



SAINT PAUL REGIONAL WATER SERVICES AGREEMENT

Purchaser (Referred to as "The Board")

Board of Water Commissioners
of the City of Saint Paul
1900 Rice Street
Saint Paul, MN 55113
Phone: 651-266-6530

CONTRACTOR

Control Assemblies Company
15400 Medina Road

Minneapolis, MN 55447
763-557-9711

ahenrichs@controlassemblies.com

Contract No: 1208

Effective Date: February 16, 2017

Expiration Date: February 15, 2018

Contract Description: PSA-SPRWS-iFix SCADA CONVERSION-CONTROL ASSEMBLIES

Contacts**Buyer Contact Information:**

Kelly Moch
651-266-8922
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City Project Manager Contact Information:

Larry Larsen
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Contractor Project Manager Contact Information:

Patrick Heim
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City Contract

THIS AGREEMENT, made and entered into on the effective date above by and between the City of Saint Paul, Minnesota, a municipal corporation under the laws of the State of Minnesota, hereinafter referred to as "City," and the above named Contractor, hereinafter referred to as "Contractor." A Contractor is a party to a contract; and who contracts to do the work for another.

The City and Contractor, in consideration of the mutual terms and conditions, promises, covenants, and payments hereinafter set forth, agree as follows:

Contractor agrees to provide the services comprised of tasks, deliverables, and time lines described in this Agreement.

Section 1. Time For Completion.

The services rendered by Contractor shall be commenced upon execution of the Agreement and

notification by the City to proceed and will be completed in accordance with the schedule mutually agreed upon with the City which follows, but no later than the expiration above.

In the event that there are delays caused by actions of the City or which may be reasonably requested by the Contractor which can change the completion date, Contractor shall request an extension of time for completion of the project. The Project Manager will review the request and may grant to the Contractor such extensions of contract time as may be reasonable.

Section 2. Project Management.

The City requires the Contractor to assign specific individuals as principal project members and to assure that the major work and coordination will remain the responsibility of these individuals during the term of the Agreement. Removal of any principal project member without replacement by equally qualified individuals or without the prior written approval of the City is grounds for termination of the Agreement by the City.

The City has designated the individual on Page 1, as the Project Manager for this Agreement, and the individual to whom all communications pertaining to the Agreement shall be addressed. The Project Manager shall have the authority to transmit instructions, receive information, and interpret and define the City's policy and decisions pertinent to the work covered by this Agreement.

Section 3. Billings and Payment.

The amounts herein shall fully compensate Contractor for all work and associated costs. The City will honor no claim for services and/or costs provided by the Contractor not specifically provided for in this Agreement. Total costs for the project shall not exceed the amount referenced herein.

Contractor shall submit an itemized invoice monthly or after services are complete. Upon receipt of the invoice and verification of the charges by the Project Manager, the City shall make payment to Contractor within thirty five (35) days.

Section 4. City Responsibilities.

The City agrees to provide Contractor with access to any information from City documents, staff, and other sources needed by Contractor to complete the work described herein.

Section 5. Amendment or Changes to Agreement.

A. City or Contractor may request changes that would increase, decrease, or otherwise modify the Scope of Services. Such changes and method of compensation must be authorized in writing in advance by the City.

B. Any alterations, amendments, deletions, or waivers of the provisions of this Agreement shall be valid only when reduced to writing and duly signed by the parties.

C. Modifications or additional schedules shall not be construed to adversely affect vested rights or causes of action which have accrued prior to the effective date of such amendment, modification, or supplement. The term "this Agreement" as used herein shall be deemed to include any future amendments, modifications, and additional schedules made in accordance herewith.

Section 6. Notices.

Except as otherwise stated in this Agreement, any notice or demand to be given under this Agreement shall be delivered in person or deposited in United States Certified Mail, Return Receipt Requested. Any notices or other communications shall be addressed to the individuals and addresses listed above.

Section 7. Survival of Obligations.

A. The respective obligations of the City and Contractor under these terms and conditions, which by their nature would continue beyond the termination, cancellation, or expiration hereof, shall survive termination, cancellation or expiration hereof.

B. If a court or governmental agency with proper jurisdiction determines that this Agreement, or a provision herein is unlawful, this Agreement or that provision, shall terminate. If a provision is so terminated but the parties legally, commercially, and practicably can continue this Agreement without the terminated provision, the remainder of this Agreement shall continue in effect.

Section 8. Entire Agreement.

It is understood and agreed that this entire Agreement supersedes all oral agreements and negotiations between the parties relating to the subject matters herein.

City Terms & Conditions (No Labor with Insurance)

Section 9. Commencement of Work.

Contractor shall not perform any work pursuant to this Agreement without the specific prior agreement of the designated representative of the City of Saint Paul. No claim for services or products provided by the Contractor not specifically provided for in this Agreement, or not specifically agreed to in advance will be honored by Saint Paul.

Section 10. Invoicing and Payment.

Contractor shall submit invoices to the City department making the purchase clearly itemizing all goods and/or services provided. The City of Saint Paul will make payment in accordance with Chapter 471.425. Such payment may be made using a pay voucher, purchase order, or authorized procurement card, or department shall notify Contractor of any problems, omissions, or defects in the goods and/or services received.

Section 11. Records, Dissemination of Information.

A. For purposes of this Agreement, the following words and phrases shall have the meanings set forth in this section, except where the context clearly indicates that a different meaning is intended.

"Work product" shall mean any report, recommendation, paper, presentation, drawing, demonstration, or other materials, whether in written, electronic, or other format that results from Contractor's services under this Agreement.

"Supporting documentation" shall mean any surveys, questionnaires, notes, research, papers, analyses, whether in written, electronic, or in other format and other evidences used to generate any and all work performed and work products generated under this Agreement.

"Business records" shall mean any books, documents, papers, account records and other evidences, whether written, electronic, or in other forma, belonging to Contractor and pertaining to work performed under this Agreement.

B. All deliverable work products and supporting documentation that directly result from the Contractor's services under this Agreement shall be delivered to the City and shall become the property of the City after final payment is made to the Contractor with no right, title, or interest in said work products or supporting documentation vesting in Contractor, except as provided in this section. Contractor shall retain the right to all its software, intellectual property and templates that are not a project specific deliverable as well as to individual features of the design which Contractor would reasonably expect to be able to recreate in whole or in part in other projects.

C. The Contractor agrees not to release, transmit, or otherwise disseminate information associated with or generated as a result of the work performed under this Agreement without prior knowledge and written consent of the City.

D. In the event of termination, all documents finished or unfinished, and supporting documentation prepared by the Contractor under this Agreement, shall be delivered to the City by Contractor by the termination date and there shall be no further obligation of the City to Contractor except for payment of amounts due and owing for work performed and expenses incurred to the date and time of termination.

E. The Contractor agrees to maintain all business records in such a manner as will readily conform to the terms of this Agreement and to make such materials available at its office at all reasonable times during this Agreement period and for six (6) years from the date of the final payment under the contract for audit or inspection by the City, the Auditor of the State of Minnesota, or other duly authorized representative.

F. The Contractor agrees to abide strictly by Chapter 13, Minnesota Government Data Practice Act, and in particular Minn. Stat. §§ 13.05, subd. 6 and 11; and 13.37, subd. 1 (b) and Minn. Stat. §§ 138.17 and 15.17. All of the data created, collected, received, stored, used, maintained, or disseminated by the Contractor in performing functions under this Agreement is subject to the requirements of the Minnesota Government Data Practices Act and Contractor must comply with those requirements as if it were a governmental entity. If any provision of this Agreement is in conflict with the Minnesota Government Data Practices Act or other Minnesota state laws, state law shall control.

Section 12. Human Rights/Affirmative Action/Economic Opportunity.

Contractors must comply with the City of Saint Paul's Human Rights Department's Affirmative Action Requirements in Employment pursuant to Section 183.04 of the Saint Paul Legislative Code, the Rules Governing Affirmative Requirements in Employment, and Chapter A-17 of the Saint Paul Administrative Code governing racial harassment. The Contractor agrees to comply with all federal, state and local laws, resolutions, ordinances, rules, regulations and executive orders pertaining to unlawful discrimination on account of race, creed, religion, color, sex, sexual or affectional orientation, national origin, ancestry, familial status, age, disability, marital status, or status with regard to public assistance and will take affirmative steps to ensure that applicants are employed and employees are treated during employment without regard to the same.

Section 13. Affirmative Action Contract Specifications.

Every contractor or subcontractor whose total accumulated contract awards from the City of Saint Paul over the preceding twelve months have met or exceeded \$50,000 must complete and submit to the Department an Affirmative Action Program Registration form along with a \$75 registration fee (City of Saint Paul Administrative Code Ordinance 86.06 and City of Saint Paul Legislative Code Ordinance 183.04).

Section 14. Compliance With Applicable Law.

The Contractor agrees to comply with all federal, state and local laws or ordinances, and all applicable rules, regulations and standards established by any agency of such governmental units, insofar as they relate to the Contractor's performance of the provisions of this Agreement. It shall be the obligation of the Contractor to apply for, pay for and obtain all permits and/or licenses required.

Section 15. Conflict of Interest.

Contractor's acceptance of this agreement indicates compliance with Chapter 24.03, City of Saint Paul Administrative Code: "Except as permitted by law, no city official or employee shall be a party to or have a direct financial interest in any sale, lease, or contract with the City. The contractor also affirms that to the best of the Contractor's knowledge, their involvement in this contract does not result in a conflict of interest with any part or entity which may be affected by the terms of this contract. The Contractor agrees that should any conflict or potential conflict of interest become known to the contractor, they will immediately notify the Purchasing Systems Manager of the situation so that a determination can be made about Contractor's ability to continue performing services under this contract.

Section 16. Hold Harmless.

The Contractor shall defend and indemnify the City of Saint Paul, its officers, agents, and employees from all claims, actions, or suits of any character brought for or on account of any claimed or alleged injuries or damages received by any person or property, resulting from any negligent act or omission by the contractor or any person employed by Contractor in carrying out the terms of this Contract.

Section 17. Assignment.

The City and Contractor each binds itself and its successors, legal representatives, and assigns of such other party, with respect to all covenants of this Agreement; and neither the City nor the Contractor will assign or transfer their interest in this Agreement without the written consent of the other.

Section 18. Termination.

This Agreement will continue in full force and effect until completion of the project as described herein unless either party terminates early for cause.

A. With Cause.

The City reserves the right to terminate this Agreement if the Contractor violates any of the terms or does not fulfill, in a timely and proper manner, its obligations under this Agreement as determined by the City. In the event that the City exercises its right to withhold payment or terminate under this Section, it shall submit written notice to the Contractor, specifying the extent of such withholding or termination under this Section, the reasons therefore, and the date upon which such withholding or termination becomes effective, if the breach has not been cured. Upon receipt of such notice, the Contractor shall take all actions necessary to discontinue further commitments of funds to the extent that they relate to the terminated portions of this Agreement.

B. In the event of termination, the City will pay Contractor for all services and/or products, actually, timely, and faithfully rendered up to the receipt of the notice of termination and thereafter until the date of termination. The Contractor will deliver all work products and supporting documentation developed up to the time of termination prior to the City rendering final payment for service.

Section 19. Alterations.

Any alteration, variation, modification or waiver of the provisions of the specifications that may have occurred during the bidding process or amendments to this Contract shall be valid only when reduced to

writing.

Section 20. Interpretation of Agreement, Venue.

This Agreement shall be interpreted and construed according to the laws of the State of Minnesota. All litigation regarding this agreement shall be venued in the District Court of the County of Ramsey, Second Judicial District, State of Minnesota.

Section 21. Independent Contractor.

It is agreed by the parties, that at all times and for all purposes, within the scope of the Agreement resulting from this solicitation, the relationship of the Contractor to the City is that of independent contractor and not that of employee. No statement contained in the specification or resulting Agreement shall be construed so as to find the Contractor an employee of the City, and Contractor shall be entitled to none of the rights, privileges, or benefits of Saint Paul employees.

Section 22. Waiver.

The waiver by the City of any breach under the terms of this Agreement or the foregoing by the City of any of the rights or remedies arising under the terms of this Agreement shall not constitute a waiver of the City's right to any rights and/or remedies with respect to any subsequent breach or default of the terms of the contract. The rights and remedies of the City provided or referred to under the terms of the contract are cumulative and not mutually exclusive.

Section 23. Setoff.

Notwithstanding any provision of this Agreement to the contrary, the Contractor shall not be relieved of liability to the city for damages sustained by the City by virtue of any breach of the contract by the Contractor. The City may withhold payment to the Contractor for the purpose of setoff until such time as the exact amount of damages due the City from the Contractor is determined.

Section 24. Additions.

During the contract period, the City reserves the right to request pricing for and add to the contract a limited number of like items to accommodate the need for any items that may have been inadvertently omitted from the lists included in this request document.

Section 25. Subcontracting.

The Contractor agrees not to enter into any subcontracts for any of the work contemplated under this Agreement without obtaining prior written approval of the City.

Section 26. Force Majeure.

Neither the City nor the Contractor shall be held responsible for performance if its performance is prevented by acts or events beyond the party's reasonable control, including, but not limited to: severe weather and storms, earthquake or other natural occurrences, strikes and other labor unrest, power failures, electrical power surges or current fluctuations, nuclear or other civil military emergencies, or acts of legislative, judicial, executive.

Section 27. Entire Agreement.

The specifications and other solicitation materials associated with this Agreement and these General Terms and Conditions shall constitute the entire Agreement between the parties and shall supersede all prior oral or written negotiations.

Section 28. Insurance.

A. Contractor shall be required to carry insurance of the kind and in the amounts shown below for the life of the Agreement. Certificates for General Liability Insurance should state that the City of Saint Paul, its officials, employees, agents and representatives are Additional Insureds.

1. General or Business Liability Insurance

\$1,500,000 per occurrence
\$2,000,000 aggregate per project
\$2,000,000 products/completed operations total limit
\$1,500,000 personal injury and advertising

Policy must include an "all services, products, or completed operations" endorsement when appropriate.

2. Automobile Insurance-(When Commercial vehicles are used in connection with a contract)

a. Bodily Injury \$750,000 per person \$1,000,000 per accident
b. Property Damage not less than \$50,000 per accident Coverage shall include: hired, non-owned and owned auto

3. Automobile Insurance – When Personal vehicles are used in connection with a contract, the City is not required to be named as Additional Insured, but proof of insurance is required prior to commencement of activities. Contractor must provide City with Endorsements from insurance company.
- a. Bodily Injury \$30,000 per person \$60,000 per accident
 - b. Property Damage \$20,000 per accident
4. Automobile Insurance – When Rental vehicles are used in connection with a contract, the Contractor shall either purchase insurance from the rental agency, or provide City with proof of insurance as stated above.
5. Worker's Compensation and Employer's Liability
- a. Worker's Compensation per Minnesota Statutes
 - b. Employer's Liability shall have minimum limits of \$500,000 per accident; \$500,000 per employee; \$500,000 per disease policy limit.
 - c. Contractors with 10 or fewer employees who do not have Worker's Compensation coverage are required to provide the City with a completed "Certificate of Compliance" (State of Minnesota form MN LIC 04) verifying their number of employees and the reason for their exemption.
6. Professional Liability Insurance is required when a contract is for service for which professional liability insurance is available for purchase.
- a. \$1,000,000 per occurrence
 - b. \$2,000,000 aggregate
7. General Insurance Requirements
- a. All policies shall be written on an occurrence basis or as acceptable to the City. Certificate of insurance must indicate if the policy is issued on a claims-made or occurrence basis. Agent must state on the certificate if company carries errors and omissions coverage.
 - b. The Contractor may not commence any work until Certificates of Insurance covering all of the insurance required for this project is approved and the Project manager has issued a notice to proceed. Insurance must remain in place for the duration of the original contract and any extension periods.
 - c. The City reserves the right to review Contractor's insurance policies at any time to verify that City requirements have been met.
 - d. Nothing shall preclude the City from requiring Contractor to purchase and provide evidence of additional insurance if the scope of services change, if the amount of the contract is significantly increased, or if the exposure to the City or its citizens is deemed to have increased.
 - e. Satisfaction of policy limits required above for General Liability and Automobile Liability Insurance, may be met with the purchase of an umbrella or excess policy. Any excess or umbrella policy shall be written on an occurrence basis, and if such policy is not written by the same insurance carrier, the proof of underlying policies shall be provided with any certificate of insurance.

EXHIBIT A - SOW

The Saint Paul Regional Water Service (SPRWS) retains the Contractor, Control Assemblies, to provide professional services to convert the existing iFix SCADA system to an ignition based system.

Not included in this work related to security groups and tag level/ item level/ screen level security trimming.

Contractor Work Scope for this project is as follows:

Item A – System Conversions

The objective is the conversion of the existing screens to the Ignition platform without changing the basic layout and navigation of the system. A goal of the project would be an easy change over for the operators of the system with minimal orientation and training time.

Contractor characterized the remaining 498 screens based on our perceived level of complexity to redraw and assign tags to animations/indicators. Contractor judges these classifications to include:

- 34 "Straight Forward" screens;
- 75 "Medium difficulty" screens;
- 11 "Intense/Complex" screens;
- 39 "Utility" and 339 "Popups".

A large number of popup screens are deemed duplicates, additionally a significant number that could

benefit from the use of tag replacement/tag groups. Based on this assessment, the first phase of the effort should be focused on the grouping and ordering of the existing tags to represent the "object" representations of the equipment in the system. These object groups will allow for the use of common popup screens which are self-defining based on the tag parameters passed in for each instance of their use.

Contractor recommends that the screen conversions be prioritized in coordination with you to ensure that the screens that provide the most functionality and benefit to SPRWS are completed in an organized fashion.

In striving to coordinate the efforts and the allowable budgets, Contractor will work efficiently and will want to complete milestone reviews of the progress to date. At these milestone reviews Contractor will:

- Confirm the operation and deployment of screens completed-to-date;
- Review the total hours invested in the effort;
- Prioritize and adjust as necessary to maximize the work deliverables;
- Review other topics as suggested by Control Assemblies or Saint Paul Regional Water Services, as appropriate.

Item B – System Test, Installation, and Commissioning

Contractor believes that this system should be initially tested during development, and subsequently confirmed post-installation at the facility. After the initial ordering of tags, the screens could be deployed in batches of varying sizes until a critical mass was identified. Time for 3 on-site review/ commissioning visits is included in this SOWI, with the bulk of the screens transmitted without an on-site commissioning effort. Per the SPRWS system description, the current iFix system would remain in place as the primary system, as the screens are brought on in the new system. Cutover of users of areas of control can occur in phases as SPRWS sees best meeting staff and installation needs.

Startup and commissioning time have been included for a Control Systems Engineer consisting of two trips to SPRWS facility for on-site efforts. Additional on-site visits are available as requested at the below identified professional services rate for this SOW

In reference to Item A, and the number and variation of screens to be converted, Contractor will deliver the work on a Time-and-Material basis as it allows the maximum completion of the project efforts while minimizing the capital expense.

Costs under this contract will not exceed \$75,000.00.

Any changes to SOW, costs or expiration date will require a SPRWS Contract Amendment.

Contractor Rate:

Control Systems Engineer at \$95.00 per hour.

Overtime is assessed at 150% of the standard rate for time worked beyond 8 hours in a week day and all time worked on Saturday.

Overtime is assessed at 200% the standard rate for time on Sundays and holidays.

Work weeks start on Monday and end on Sunday.

Contractor will be paid actual and resonable related expenses as approved by SPRWS. Mileage is at the current IRS rate.

CONTRACT LINES

Item	Item Description	Unit of Measure	Base Cost
PROFESSIONAL SERVICES	SEE EXHIBIT A - SOW	8P	75,000.00000

Board of Water Commissioners
of the City of Saint Paul
1900 Rice Street
Saint Paul, MN 55113

Control Assemblies Company
15400 Medina Road

Minneapolis, MN 55447
1^763-557-9711

Board of Water Commissioners
of the City of Saint Paul:
This Agreement has been duly executed by the
Board of Water Commissioners of the City of Saint
Paul via electronic approval

Contractor:

Signature

Printed Name

Title

Date