or actions, including attorneys' fees which Tri-City, its officers or employees may hereafter sustain, incur or be required to pay, arising out of or by reason of any negligent or willful act, or negligent or willful omission of Contractor, its agents, servants or employees, in the execution, performance, or failure to adequately perform Contractor's obligations pursuant to this Contract.

7. INSURANCE

7.1 General Terms.

In order to protect itself and to protect Tri-City under the indemnity provisions set forth above Contractor shall, at Contractor's expense, procure and maintain policies of insurance covering the term of this Contract, as set forth below. Such policies of insurance shall apply to the extent of, but not as a limitation upon or in satisfaction of, the indemnity provisions herein. All retentions and deductibles under such policies of insurance shall be paid by Contractor. Each such policy shall not be canceled by the issuing insurance company without at least thirty (30) days written notice to Tri-City of intent to cancel.

7.2 Coverage.

The policies of insurance to be obtained by Contractor pursuant to this section shall be purchased from a licensed carrier and shall include the following:

A) Professional Liability

- (1) A professional liability insurance policy covering personnel of Contractor, if any, who provide professional services under this Contract, which shall include the following coverages at a minimum:

10.3 Failure to Cure.

If the Party in default fails to cure the specified circumstances as described by the notice given under the above paragraph within the ten (10) days, or such additional time as may be mutually agreed upon, then the whole or any part of this Contract may be terminated by written notice.

10.4 Notice of Termination.

Notice of Termination shall be made by certified mail or personal delivery to the other Party's Authorized Representative. Notice of Termination is deemed effective upon delivery to the address of the Party as stated in paragraph 12.

10.5 Effect of Termination.

Termination of this Contract shall not discharge any liability, responsibility or right of any Party which arises from the performance of or failure to adequately perform the terms of this Contract prior to the effective date of termination, in accordance with the laws of the State of Minnesota.

11. CONTRACT RIGHTS/REMEDIES

11.1 Rights Cumulative.

All remedies available to either Party under the terms of this Contract or by law are cumulative and may be exercised concurrently or separately, and the exercise of any one remedy shall not be deemed an election of such remedy to the exclusion of other remedies.

11.2 Waiver.

Waiver for any default shall not be deemed to be a waiver of any subsequent default. Waiver or breach of any provision of this Contract shall not be construed to be modification for the terms of this Contract unless stated to be such in writing and signed by authorized representatives of Tri-city and Contractor.

11.3 Force Majeure

Contractor will not be responsible for the delay in its performance of any obligation under this Agreement caused by acts of God, legal restrictions, or any other similar conditions beyond the control of Contractor.

12. AUTHORIZED REPRESENTATIVE

Notification required to be provided pursuant to this Contract shall be provided to the following named persons and addresses unless otherwise stated in this Contract, or in a modification of this Contract.

To Contractor:

President
RE/SPEC INC.
3824 Jet Drive
Rapid City, SD 57703-4757

Andover:

Director of Public Works/City Engineer
City of Andover
1685 Crosstown Boulevard NW
Andover, MN 55304

Fridley:

Director of Public Works
City of Fridley
6431 University Avenue NE
Fridley, MN 55432

Columbia Heights:

Public Works Director
City of Columbia Heights
637 - 38th Avenue NE
Columbia Heights, MN 55421

13. MODIFICATIONS

Except as otherwise provided in Section 3.4 hereof, any alterations, variations, modifications, or waivers of the provisions of this Contract shall only be valid when they have been reduced to writing, and signed by authorized representatives of Tri-City and Contractor.

14. LIMITATION OF LIABILITY.

NEITHER PARTY WILL, UNDER ANY CIRCUMSTANCES, BE LIABLE TO THE OTHER PARTY FOR SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES IN ANY WAY RELATED TO THE SERVICES, THIS AGREEMENT OR THE TERMINATION OF THIS AGREEMENT. THIS LIMITATION OF LIABILITY APPLIES REGARDLESS OF THE LEGAL THEORY UNDER WHICH SUCH DAMAGES ARE SOUGHT.

15. SEVERABILITY

The provisions of this Contract shall be deemed severable. If any part of this Contract is rendered void, invalid, or unenforceable, such rendering shall not affect the validity and enforceability of the remainder of this Contract unless the part or parts which are void, invalid or otherwise unenforceable shall substantially impair the value of the entire Contract with respect to either Party.

16. MERGER AND FINAL AGREEMENT

16.1 This Contract is the final statement of the agreement of the Parties and the complete and exclusive statement of the terms agreed upon, and shall supersede all prior negotiations, understandings or agreements. There are no representations, warranties, or stipulations, either oral or written, not herein contained.

17. DISPUTE RESOLUTION

17.1 This Agreement will be construed and enforced according to the laws of the State of Minnesota, without regarding to its conflicts of law rules. Any litigation regarding this Agreement must be filed and maintained in the state or federal courts of the State of Minnesota and the Parties consent to the personal jurisdiction of such courts. No provision of this Section 17 will preclude either Party seeking injunctive relief to prevent immediate or irreparable harm to it, but the mediation stated in Section 17.3 will otherwise be fully exhausted before the commencement of any litigation.

17.2 EACH PARTY IRREVOCABLY WAIVES ANY RIGHT TO A JURY

TRIAL WITH RESPECT TO ANY CLAIMS OR DISPUTES ARISING OUT OF OR RELATED TO THIS AGREEMENT. Any lawsuit or other action, regardless of form, relating to this Agreement, including, without limitation, an action for breach of warranty, must be commenced within one year after the later of: (a) date on which the breach of warranty or other cause of action occurred; or (b) date on which that Party knew or should have known of that breach of warranty or other cause of action.

17.3 Prior to commencement of any litigation regarding this Agreement, the Parties agree to voluntary, non-binding mediation to resolve any dispute they may have. The mediation will be conducted by a mutually selected mediator (or if the Parties cannot agree, by a mediator selected by the CPR Institute for Dispute Resolution), in accordance with the CPR Institute's Model Procedure for Mediation of Business Disputes. The Parties will each pay its own attorneys' fees and will share equally the other mediation costs. While this mediation will be non-binding in all respects (except agreements in settlement of the dispute negotiated by the Parties), each Party will appear when directed by the mediator, be fully prepared to work toward the dispute's resolution, and participate in good faith. If the mediation does not result in a mutually satisfactory resolution of the dispute within ninety days after it is begun, either Party may commence an action as permitted under Sections 17.1 and 17.2. All negotiations between the Parties pursuant to this Section 17 will be treated as compromise and settlement negotiations for purposes of the applicable rules of evidence.

18. NON-DISCLOSURE OF NON-PUBLIC, PRIVATE OR CONFIDENTIAL INFORMATION

The parties agree that in order to perform its duties under the terms of this Agreement, Contractor will have access to and may use certain information in the custody of the City that would be categorized as private or non-public data within the meaning of Minnesota law.

Any such information or data is confidential and, as an essential and necessary part of this Agreement, Contractor agrees not to disclose, use, or otherwise disseminate any such data or information to any other party or entity other than the City. Use of any such information or data by Contractor during the period of this contract shall be exclusively for the purpose of fulfilling its obligations hereunder.

Contractor agrees to indemnify the City and hold it harmless from any and all disclosures of such information and data to any other party as a consequence of its actions, which would include the actions of its agents, employees or anyone else that may be acting under its direction or on its behalf.

Any such information and data in Contractor's possession after fulfillment of its obligations herein shall be destroyed or returned to the City and Contractor shall retain no copies thereof for any purpose.

IN WITNESS WHEREOF, the parties hereto have executed this Contract on the date(s) indicated below.

CONTRACTOR

By: _____

Title: _____

Date: _____

TRI-CITY GIS ORGANIZATION

By: _____

Title: _____

Date: _____

By: _____

Title: _____

Date: _____

By: _____

Title: _____

Date: _____

Exhibit A

RE/SPEC Staff Roster and Rates for GIS Services

RE/SPEC Employee	Billing Rate
Kevin Hoffman	\$105
Michael Jones	\$105
Patrick Baldwin	\$75
Eric Slegh	\$65