

Department of Public Works

City Hall
730 Washington Avenue
Racine, Wisconsin 53403
262.636.9121 – Public Works
262.636.9191 - Engineering



Mark Yehlen, P.E.
Commissioner of Public Works

Thomas M. Eeg, P.E.
Asst. Comm. of Public Works/Operations

John C. Rooney, P.E.
Asst. Comm. of Public Works/City Engineer

April 30, 2013

Ald. Sandy Weidner
Chairwoman, Public Works
and Services Committee
Racine, Wisconsin

Dear Ald. Weidner:

Submitted for your review and approval is a professional services proposal from Graef-USA, Inc. for providing engineering services, preparation of bid documents, bidding and construction oversight services for Contract 31-13 (K3-034), Professional Services – Design City Hall Annex and Tyler-Domer Center Boiler Replacement, for the not-to-exceed amount of \$46,200.00.

Funds to defray the cost of these professional services are available in the following accounts;

\$27,700.00 – Account 993.200.5030, Annex Boiler Replacement
\$12,000.00 – Account 993.670.5010, Tyler-Domer Boiler Replacement
\$ 2,500.00 – Account 993.404.5010, Marquette Pre-Apprenticeship Boiler
\$ 4,000.00 – Account 993.300.5010, Fire Station 5 HVAC
\$46,200.00 – Total

Sincerely,

A handwritten signature in blue ink, appearing to read "Tom Eeg", is written over the word "Sincerely,".

Thomas M. Eeg
Asst. Comm. of Public Works/Operations

TME:das



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April 12, 2013

Mr. Tom Eeg, P.E.
City of Racine – Dept. of Public Works
730 Washington Ave.
Racine, Wisconsin 53403

Subject: Boiler Replacements – City Hall Annex, Tyler-Dormer Community Center, Fire Station No. 5 and Former Fire Station No. 5

Dear Tom:

Per your request, Graef-USA Inc. (GRAEF) is pleased to provide this proposal for services to City of Racine (Client). An executed copy of this proposal will become our Agreement.

This proposal is for professional services for Boiler Replacements – City Hall Annex, Tyler-Dormer Community Center, Fire Station No. 5 and Former Fire Station No. 5 (Project). This proposal is subject to GRAEF's Standard Terms and Conditions, a copy of which is attached and incorporated by reference.

It is our understanding that the nature of the Project is design and preparation of bidding documents for boiler replacements at four buildings. At City Hall Annex, two low pressure Kewaunee steam boilers are to be replaced with new boilers, along with new DDC Metasys controls for the boiler installation. At Tyler-Dormer Community Hall, the existing low pressure Weil McClain steam boiler will be replaced with new boiler(s), along with new DDC Metasys controls for the boiler installation. At the Former Fire Station No. 5, the small hot water boiler will be replaced with a new boiler. At Fire Station No. 5 the existing rooftop air source heat pump unit will be replaced with a new gas fired unit. For each of the boiler replacements the sizes of the existing boilers are presently adequate to handle the heating needs of each building. Boiler replacement work is generally limited to each boiler room.

Preparation of bidding documents will be for stand-alone documents for each building, but may be bid and constructed by a single contractor. Construction work for all of the boiler replacements is assumed to occur during the summer of 2013, ready for operation for the next heating season. Any asbestos related materials removal will be handled separately by the Owner.

For this Project, GRAEF proposes to provide the following Basic Services:

- Attend one initial meeting with the Owner to review the project scope and budget for the boiler replacements at each building.
- Existing as-built drawings are assumed to be available and are substantially accurate.

- Conduct site survey of the existing systems to verify accuracy of the existing drawings
- Review existing equipment and make recommendations for the new installations
- Preliminary review of project overall budgets and make recommendations
- Perform HVAC calculations as needed for State plan review
- Prepare Mechanical and Electrical bid drawings and technical specifications for the unit installations.
- Attend one meeting to review final documents prior to bid.
- Develop addendum documents if necessary (distributed by City)
- Respond to Contractor questions and RFI's
- Attend job meetings and review construction activity, as necessary (two site visit/meetings are assumed)
- Review and approve Pay Requests and Change Orders
- Review shop drawings for compliance with project requirements
- Perform progress construction site observation with report for each building
- Perform a final site observation and submit final punch list for each building

GRAEF will endeavor to perform the proposed Basic Services per the following schedule:

- Completion of bid documents within four weeks after notice to proceed.
- Assume three week bid period
- Estimated construction period of 12 weeks after contractor notice to proceed

At your written request, GRAEF will provide the following Additional Services for additional compensation as detailed below:

- Structural and Plumbing design services
- Preparation of detailed HVAC studies/cost estimates to analysis alternate systems
- Attendance at additional design meetings and construction meeting
- Assistance with utility rebate programs
- Assistance in pre-ordering of any Owner direct purchases of equipment

For this Project, it is our understanding Client will provide the following services, items and/or information:

- Copies of all existing mechanical and electrical drawings
- Access to all areas of the buildings to verify existing conditions
- Furnish building floor plans of the existing buildings
- Assist in preparation of "Front End" Division 01 bid documents
- Copies of existing testing and balancing report for each building



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For all Basic Services, Client agrees to compensate GRAEF as follows. Reimbursable expenses such as plan review fees will be billed at cost plus 10%.

City Hall Annex	\$27,700
Tyler-Dormer Community Center	\$12,000
Fire Station No. 5	\$ 2,500
Former Fire Station No. 5	<u>\$ 4,000</u>
Total =	\$46,200

For all Additional Services, Client agrees to compensate GRAEF as follows:

- Attendance at additional site visits/meetings will be \$400 per person per meeting.
- Plumbing and Structural design services, if required will be on an hourly basis

To accept this proposal, please sign and date both of the enclosed copies and return one to us. Upon receipt of an executed copy, GRAEF will commence work on the Project.

Graef-USA Inc. looks forward to providing services to City of Racine.

Sincerely,

Graef-USA Inc.

Accepted by: City of Racine

Edward Hurtz, PE, LEED AP, CxA
Project Manager

(Signature)

Peter D. Zak, PE
Principal

(Name Printed)

(Title)

Date: _____



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Graef-USA Inc.'s STANDARD TERMS AND CONDITIONS

These Standard Terms and Conditions are material terms of the Professional Services Agreement proposed on April 12, 2013 (Agreement) by and between Graef-USA Inc. (GRAEF) and City of Racine (Client):

Standard of Care: GRAEF shall exercise ordinary professional care in performing all services under this Agreement, without warranty or guarantee, expressed or implied.

Client Responsibilities: Client shall at all times procure and maintain financing adequate to timely pay for all costs of the PROJECT as incurred; shall timely furnish and provide those services, items and/or information defined in Agreement, as amended, and shall reasonably communicate with and reasonably cooperate with GRAEF in its performance of this Agreement. GRAEF shall be entitled to rely on the accuracy and completeness of any services, items and/or information furnished by Client. These terms are of the essence. Client shall indemnify, defend and hold GRAEF, its present or former officers, employees and subconsultant(s), fully harmless from any liability or loss, cost or expense (including attorney's fees and other claims expenses) in any way arising from or in connection with errors, omissions or deficiencies in the services, items and/or information Client is obliged to furnish in respect of this Agreement.

Limitation of Liability: Client and GRAEF agree that GRAEF's liability for any direct, indirect, incidental or consequential economic losses or damages arising under or in connection with this agreement (including any attorney's fees or claims expenses) shall be limited to the sum of one hundred thousand dollars (\$100,000.00).

Additional Services: Client may request or it may become necessary for GRAEF or its subconsultant(s) to perform Additional Services in respect of this Agreement. Client shall pay for such Additional Services above and beyond charges for Basic Services set forth in this Agreement. GRAEF will notify Client in advance of GRAEF's intention to render Additional Services. Client's failure to instruct GRAEF not to perform the proposed Additional Service shall constitute Client's acceptance of such Additional Service and agreement to pay for such Additional Service in accordance with the Invoicing & Payment terms of this Agreement.

Collection Costs: Client shall pay all collection costs GRAEF incurs in order to collect amounts due from Client under this Agreement. Collection costs shall include, without limitation, reasonable attorney's fees and expenses, collection agency fees and expenses, court fees, collection bonds and reasonable GRAEF staff costs at standard billing rates for GRAEF's time spent in efforts to collect. Client's obligation to pay GRAEF's collection costs shall survive the term of this Agreement or the earlier termination by either party.

Invoicing & Payment: GRAEF may issue invoices for services rendered and expenses incurred at such times and with such frequency as GRAEF deems necessary or appropriate in GRAEF's discretion. All invoices are due and payable upon receipt and shall be considered past due if not paid within thirty (30) calendar days of the due date. **Prompt and full payment of all periodic invoices or other billings issued by GRAEF pursuant to this Agreement is of the essence of this Agreement.** In the event that Client fails to promptly and fully pay any invoice as and when due, then, and in addition to any other remedies allowed by law, GRAEF, may, in its sole discretion, suspend performance of all services under this Agreement upon seven (7) calendar days' written notice to Client, and immediately invoice Client for all unbilled work-in-progress rendered and other expenses incurred. Upon GRAEF's receipt of full payment, in good funds and without offset, of all sums invoiced in connection with any such declaration of suspension, GRAEF shall resume services, **provided that** the time schedule and compensation under this Agreement shall be equitably adjusted in a manner acceptable to GRAEF to compensate GRAEF for the period of suspension plus any other reasonable and necessary time and expenses GRAEF suffers or incurs to resume services. No failure by GRAEF to exercise its right to suspend work and accelerate sums due shall in any way waive or abridge Client's obligations to GRAEF or GRAEF's rights to later suspend work and accelerate terms. Client agrees GRAEF shall incur no liability whatsoever to Client, or to any other person, for any loss, cost or expense arising from any such suspension by GRAEF, either directly or indirectly. In addition, simple interest shall accrue at the lower of 1.5% per month (18% per annum), or the maximum interest rate allowable by law, on any invoiced amounts remaining unpaid for more than 60 days from the date of the invoice. Payments made shall be allocated as follows: (1) first to unpaid collection costs; (2) second to unpaid accrued interest; and (3) last to unpaid principal of the oldest invoice.

Latent Conditions: Client acknowledges that subsurface or latent physical conditions at the site that differ materially from those indicated in the project documents, or unknown or unusual conditions that materially differ from those ordinarily encountered may exist. If such latent conditions require a change in the design or the construction phase services, GRAEF shall be entitled to a reasonable extension of time to evaluate such change(s) and their impact on the project and to prepare such additional design documents as may be necessary to address or respond to such latent conditions. Client shall pay GRAEF for all services rendered and reimbursable expenses incurred by GRAEF and its subconsultant(s), if any, to address, respond to or repair such latent conditions. Such services by GRAEF or its subconsultant(s) shall constitute Additional Services.



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Graef-USA Inc.'s STANDARD TERMS AND CONDITIONS (continued)

Insurance: GRAEF shall procure and maintain liability insurance policies, including professional liability, commercial general liability, automobile liability, and workers' compensation insurance for the duration of this Agreement and shall, upon request, produce certificates evidencing the maintenance of such coverages. Should Client desire additional insurance, GRAEF shall endeavor reasonably to procure and maintain such additional insurance, but Client shall reimburse GRAEF for any additional premiums or other related costs that GRAEF incurs.

Instruments of Service: All original documents prepared for Client by GRAEF or GRAEF's independent professional associate(s) and subconsultant(s) pursuant to this Agreement (including calculations, computer files, drawings, specifications, or reports) are Instruments of Professional Service in respect of this Agreement. GRAEF shall retain an ownership and property interest therein whether or not the services that are the subject of this Agreement are completed. Unless otherwise confirmed by written Addenda to this Agreement, signed by duly authorized representatives of both Client and GRAEF, no Instrument of Professional Service in respect of this Agreement constitutes, or is intended to document or depict any "as-built" conditions of the completed Work. Client may make and retain copies for information and reference in connection with the use and occupancy of the completed project by Client and others; however, such documents are not intended or represented to be suitable for reuse by Client or others on extensions of the project, or otherwise. Any reuse without GRAEF's written consent shall be at Client's sole risk and responsibility, and without any liability to GRAEF, or to GRAEF's independent professional associate(s) and subconsultant(s). Further, Client shall indemnify, defend and hold GRAEF and GRAEF's independent professional associate(s) and subconsultant(s), fully harmless from all liability or loss, cost or expense (including attorney's fees and other claims expenses) in any way arising from or in connection with such unauthorized reuse.

Contractor Submittals: The scope of any review or other action taken by GRAEF or its subconsultant(s) in respect of any contractor submittal, such as shop drawings, shall be for the limited purpose of determining if the submission generally conforms with the overall intent of the design of the work that is the subject of this Agreement, but not for purposes of determining accuracy, completeness or other details such as dimensioning or quantities, or for substantiating instructions or performance of equipment or systems. GRAEF shall not be liable or responsible for any error, omission, defect or deficiency in any contractor submittal.

Pricing Estimates: Neither GRAEF nor Client has any control over the costs of labor, materials or equipment, over contractors' methods of determining bid prices, or over competitive bidding, market or negotiation conditions. Accordingly, GRAEF cannot and does not warrant or represent that bids or negotiated prices will not vary from any projected or established budgetary constraints.

Construction Observation: Unless expressly stated in this Agreement, GRAEF shall have no responsibility for Construction Observation. If Construction Observation services are performed, GRAEF's visits to the construction site shall be for the purpose of becoming generally familiar with the progress and quality of the construction, and to determine if the construction is being performed in general accordance with the plans and specifications. GRAEF shall have no obligation to "inspect" the work of any contractor or subcontractor and shall have no control or right of control over and shall not be responsible for any construction means, methods, techniques, sequences, equipment or procedures (including, but not limited to, any erection procedures, temporary bracing or temporary conditions), or for safety precautions and programs in connection with the construction. Also, GRAEF shall have no obligation for any defects or deficiencies or other acts or omissions of any contractor(s) or subcontractor(s) or material supplier(s), or for the failure of any of them to carry out the construction in accordance with the contract documents, including the plans and specifications. GRAEF is not authorized to stop the construction or to take any other action relating to jobsite safety, which are solely the contractor's rights and responsibilities.

Dispute Resolution: GRAEF and Client shall endeavor to resolve all disputes first through direct negotiations between the parties' informed and authorized representatives, then through mediation. If mediation fails to fully resolve all disputes within 120 calendar days of the first written request for mediation, either party may pursue any remedy it deems appropriate to the circumstances.

No Assignment: This Agreement is not subject to assignment, transfer or hypothecation without the written consent of both parties expressly acknowledging such assignment, transfer or hypothecation.

Governing Law: This Agreement, as amended, and any disputes or controversies arising in connection with this Agreement shall be governed and resolved by the laws of the State of Wisconsin, without regard to said state's choice of law rules.

Severance of Clauses: In the event that any term, provision or condition of this Agreement is void or otherwise unenforceable under the law governing this Agreement, then such terms shall be stricken and the balance of this Agreement shall be interpreted and enforced as if such stricken terms never existed.

Integrated Agreement: The parties' final and entire agreement is expressed in the attached proposal letter and these Standard Terms and Conditions. All prior oral agreements or discussions, proposals and/or negotiations between the parties are merged into and superceded by this Agreement. No term of the parties' Agreement may be orally modified, amended or superceded.