



REPORT TO CITY COUNCIL

Approved by:



Jim Howell, Interim Department Director

Council Meeting of: December 4, 2019

Agenda Number: B-7



Arnaldo Rodriguez, City Manager

SUBJECT:

Consideration of a Resolution Approving Execution of an agreement for the annual maintenance of the City's backup electrical generators

RECOMMENDATION:

Staff recommends that the City Council adopt a Resolution to execute an agreement for annual maintenance, for three years with the potential to extend the contract by two years with mutual consent of both parties, of the City's backup electrical generators with Industrial Electrical and authorize the Mayor to sign the documents necessary to approve the agreement.

SUMMARY:

In September of 2019 the City published a Request for Proposal (RFP) No. 201920-03 for annual generator service. In recent years, annual generator maintenance was accomplished in small batches with several contractors. The City generator inventory has grown in recent years and it is imperative that they be operational during emergencies. By consolidating the annual maintenance of all generators to one service provider, staff anticipates enhanced, standardized service for all generators. Staff also anticipates a cost savings for the City under a single award agreement rather than the individual awards that were made in the past.

DISCUSSION:

In September of 2019, the City published RFP No. 201920-03 for the annual service of the City's 11 standby generators. Four responses were received and found to be both responsive and responsible. They were then evaluated by a committee comprised of City staff and ranked in accordance with the terms of the RFP. Industrial Electrical was the contractor receiving the highest ranking and was also found to be the lowest bidder.

Worth noting is that any of the four responding contractors are capable of performing the tasks required. The ranking matrix was weighted with cost and experience being of critical importance. All four bidders can perform the work and have adequate capabilities to do the servicing.

The agreement is for an initial three-year term starting on December 4, 2019. Included in the agreement is the option for two additional one-year extensions. These extensions can be initiated by staff contingent the service is acceptable and will be processed by Purchasing upon mutual agreement of the City and Industrial Electrical

The cost for the annual service is broken down as follows:

- Year one \$16,430
- Year two \$16,430
- Year three \$16,430

This will include all aspects of the annual maintenance such as changing the oil, air filters, inspection of the cooling systems and transfer switches that automatically switch power from utility power to generator power, they will check engine block heaters, and test the generators under load to confirm that each generator is able to start and perform as required.

The City's has various types and sizes of generators, which protect the City in the event of an interruption in power, a subject that has received added attention due to recent power outages in nearby communities. While ongoing power outages are not anticipated in the City at this time, preparedness for power outages should not be taken lightly. This service is critical in making sure that the City is taking precautionary measures to ensure adequate fire suppression and potable water flows, and that sewer lift stations remain operational in the event of power outage.

FINANCIAL IMPACT:

Funds have been appropriated in the current budget for this project. By consolidating the annual maintenance of all generators to one service provider, staff anticipates a cost savings for the City.

CONSISTENCY WITH THE VISION MADERA 2025 PLAN:

While this agreement is not listed in the vision or action plans; the requested action is not in conflict with any of the actions or goals contained in that plan.

ALTERNATIVES:

Council may elect to reject all responses to the RFP. At that point Purchasing would publish a new RFP and start the process over. Staff received responses from all vendors providing this service in the area and would not expect a new RFP to be beneficial.

ATTACHMENTS:

1. Resolution
2. Agreement

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MADERA,
CALIFORNIA, APPROVING AWARD OF AGREEMENT FOR THE ANNUAL
MAINTENANCE OF THE CITY'S BACKUP ELECTRICAL GENERATORS.**

WHEREAS, the City of Madera (the "City) is in need of Backup Generator Maintenance services and the City has issued a Request for Proposals (RFP) for Backup Generator Service.

WHEREAS, City requires a Backup Generator Maintenance Agreement from a qualified professional service provider.

WHEREAS, Service Provider is a firm having the necessary experience and qualification to provide services under this Backup Generator Maintenance Agreement.

WHEREAS, after conducting an RFP process for Backup Generator Annual Service and after review and consideration, City desires to retain Service Provider to provide said services.

NOW THEREFORE, THE COUNCIL OF THE CITY OF MADERA does hereby resolve, find and order as follows:

1. The above recitals are true and correct.
2. The Agreement with Industrial Electrical is attached hereto.
3. The Mayor of the City of Madera is authorized to execute the Agreement and any and all documents necessary to effectuate the Agreement on behalf of the City.
4. This resolution is effective immediately upon adoption.

CITY OF MADERA

BACKUP GENERATOR MAINTENANCE AGREEMENT

THIS AGREEMENT made and entered into the 4th day of December 2019, by and between the CITY OF MADERA, a municipal corporation of the State of California, hereinafter called "City" and Industrial Electrical, hereinafter called "Service Provider."

RECITALS

- A. The City is in need of Backup Generator Maintenance services and the City has issued a Request for Proposals (RFP) for Backup Generator Annual Service.
- B. City requires a Backup Generator Maintenance Agreement from a qualified professional service provider.
- C. Service Provider is a firm having the necessary experience and qualifications to provide services under this Backup Generator Maintenance Agreement.
- D. After conducting an RFP process for Backup Generator Annual Service and after review and consideration, City desires to retain Service Provider to provide said services.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants and agreements herein contained, it is agreed by and between the City and the Service Provider as follows:

1. Services. The City hereby contracts with Service Provider to provide Backup Generator Maintenance services, herein set forth at the compensation and upon the terms and conditions herein expressed, and Service Provider hereby agrees to perform such services for said compensation, and upon said terms and conditions City hereby authorizes Service Provider to commence work on December 4, 2019.

2. Obligations, duties and responsibilities of Service Provider. It shall be the duty, obligation and responsibility of the Service Provider, in a skilled and professional manner, to perform, furnish and supply to the City the services and supplies in accordance with the minimum service requirements as listed below:

- Visual inspection of the site and unit
- Check and adjust all fluid levels and pressures for correct operation
- Inspect and service air filtration system, change filter if necessary
- Inspect exhaust system – including manifold, piping, muffler
- Inspect turbocharger – oil leaks, abnormal noise, and end play

- Inspect cooling system – radiator, hoses, water pump, belts, pulleys, clamps, and fan assembly. Inspect for leaks or cracks
- Inspect engine fan drive belts and adjustment
- Inspect and test radiator cap for correct pressure
- Inspect engine block heater – proper operating temperature, coolant flow, hoses and heater
- Inspect fuel system – fuel lines, filters, tanks, priming pumps, transfer pumps, level indicator, water instruction, DEF tank, DEF lines, DEF level indicator, and any leaks
- Inspect oil system – oil level, pressure, crankcase breather, excessive blow-by
- Inspect starting system – batteries, voltages, clean connections, test starter and alternator operation and charging rates
- Inspect and test monitoring and safety control systems – ensure proper operation
- Controls – inspect control pane condition and operation, start/stop/auto operation, and meter operation
- Inspect automatic transfer switch – check proper operation
- Service air filters and clean housing
- Replace fuel filter and service primary filter
- Drain and replace engine oil and filters, sample oil for lab analysis
- Service water separator
- Grease bearings, fans shafts, linkages and equipment fittings as required
- Inspect generator end bearing for condition and lubricate as necessary. Inspect exciter, generator conductors, connection and generator fan assembly
- Inspect generator circuit breakers and tighten connections. Inspect and clean engine/generator control panel and connection panel
- Inspect and service automatic transfer switch and enclosure. Check for proper operation and timing of ATS and controls
- Load bank testing – put generator on resistive load bank capable of 100% of nameplate rating for minimum of 2 hours. All operating parameters will be monitored during the load test.

3. Service Provider’s fees and compensation: amount, how and when payable.

3.1 Fees. For all the work and services, including supplies and equipment, pertaining to the Backup Generator Maintenance Agreement and supplies required to be furnished by the Service Provider to the City, City agrees to pay to Service Provider and Service Provider agrees to accept and receive as payment in full the following fees and compensation which shall be known as the “Fee” to be paid as hereinafter set forth.

A. Cost Schedule

<u>Location</u>	<u>Year 1 Cost</u>	<u>Year 2 Cost</u>	<u>Year 3 Cost</u>
City Hall	\$1,125.00	\$1,125.00	\$1,125.00
PD	\$1,725.00	\$1,725.00	\$1,725.00

WWTP	\$3,375.00	\$3,375.00	\$3,375.00
Public Works	\$985.00	\$985.00	\$985.00
Well 18	\$1,725.00	\$1,725.00	\$1,725.00
375 kW Port	\$1,550.00	\$1,550.00	\$1,550.00
125 kW Port	\$1,195.00	\$1,195.00	\$1,195.00
Fire Station #56	\$1,175.00	\$1,175.00	\$1,175.00
Water Tower	\$1,175.00	\$1,175.00	\$1,175.00
Fairgrounds	\$1,175.00	\$1,175.00	\$1,175.00
SIU - PD	\$1,225.00	\$1,225.00	\$1,225.00
Fire Station #58			
TOTAL	\$16,430.00	\$16,430.00	\$16,430.00

B. Hourly Service Rate for additional work \$ 120.00

4. Term of Agreement. This Agreement shall be effective on December 4, 2019, after approval by the City Council at a duly scheduled meeting thereof and shall continue in full force and effect through December 3, 2022, unless otherwise terminated earlier by one of the parties pursuant to Section 8 of this Agreement. This Agreement may be extended by mutual written consent annually thereafter, not to exceed two (2) additional years, by providing such notice to the parties as identified in Section 8 of this Agreement. Fees and Costs for the optional extensions may be adjusted based upon the Consumer Price Index, Pacific Cities and U. S. Average for all urban consumers, Western Cities Category "C" or 2.5%, whichever is less.

5. Independent Contractor. In the furnishing of the services provided herein, the Service Provider is acting as an independent contractor and not as an employee of the City. Service Provider acknowledges and agrees that at all times, Service Provider or any agent or employee of Service Provider shall be deemed at all times to be an independent contractor and is wholly responsible for the manner in which it performs the services and work requested by City under this Agreement. Service Provider, its agents, and employees will not represent or hold themselves out to be employees of the City at any time. Service Provider or any agent or employee of Service Provider shall not have employee status with City, not be entitled to participate in any plans, arrangements, or distributions by City pertaining to or in connection with any retirement, health or other benefits that City may offer its employees. Service Provider or any agent or employee of Service Provider is liable for the acts and omissions of itself, its employees, and its agents. Service Provider shall be responsible for all obligations and payments, whether imposed by federal, state, or local laws, including, but not limited to, FICA, income tax withholdings, unemployment compensation, insurance, and other similar responsibilities related to Service Provider's performing services and work, or any agent or employee of Service Provider providing same. Nothing in this Agreement shall be construed as creating an employment or agency relationship between City and Service Provider or any agent or employee of Service

Provider. Any terms in this Agreement referring to direction from City shall be construed as providing for direction as to policy and the result of Service Provider's work only, and not as to the means by which such a result is obtained. City does not retain the right to control the means or the method by which Service Provider performs work under this Agreement.

6. Hold Harmless and Insurance Requirements.

6.1 Indemnification and Waivers. Service Provider shall defend, indemnify, save, protect, and hold harmless the City of Madera, the members of the City Council of said City and all other officers, volunteers and employees of said City against and from all claims, suits, actions, demands or liability whatsoever to any person or persons by reason of personal injuries or death or damage or destruction of property caused by or arising out of Service Provider's operations under the terms of this Agreement, or extension thereof, or by Service Provider's failure to comply with any of the terms or provisions of said Agreement. Service Provider shall and does hereby waive any claim against the City of Madera, its officers, volunteers and employees, for any damage to equipment or other property connected with Service Provider's operations under this Agreement arising from any cause.

6.2 Insurance. During the term of this Agreement, Service Provider shall maintain, keep in force and pay all premiums required to maintain and keep in force liability and property damage insurance. The limits of such policy shall be as required by the City of Madera. A copy of the City's requirements for such insurance coverage is attached hereto as Exhibit "A".

7. Attorney's Fees/Venue. In the event that any action is brought to enforce the terms of this Agreement, the party found by the court to be in default agrees to pay reasonable attorney's fees to the successful party in an amount to be fixed by the Court. The venue for any claim being brought for breach of this Agreement shall be in Madera County.

8. Governing Law. The laws of the State of California shall govern the rights and obligations of the parties under this Agreement, including the interpretation of the Agreement. If any part of the Agreement is adjudged to be invalid or unenforceable, such invalidity shall not affect the full force and effect of the remainder of the Agreement.

8. Termination.

8.1 This Agreement may be terminated at any time by either party upon fifteen (15) calendar days written notice. In the event the Agreement is terminated by either party, Service Provider shall be compensated for services performed to the date of termination based upon the compensation rates and subject to the maximum amounts payable agreed to together with such additional services performed after termination which are authorized in writing by the City representative to wind up the work performed to date of termination.

8.2 City may immediately suspend or terminate this Agreement in whole or in part by written notice where, if in the determination of City, there is:

- A. An illegal use of funds by Service Provider;
- B. A failure by Service Provider to comply with any material term of this Agreement;

- C. A substantially incorrect or incomplete report submitted by Service Provider to City.

In no event shall any payment by City or acceptance by Service Provider constitute a waiver by such party of any breach of this Agreement or any default which may then exist on the part of either party. Neither shall such payment impair or prejudice any remedy available to either party with respect to such breach or default. City shall have the right to demand of Service Provider the repayment to City of any funds disbursed to Service Provider under this Agreement which, as determined by the appropriate court or arbitrator, were not expended in accordance with the terms of this Agreement.

All notices shall be mailed to the City:

City of Madera
Fleet Operations Manager
1030 South Gateway Drive
Madera, CA 93637

To Service Provider: Industrial Electrical
1417 Coldwell Avenue
Modesto, Ca 95350

9. Compliance with Laws.

9.1 Laws Incorporated by Reference. The full text of the laws listed in this Section, including enforcement and penalty provisions, are incorporated by reference into this Agreement.

9.2 Conflict of Interest. By executing this Agreement, Service Provider certifies that it does not know of any fact which constitutes a violation of Title 9, Chapter 7 of the California Government Code (Section 87100 et seq.), or Title 1, Division 4, Chapter 1, Article 4 of the California Government Code (Section 1090 et seq.), and further agrees promptly to notify the City if it becomes aware of any such fact during the term of this Agreement.

9.3. Proprietary Information. In the performance of Services, Service Provider may have access to City's proprietary or confidential information, the disclosure of which to third parties may damage City. If City discloses proprietary or confidential information to Service Provider, such information must be held by Service Provider in confidence and used only in performing the Agreement. Service Provider shall exercise the same standard of care to protect such information as a reasonably prudent Service Provider would use to protect its own proprietary or confidential information.

9.4. Nondiscrimination Requirements. Service Provider shall comply with all state and federal laws in the administration of this Agreement.

9.5. Alcohol and Drug-Free Workplace. City reserves the right to deny access to, or require Service Provider to remove from, City facilities personnel of any Service

Provider or subcontractor who City has reasonable grounds to believe has engaged in alcohol abuse or illegal drug activity which in any way impairs City's ability to maintain safe work facilities or to protect the health and well-being of City employees and the general public. City shall have the right of final approval for the entry or re-entry of any such person previously denied access to, or removed from, City facilities. Illegal drug activity means possessing, furnishing, selling, offering, purchasing, using or being under the influence of illegal drugs or other controlled substances for which the individual lacks a valid prescription. Alcohol abuse means possessing, furnishing, selling, offering, or using alcoholic beverages, or being under the influence of alcohol.

9.6. Public Records Act. Contractor acknowledges that this Agreement and all records related to its formation, Contractor's performance of services, and City's payment are subject to the California Public Records Act, (California Government Code §6250 et seq.). Such records are subject to public inspection and copying unless exempt from disclosure under federal, state, or local law.

10. Notices. All notices and communications from the Service Provider shall be to City's Fleet Operations Manager. Verbal communications shall be confirmed in writing. All written notices shall be provided and addressed as indicated above.

11. Assignment. Neither the City nor the Service Provider will assign its interest in this Agreement without the written consent of the other.

12. Entire Agreement. This contract sets forth the entire Agreement between the parties, and supersedes all other oral or written provisions. Any changes to this Agreement requested by either City or Service Provider may only be effected if mutually agreed upon in writing by duly authorized representatives of the parties hereto. This Agreement shall not be modified or amended or any rights of a party to it waived except by such a writing.

13. Venue. The formation, interpretation, and performance of this Agreement shall be governed by the laws of the State of California. Venue for all litigation relative to the formation, interpretation, and performance of this Agreement shall be in the County of Madera.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement at Madera, California, the day and year first above written.

CITY OF MADERA

BY: _____
Andrew Medellin, Mayor

Industrial Electrical

BY: _____
Rich Hodge, Service Manager

ATTEST:

Alicia Gonzales, City Clerk

APPROVED AS TO FORM

Hilda Cantú Montoy, City Attorney

Exhibit A

Insurance Requirements for Service Providers

Without limiting Service Provider's indemnification of City, and prior to commencement of Work, Service Provider shall obtain, provide, and continuously maintain at its own expense during the term of the Agreement, and shall require any and all Subcontractors and Subconsultants of every Tier to obtain and maintain, policies of insurance of the type and amounts described below and in form satisfactory to the City.

Minimum Scope and Limits of Insurance

Service Provider shall maintain limits no less than:

- \$2,000,000 **General Liability** (including operations, products and completed operations) per occurrence, \$4,000,000 general aggregate, for bodily injury, personal injury and property damage, including without limitation, blanket contractual liability. Coverage shall be at least as broad as Insurance Services Office (ISO) Commercial General Liability coverage form CG 00 01. General liability policies shall be endorsed using ISO form CG 20 10 that the City and its officers, officials, employees and agents shall be additional insureds under such policies.
- \$1,000,000 **Automobile Liability** combined single limit per accident for bodily injury or property damage at least as broad as ISO Form CA 00 01 for all activities of Service Provider arising out of or in connection with Work to be performed under this Agreement, including coverage for any owned, hired, non-owned or rented vehicles. Automobile Liability policies shall be endorsed to provide that the City and its officers, officials, employees and agents shall be additional insureds under such policies.
- **Worker's Compensation** as required by the State of California and \$1,000,000 **Employer's Liability** per accident for bodily injury or disease. Service Provider shall submit to the City, along with the certificate of insurance, a Waiver of Subrogation endorsement in favor of the City, its officers, agents, employees, and volunteers.

Maintenance of Coverage

Service Provider shall procure and maintain, for the duration of the contract, insurance against claims for injuries to persons or damages to property, which may arise from or in connection with the performance of the Work hereunder by Service Provider, its agents, representatives, employees, subcontractors or subconsultants as specified in this Agreement.

Proof of Insurance

Service Provider shall provide to the City certificates of insurance and endorsements, as required, as evidence of the insurance coverage required herein, along with a waiver of subrogation endorsement for workers' compensation. Insurance certificates and endorsements must be approved by the City prior to commencement of performance. Current evidence of insurance shall be kept on file with the City at all times during the term of this Agreement. Agency reserves the right to require complete, certified copies of all required insurance policies, at any time.

Acceptable Insurers

All insurance policies shall be issued by an insurance company currently authorized by the Insurance commissioner to transact business of insurance in the State of California, with an assigned policyholders'

Rating of A- (or higher) and a Financial Size Category Class VII (or larger), in accordance with the latest edition of Best's Key Rating Guide.

Waiver of Subrogation

All insurance coverage maintained or procured pursuant to this agreement shall be endorsed to waive subrogation against the City, its elected or appointed officers, agents, officials, employees, and volunteers, or shall specifically allow Service Provider, or others providing insurance evidence in compliance with these specifications, to waive their right of recovery prior to a loss. Service Provider hereby waives its own right of recovery against the City and shall require similar written express waivers and insurance clauses from each of its subconsultants or subcontractors.

Enforcement of Contract Provisions (non estoppel)

Service Provider acknowledges and agrees that any actual or alleged failure on the part of the Agency to inform Service Provider of non-compliance with any requirement imposes no additional obligations on the City, nor does it waive any rights hereunder.

Specifications not Limiting

Requirements of specific coverage features or limits contained in this Section are not intended as a limitation on coverage, limits or other requirements, or a waiver of any coverage normally provided by any insurance. 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 all inclusive, or to the exclusion of other coverage, or a waiver of any type. If Service Provider maintains higher limits than the minimums required above, the entity shall be entitled to coverage at the higher limits maintained by Service Provider.

Notice of Cancellation

Service Provider agrees to oblige its insurance agent or broker and insurers to provide to the City with thirty (30) calendar days notice of cancellation (except for nonpayment for which ten (10) calendar days notice is required) or nonrenewal of coverage for each required coverage.

Self-insured Retentions

Any self-insured retentions must be declared to and approved by the City. The City reserves the right to require that self-insured retentions be eliminated, lowered or replaced by a deductible. Self-insurance will not be considered to comply with these specifications unless approved by the City's Risk Manager.

Timely Notice of Claims

Service Provider shall give the City prompt and timely notice of claims made or suits instituted that arise out of or result from Service Provider's performance under this Agreement, and that involve or may involve coverage under any of the required liability policies.

Additional Insurance

Service Provider shall also procure and maintain, at its own cost and expense, any additional kinds of insurance, which in its own judgement may be necessary for its proper protection and prosecution of the Work.