



**CITY OF LODI
COUNCIL COMMUNICATION**

AGENDA TITLE: Adopt Resolution Approving Professional Services Agreement with Rolfes Engineering, Inc., of Stockton, for Engineering Design Services and Construction Administration for Library Heating, Ventilation, and Air Conditioning (HVAC) (\$42,640)

MEETING DATE: March 5, 2008

PREPARED BY: Public Works Director

RECOMMENDED ACTION: Adopt a resolution approving the attached professional services agreement with Rolfes Engineering, Inc., of Stockton, for engineering design services and construction administration for the Library heating, ventilation, and air conditioning (HVAC) in the amount of \$42,640 and authorizing the City Manager and City Clerk to execute the agreement.

BACKGROUND INFORMATION: The City Library HVAC system is in very poor condition, and funds are budgeted in the current fiscal year for the system's update/replacement. The project includes replacement of the boiler, chiller, cooling tower, water pumps, supply fan, temperature control system, and some ceiling diffusers; modification of some ductwork; and installation of a water source economizer, new controls, and variable frequency drives on pumps and fans. Included in the capital project are funds needed for the engineering design, bid specification preparation, and construction administration.

Over the last several years, multiple engineering and HVAC firms have suggested various plans to repair and/or replace portions of the Library's HVAC system. Last year, Rolfes Engineering provided excellent service in producing four scope and cost options that the City could pursue, including phasing the work. Staff recommended, and Council approved, an extensive upgrading and replacement approach, after looking at the short-term and life-cycle costs. Based on the proven working relationship, understanding of the City's needs, and familiarity of project scope, City staff now recommends that Rolfes Engineering be approved to provide the design documents.

Included in the scope of work will be providing energy, electrical, and structural calculations; providing specifications and drawings; organizing design meetings; coordinating communication and design between the City and all contracted engineering services; and providing construction support services, including design coordination meetings, job-site meetings, pre-bid and pre-construction job walks, submittal review, and coordination between the City, the design team, and the contractors during construction. Construction administration will be provided by Public Works staff.

FISCAL IMPACT: An upgraded HVAC system at the Library will provide more reliable and efficient heating and cooling for Library patrons and will save operational, maintenance, and repair costs.

FUNDING AVAILABLE: Funds for this project will come from the Library HVAC Capital Fund (211813).

Kirk Evans, Budget Manager

Richard C. Prima, Jr.
Public Works Director

Prepared by Dennis J. Callahan, Fleet and Facilities Manager
Attachment
cc: Nancy Martinez, Library Services Director

John Munoz, Facilities Supervisor

Rolfes Engineering, Inc.

APPROVED: _____
Blair King, City Manager

PROJECT ENGINEER AGREEMENT

PROJECT:

Library HVAC Renovation

PARTIES:

City of Lodi
221 West Pine Street
P.O. Box 3006
Lodi, CA 95241-1910

ENGINEER: Rolfes Engineering, Inc.
1036 W. Robinhood Drive, Suite 201
Stockton, CA 95207-5627

DESIGNATED PERSONNEL:

- (a) Principal in Charge: John F. (Fred) Rolfes
- (b) Project Engineer: John F. (Fred) Rolfes
- (c) Structural Engineer: Gudge Construction Engineers, Tim Gudge
- (d) Mechanical Engineer: John F. (Fred) Rolfes
- (e) Electrical Engineer: HCS Engineering, Richard Smith
- (f) HVAC Controls: L & H Airco, Bill Carmody

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THE PARTIES AGREE THAT:

ARTICLE ONE: Project Description

The Engineer shall provide services as described herein. The general design of the project shall be as defined in the Option 1 analysis and recommendation proved by Rolfes Engineering, Inc., dated March 24, 2006, and by this document.

The project will consist of the following elements:

- 1) Working drawings showing requirement for upgrading the existing HVAC system, including but not limited to, the following:
 - a. Replacement of boiler
 - b. Replacement of chiller
 - c. Replacement of cooling tower with new dirt separator
 - d. Modification of ductwork in selected areas
 - e. Replacement of ceiling diffusers where required
 - f. Replacement of VAV boxes with new controls
 - g. Replacement of hot water, chiller water pumps and condenser water pumps
 - h. Replacement of supply fan Number 1
 - i. Installation of a water source economizer
 - j. Replacement of the temperature control system with an Energy Management System (EMS)
 - k. Installation of variable frequency drives on various pumps and fans
- 2) Engineering for the following:
 - a. Mechanical:
 - i. Required energy calculations
 - ii. Specifications
 - iii. Coordination between City and all Engineering Divisions
 - b. Electrical:
 - i. Required electrical calculations
 - ii. Specifications
 - iii. Required one-line and other electrical drawings
 - c. Structural:
 - i. Required equipment hold-down calculations and drawings
 - ii. Specifications
- 3) Contract Administration:
 - a. Design coordination meetings
 - b. Job-site meetings
 - c. Pre-bid job walk
 - d. Pre-construction job walk
 - e. Submittal review
 - f. Coordination between Owner, design team and contractors during construction

Services will not include:

- 1) Fire sprinkler design drawings and calculations
- 2) Landscape irrigation system
- 3) Detailed system cost estimates
- 4) Analysis or design of alternate air-conditioning systems
- 5) Site drainage system

The project will be designed to conform to the State of California standards and requirements.

ARTICLE TWO: Schedule of Services

A. Engineer shall complete the required services consistent with the following schedule:

- Schematic (Conceptual) Design Phase – N/A
- Design Development and Construction Documents Phase – 4 weeks
- Permit and Bid Phase – 4 weeks
- Construction Phase – 20 weeks

Schedule is contingent on City meeting review schedule requirements.

ARTICLE THREE: Compensation, Method of Payment

A. Compensation for Basic Services

- (1) Total compensation, including all expenses, shall not exceed \$42,640. This compensation includes all phases and services, excluding additional services and reimbursable expenses.
- (2) Additional Services
 - (a) Additional services shall be defined as services not included as basic services within this contract that the City directs the Engineer in writing to perform. In the event of this direction, Engineer shall be compensated pursuant to this section. Additional services will only be paid if documented in advance in writing.
 - (b) Maximum rate per hour, including overhead, administrative costs, and profit shall be as shown in Exhibit A (Standard Hourly Fee Schedule).
 - (c) With prior approval, the City shall pay for reimbursable expenses, as outlined below, in performing additional services. The payment shall be limited to actual out-of-pocket expenses as reflected on an invoice or other proof of payment.
 - (d) Payment for additional services, including Reimbursable Expenses, shall be made monthly upon presentation of a statement of services in duplicate.
 - (e) Payment for additional services shall only be made if the additional services are set forth in a written change order signed by the City of Lodi.
- (3) Reimbursable Expense
 - (a) Reimbursable expenses require prior approval by the City of Lodi.
 - (b) Reimbursable expenses are defined as follows, and will be billed at cost plus ten (10%) percent:
 - 1. Prints or sepias, requested in writing by the City of Lodi.
 - 2. Special phone calls, for information requested in writing by the City of Lodi.
 - 3. Special trips, as requested in writing by the City of Lodi.

B. Phase Payment: Upon submittal of statements in duplicate, City shall pay as follows:

- (1) The \$42,640 fee shall be broken down as follows:

Engineering	\$ 38,765	91%
Contract Administration	\$ 3,875	9%
Total	\$ 42,640	100%

Payment for this work shall be paid monthly upon submittal of a statement to the City from the Engineer.

ARTICLE FOUR: Definitions

- A. Not used.
- B. Major Categories of Work are those applicable categories of construction work necessary for completion of construction of the entire project and may include, but not

be limited to, the following construction categories: demolition, general construction, finishes, heating, ventilation, air conditioning modifications and improvements, plumbing modifications and improvements, and electrical modifications and improvements.

- C. Appropriate Authorities and Lending Agencies shall mean any private, local, municipal county, state, regional authority or agency with which the project may be involved. This term is intended to include those agencies and authorities which may require information or the filing of drawings, project manual, etc., in connection with the project on either a voluntary or nonvoluntary basis.
- D. The Contract Administrator shall be the City Administrator or his authorized representative. He shall represent City in all matters except when approval is specifically required by the City Council.

ARTICLE FIVE: Basic Services of Engineer

- A. Services in General: Engineer shall
 - (1) Consult, as necessary, with authorized employees, agencies, and/or representatives of City relative to the design and major categories of work.
 - (2) Cooperate with other professionals employed by City in the design of other work related to the project.
 - (3) Contract for, or employ at his expense, consultants to the extent he deems necessary for design of the project, including Mechanical, Electrical, and Structural Engineers licensed as such by the State of California, and other consultants necessary for development of the project, as provided under "Designated Personnel and Consultants", Paragraph 2 . Nothing in the foregoing procedure shall create any contractual relation between City and any consultants employed by Engineer under the terms of this Agreement.
 - (4) Designate Fred Rolfes as the Principal in Charge who shall, so long as his performance continues to be acceptable to the City, remain in charge of the services for the project from beginning through completion of services provided for in this Agreement. Designate Fred Rolfes as Project Manager.
 - (5) Assist City in fulfilling normal requirements set forth by appropriate authorities whose interest bears on the design, cost, and construction of the project.
 - (6) Not used
- B. Schematic Design Phase: N/A.
 - (1) Not used.
 - (2) Not used.
 - (3) Not used.
 - (4) Not used.
- C. Development Phase: Under this Phase, the Engineer shall complete the design development work relative to the Schematic Design.
 - (1) The Engineer shall develop the approved schematic design approach. Based on the approved approach, the Engineer shall prepare Design Development documents.
 - (2) The Engineer shall review existing documentation, including building plans, utility easements, and landscape irrigation and plantings.

- (3) The Engineer shall analyze existing utility connections, determine site features to remain, and analyze impact of existing conditions.
- (4) The Engineer shall develop site plans, floor plans, furniture layouts, elevations, and building sections as needed to fix and describe the project as to structural, mechanical, and electrical systems.
- (5) The Engineer shall provide a reproducible document consisting of:
 - (a) Site plans indicating general location and nature of site improvements.
 - (b) Structural, mechanical, plumbing, and electrical floor plans, and major equipment locations.
 - (c) Not used.
 - (d) Outline specifications describing the major systems, equipment, materials, and items to be used (installation procedures not required); and the specific structural materials, the mechanical and electrical systems, and all major special systems and equipment to be used. The specifications shall be organized into 16 divisions following the recommendations of the Uniform System for Construction Specifications.
 - (e) Not used.
- (6) The Engineer shall provide City and updated Design Development documents for review.

D. Construction Documents Phase: This phase commences only after the City has approved the Engineer's Design Development. Upon receipt of notice from the City to proceed with the Construction Documents Phase, the Engineer shall commence the following services:

- (1) Based upon the Design Development and any further adjustments in the scope or quality, the Engineer shall prepare, for approval by the City, Construction Documents, consisting of drawings and a project manual, setting forth in detail the requirements for the construction of the project. Such documents shall be full, complete and accurate, giving such information as will enable a competent builder to carry them out.
- (2) The construction documents shall conform to and be consistent with the previously approved Design Documents. The Engineer shall incorporate no modification thereto without prior consent of the City.
- (3) Not used.
- (4) Not used.
- (5) Not used.
- (6) If the City orders modifications to the approved design, the Engineer shall prepare additional Design Development Documents, Construction Documents, and Construction cost Estimates, and shall receive compensation as an Additional Service.
- (7) The Engineer shall, to the best of his ability, endeavor to prepare all drawings and specifications in conformity with all applicable state and federal laws and regulations.
- (8) The Engineer shall review and edit, as necessary, the form General Conditions and Division 1 of the Specifications provided by the City. The City may accept or reject the Engineer's suggested changes, at its sole discretion.

- (9) The Engineer shall submit all required construction documents to the City as a package, with all items completed. Documents shall consist of one reproducible Mylar and original 8 ½- x 11-inch specification book ready for reproducing.
- (10) The Engineer shall make changes necessary to comply with the City's review comments and resubmit corrected documents.
- (11) The Engineer shall assist the City and the Construction Manager in developing a construction schedule for the project.
- (12) All drawings shall be provided in AutoCAD, latest version.

E. Bidding Phase:

- (1) The Engineer, following the City's approval of the Construction Documents, shall assist the City in obtaining bids from general contractors or negotiating with a selected contractor for a lump-sum fixed-price contract for construction. The Engineer shall receive bidder's questions, develop clarification as required, prepare addenda for the City's use, and attend a prebid conference. The City will administer the overall bidding process.
 - (a) Following the City's approval of the construction documents, the Engineer shall furnish to the City the original tracings of final working drawings for signature and the original project manual. Project manual shall be on 8 ½ x 11-inch paper, unless otherwise approved by the City. For bidding purposes, the Engineer shall provide reproducible drawings and the City shall reproduce the drawings and project manual. All drawings shall be provided on CAD format.
 - (b) The Engineer shall assist the City in interpreting the drawings and specifications during the bidding process, and prepare addenda to the drawings or specifications that may be required, but the City shall approve all proposed addenda before delivery to interested bidders. The Engineer shall issue no addenda verbally or in writing to bidders.
 - (c) The Engineer shall participate in prebid conferences with interested bidders and the City staff, at the City's request.
 - (d) The Engineer shall advise the City concerning acceptance or rejection of bids for the project.
 - (e) The City reserves the right to accept bids or to reject any or all bids received.

F. Documents and Drawings:

- (1) Documents and drawings shall consist of all documents, original and reproducible tracings, plans and specifications, calculations, sketches, and renderings prepared by the Engineer which shall be the property of the City. The Engineer shall furnish the City with documents as the City requests, whether or not complete, upon completion of the project, or upon suspension or termination of this Agreement as provided hereinafter. The Engineer shall have the right to retain copies of documents and drawings for its records.
- (2) The Engineer shall furnish to the City for purposes of checking and approving copies of:
 - (a) Design Development/Contract Documents that are prepared by the Engineer at 50%, 95%, and 100% completion.

- (3) The Engineer shall furnish to the City for reproduction, original tracings or equivalent quality reproducible drawings and specifications masters for bidding and construction.
- (4) The Engineer shall provide all drawings/changes on AutoCAD, latest version.

G. Not used.

ARTICLE SIX: Basic Services of City

The City shall provide the following services and material to the Engineer:

- A. *Building Information:* The City shall provide the Engineer with available plans and any technical information concerning all buildings or spaces that are affected by the project, including necessary site survey and topographical and soil information as well as necessary telephone, communication and data requirements for the project.
- B. *Permits:* The City shall pay for all required fees and permits. The Engineer will advise potential permit requirements.
- C. The City shall assist the Engineer in field investigations as requested and shall assist in getting information in the form of drawings, reports, photographs and video tapes in a timely manner to meet the project schedule.

ARTICLE SEVEN: Time

- A. The Engineer shall provide its professional services in accordance with the ordinary standard of care, skill, and diligences customarily followed by Engineers and engineers in this and similar communities.
- B. The Engineer shall comply with all response times or schedules specified in the project manual or agreed to by the City.
- C. Notwithstanding Paragraph B, the Engineer shall respond with the ordinary standard of care, skill, and diligence customarily followed by Engineers and engineers in this and similar communities.
- D. The City will pay for and assist in required review by agencies having jurisdiction over this project.
- E. Time is of the essence in performance of the work outlined herein. Neither party shall be responsible for delays from causes beyond their reasonable control.

ARTICLE EIGHT: Additional Services

- A. If the Engineer is requested to provide additional services at any stage of the project development, the City shall issue a written work order.
- B. In addition to services specified elsewhere in this Agreement, the Engineer shall receive additional compensation for the following additional services:
 - (1) Revision of previously approved drawings and/or specifications, or failure of the City to meet schedule of services (Article Two), which incur cost to the Engineer as the result of action by the City when not otherwise the Engineer's responsibility pursuant to this Agreement.
 - (2) Making planning surveys, feasibility studies, and special analysis of the City's needs to clarify requirements for project programming.
 - (3) Supervision of repair of damage to the structure when so directed by the City.
 - (4) Additional services caused by the delinquency or insolvency of the contractor.

- (5) Preparation of measured drawings of existing structures, mechanical, plumbing, electrical systems and facilities as authorized by the City.
- (6) Travel and per diem outside of San Joaquin County when the City directs the travel in writing prior to commencing travel.

ARTICLE NINE: Termination of Agreement

- A. Either party may terminate this Agreement upon thirty (30) days written notice should the other party fail substantially to perform its terms through no fault of the party initiating the termination.
- B. The City, at its sole discretion, may terminate this Agreement upon at least seven (7) days written notice to the Engineer.
- C. Upon termination of this Agreement or suspension of work by either party, the Engineer shall furnish to the City before further payment by the City all documents and drawings prepared under this Agreement, whether complete or incomplete. Such documents and designs shall become the City's exclusive property, free of claim or encumbrance by the Engineer.
- D. In the event of termination not the fault of the Engineer, the Engineer shall be compensated for all services performed to termination date, together with compensation for Additional Services completed, less amounts paid to date. No additional payment will be made to the Engineer other than for actual services completed as described above. Total amount of such compensation shall not exceed total amount payable at completion of phase during which the termination occurred.

The rates for such compensation shall be as specified in Article Three. Acceptance by the Engineer of such payment shall constitute a complete accord and satisfaction between the parties.

ARTICLE TEN: Indemnity

- A. *Indemnity:* The Engineer shall defend, indemnify, and save harmless the City, its officers, consultants, and employees from and against any and all claims, demands, losses, defense, costs, or liability which the City, its officers, consultants, and/or employees may sustain or incur, or which may be imposed upon them for injury to or death of persons, or damage to property to the extent caused as a result of or arising out of the negligent acts, errors or omissions of the Engineer during the performance of services under the terms of this Agreement.
- B. *Professional Liability Insurance:* During the entire term of this Agreement, the Engineer shall obtain and maintain in full force and effect professional errors and omissions (malpractice) liability insurance, which shall include the following provisions:
 - (1) Policy Limits: Policy limits of said insurance shall be no less than \$1,000,000 limit per claim and in the aggregate.
 - (2) Extended Claim Coverage: The Engineer shall maintain professional liability insurance of the type generally available, insuring the Engineer for a period of one year following completion of the services provided under this Agreement, providing such insurance is available.
- C. *Public Liability and Property Damage Insurance:*
 - (1) During the term of this Agreement, the Engineer will at all times maintain, at his expense, comprehensive general liability insurance naming the City, its City Council, officers, agents, employees, and volunteers as additional insured.

Amount of such policy shall be no less than \$1 million combined single limit per occurrence and for bodily injury including personal injury and property damage.

- (2) Liability insurance shall contain the following endorsements:
- (a) The City shall be added as an additional insured as respects operations of the named insured performed under the contract with the City.
 - (b) It shall be agreed that any insurance maintained by the City shall apply in excess of, and not contribute with, insurance provided by the contractor's liability insurance policy.
 - (c) The Engineer's liability insurance policy shall not be canceled or non-renewed until after 30 days written notice has first been given the City.
 - (d) Coverage shall include claims arising out of the Engineer's use of automobiles.
 - (e) Liability shall not exclude liability assumed by written contract or agreement.
 - (f) Liability insurance shall include broad form property damage insurance.
 - (g) Prior to commencing services pursuant to this Agreement, the Engineer shall provide certificates indicating the existence of the insurance required by this Agreement, on insurance certificates executed by a duly-authorized agent of the Engineer's insurance provider.

- D. *Workers' Compensation:* The Engineer shall provide workers' compensation coverage as required by State law, and in signing this Agreement, makes the following certification: "I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with such provisions before commencing the performance of this Agreement."

ARTICLE ELEVEN: Personnel

- A. The Engineer shall assign only competent personnel to perform services pursuant to this Agreement.
- B. *Supervision of Employees:* All work or services performed by the Engineer or subcontractors of the Engineer shall be by or under the direct supervision of registered Engineers and/or engineers.
- C. *Designated Personnel and Consultants:* A material covenant of this Agreement is that the Engineer shall assign the individuals designated above to perform the functions designated. The Engineer shall not assign other individuals or firms to perform the services of the designated individuals and firms without the prior consent of the City.
- D. *Attendance at Meetings:* Fred Rolfes shall attend all design meetings called by the City in regards to the project, unless his presence is waived by the City.
- E. If the City, in its sole discretion at any time during the term of this Agreement, desires the removal of any person assigned by the Engineer to perform services, the Engineer shall remove such person immediately upon receiving notice from the City.

ARTICLE TWELVE: Standards of Performance

- A. *Professional Qualifications:* The Engineer represents that it is professionally qualified to perform the work. The City, not being skilled in such matters, relies upon the qualifications of the Engineer to do and perform the work in a professional manner, and

the City's acceptance of the Engineer's work does not operate as a release of the Engineer from responsibility to so perform the work.

- B. *License*: The Engineer shall secure and maintain throughout the term of this Agreement all licenses, permits, qualifications, and approvals of whatsoever nature which are legally required for the Engineer to practice the profession or to perform the expert professional services required by this Agreement.
- C. *Compliance with Laws*: The Engineer will endeavor to see to it that the project, as designed, will comply with all applicable federal, state, and local laws, ordinances, regulations and permits in the performance of the Agreement and in the resulting designs, including requirements of Title 24 of the California Code of Regulations.
- D. *Standards of Performance*: The Engineer shall perform all services required pursuant to this Agreement in the manner and according to the standards observed by a competent practitioner of the profession in which the Engineer is engaged. All work products of whatsoever nature which the Engineer delivers to the City pursuant to this Agreement shall be prepared in a manner conforming to the standards of quality normally observed by a personal practicing in the Engineer's profession.

ARTICLE THIRTEEN: Miscellaneous Provisions

- A. *Meaning of Terms*: Terms in this Agreement are intended and shall be construed as having the same meaning as those terms have in the General Conditions of the Contract for construction to be prepared by the City and submitted to interested bidders during the Bidding Phase of the project.
- B. *Reuse of Plans*:
 - (1) If the City reuses the plans in total or in part on this or any other site, or if the City completes any uncompleted portion of the project, the Engineer and all of its consultants shall be relieved of all responsibility for the construction resulting from such reuse unless the City enters into an agreement with the Engineer for services in connection therewith.
 - (2) The Engineer shall not be entitled to any fees for such use of plans unless City enters into an agreement with the Engineer for services in connection therewith.
- C. *Non-Discrimination in Employment*: The Engineer shall comply with Section 1735 of the Labor Code, which provides as follows: "No discrimination shall be made in the employment of persons upon public works because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, or sex of such persons, except as provided in Section 12940 of the Government Code, and every contractor for public works violating this section is subject to all the penalties imposed for a violation of (Chapter 1 of Part 7, Division 2 of the Labor Code.)" This requirement also includes the provisions and requirements contained in The Americans with Disabilities Act.
- D. *Conflict of Interest*:
 - (1) The Engineer shall, at all times in performance of this Agreement, comply with the law of the State of California regarding conflicts of interest, including, but not limited to Article 4 of Chapter 1, Division 4, Title 1 of the California Government Code, commencing with Section 1090, and Chapter 7 of Title 9 of said Code, commencing with Section 87100, including regulation promulgated by the California Fair Political Practices Commission.

- (2) If any facts come to the Engineer's attention which raise any questions as to the applicability of this law, it will immediately inform the Contract Administrator and provide all information needed for resolution of the question.
 - (3) Without limitation of the covenants in Subparagraphs 1 and 2, the Engineer is admonished hereby as follows: These statutes, regulations and laws include, but are not limited to, a prohibition against any public officer, including contractor for this purpose, from making any decision on behalf of the City in which such officer has a direct or indirect financial interest. A violation occurs if the public officer influences or participates in any City decision which has the potential to confer any pecuniary benefit on contractor or any business firm in which contractor has an interest of any type, with certain narrow exceptions.
- E. *Authority by City:* This Agreement shall not be considered as giving exclusive authority to the Engineer for performing all services pertaining to the design and/or construction of the project. The City may perform, or have performed, any phase, or any portion of any phase, of the various professional services outlined in this Agreement without liability or obligation to the Engineer. If the City elects to do so, it shall give its prior written notice to the Engineer of the election, and the City agrees to defend, indemnify and hold harmless the Engineer and consultants from any and all actual damages which may arise out of such action by the City. This provision shall remain in effect and survive the termination of this Agreement.
- F. *Assignment or Subletting:* No performance of this Agreement or any portion thereof may be assigned or subcontracted by the Engineer without the express written consent of the City, and any attempt by the Engineer to do so without the City's prior written consent shall be null and void and constitute a material breach of this Agreement. However, this clause shall not prohibit the Engineer from independently contracting with subcontractors or subconsultants on contract to the Engineer, to enable the Engineer to perform the professional services for the City required by this Agreement. In such event, the Engineer shall remain responsible and liable for the work product of any subcontractor or subconsultant.
- G. *Independent Contractor:* It is understood and agreed that the Engineer is an independent contractor and is not subject to the direction nor control of the City except as to final result. The Engineer shall be solely responsible to pay all required taxes and other obligations, including, but not limited to withholding and social security. The Engineer agrees to indemnify and hold the City harmless from any liability referenced in this paragraph which the City may incur to the federal or state governments as a consequence of this Agreement.
- H. *Successors:* This Agreement shall inure to the benefit and bind the successors of each of the parties.
- I. *Records:* The Engineer shall maintain complete and accurate accounting records showing the services performed in connection with performance of this Agreement, the phase during which such services were performed, and the identity of the person(s) performing such services. The Engineer shall make such records available for inspection by authorized representatives of the City at any reasonable time during the performance of this Agreement and for the period specified by the City, no less than five (5) years from and after the date of final payment.
- J. *Notice:* Any notice, demand, request, consent approval or communication that either party desires or is required to give the other party shall be in writing and either serviced personally or sent by prepaid first-class mail, or the equivalent thereof by private carrier. Any such writing shall be addressed to the address appearing on the first page.

- K. The City acknowledges that the Engineer has no special knowledge or expertise with regard to asbestos or other pollutants and that the Engineer cannot obtain insurance coverage for claims involving hazardous, toxic, and/or asbestos-containing materials or other pollutants. Therefore, the Engineer, its agents, subconsultants and employees shall have no responsibility for, and the City agrees to bring no claim against the Engineer, its agents, subconsultants and employees, relating to the investigation, detection, abatement, replacement, or removal of asbestos material, or relating to sudden or gradual escape or release of hazardous contaminants of any kind into or upon the land, the atmosphere, or any water course or body of water, excepting only such claims which arise out of the sole negligence or willful misconduct of the Engineer, its agents, employees, or subconsultants.
- L. *Governing Law:* This Agreement shall be construed in accordance with and governed by the laws of California and any legal action arising therefrom shall be initiated in the courts of San Joaquin County, Stockton, California.

ARTICLE FOURTEEN: Extent of Agreement/Waiver

- A. This Agreement represents the entire and integrated agreement between the City and the Engineer and supersedes all prior negotiations, representations, or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both the City and the Engineer.
- B. The waiver by the City or any of its officers or employees, or the failure of the City or any of its officers or employees to take action with respect to any right conferred by or any breach of any term, covenant, or condition of this Agreement shall not be deemed to be a waiver of such term, covenant, or condition, or subsequent breach of the same, or of any other term, covenant, or condition of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the _____ day of _____, 2008.

ROLFES ENGINEERING, INC.

CITY OF LODI

By: _____
Blair King, City Manager

By: _____

Date: _____

Title

Attest:

Randi Johl, City Clerk

(CORPORATE SEAL)

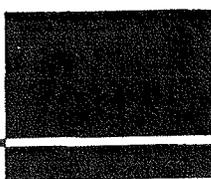
Approved as to form:

D. Stephen Schwabauer, City Attorney

ROLFES ENGINEERING, INC.

MECHANICAL ENGINEERS

CA P.E. 21002 NV P.E. 7033



1036 W. ROBINHOOD DR., SUITE 201 • STOCKTON, CALIFORNIA 95207-5627
TELEPHONE (209) 473-2859 • (888) 393-0125 • FAX (209) 473-1312

STANDARD HOURLY FEE SCHEDULE

Principal Engineer.....	\$ 140.00
Principal Draftsman.....	120.00
Design Engineer.....	120.00
Design Draftsman.....	110.00
Senior Engineer.....	110.00
Senior Draftsman.....	105.00
Junior Engineer.....	90.00
Junior Draftsman.....	80.00
Senior Clerical.....	90.00
Clerical.....	80.00

8/1/07

RESOLUTION NO. 2008-_____

A RESOLUTION OF THE LODI CITY COUNCIL
APPROVING A PROFESSIONAL SERVICES
AGREEMENT WITH ROLFES ENGINEERING, INC.,
OF STOCKTON, FOR ENGINEERING DESIGN
SERVICES AND CONSTRUCTION ADMINISTRATION
FOR LIBRARY HEATING, VENTILATION, AND AIR
CONDITIONING (HVAC) AND AUTHORIZING THE CITY
MANAGER TO EXECUTE THE AGREEMENT

=====

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby approve a professional services agreement with Rolfe's Engineering, Inc., of Stockton, for engineering design services and construction administration for library heating, ventilation, and air conditioning (HVAC) in the amount of \$42,640.00; and

BE IT FURTHER RESOLVED that the City Council hereby authorizes the City Manager to execute the agreement.

Dated: March 5, 2008

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I hereby certify that Resolution No. 2008-_____ was passed and adopted by the City Council of the City of Lodi in a regular meeting held March 5, 2008, by the following vote:

- AYES: COUNCIL MEMBERS –
- NOES: COUNCIL MEMBERS –
- ABSENT: COUNCIL MEMBERS –
- ABSTAIN: COUNCIL MEMBERS –

RANDI JOHL
City Clerk