

Council Meeting
July 15, 2008

Honorable Mayor and Members
of the Torrance City Council
City Hall
Torrance, California

Members of the Council:

SUBJECT: General Services- Award a contract for the Cultural Arts Center Chiller Replacement. Expenditure: \$170,775

RECOMMENDATION

Recommendation of the General Services Director that the City Council

- 1) Award a contract with Precision Refrigeration and Air Conditioning Inc. for \$ 148,500 with a 5% contingency of \$7,425 for the Cultural Arts Center Chiller Replacement (FEAP #664).
- 2) Approve a 10% project management fee of \$14,850.
- 3) Appropriate \$12,287 from the Building Maintenance Capital Project Fund.

FUNDING Funding is available in FEAP #664-CAC Chiller Replacement and staff is requesting an appropriation of \$12,287 from the Building Maintenance Capital Project Fund (UNAPPROP-4012).

BACKGROUND

In February 2008 the chiller for the Cultural Arts Center air conditioning system experienced operational problems. After an investigation by both in-house staff and manufacturer representatives, it was determined that one of the two compressors within the system was no longer operational and could not be repaired. As a result the building cooling system is operating at 50 percent of its capacity. The chiller required either extensive repairs or replacement. Given that the chiller was near the end of the normally expected life, staff recommended replacement with a new high efficiency chiller. The new chiller would result in a reduction in future energy usage and is likely eligible to receive various rebates.

On April 1, 2008, Council agreed and awarded the engineering design contract to Barteff Yoosephiance & Associates (BYA) for \$12,000 and a purchase order for the rental of a temporary chiller to La Brea Air Inc. for \$60,000 to be used during the design, bidding and installation of the new chiller.

ANALYSIS

Staff formally bid the project (B2008-24) and received the following bids on June 18th, 2008:

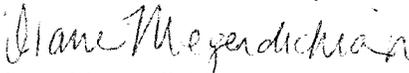
Precision Refrigeration	\$ 148,500
South Bay Heating & Air Conditioning	\$ 192,000
Air Plus Corporation	\$ 214,000

Staff has worked with Precision Refrigeration in the past with the City Hall and Civic Center Library chiller replacement projects; and is satisfied with their ability to perform the work.

Therefore, the General Services Director recommends City Council award a contract with Precision Refrigeration and Air Conditioning Inc. for \$148,500 with a 5% contingency \$7,425 for the Cultural Arts Center Chiller Replacement (FEAP #664), approve a 10% project management fee of \$ 14,850 and appropriate \$12,287 from the Building Maintenance Capital Project Fund.

Respectfully submitted,

SHERYL BALLEW
General Services Director


By Diane Megerdichian
Business Manager

CONCUR:


Sheryl Ballew
General Services Director


LeRoy J. Jackson
City Manager

Attachment A: Precision Refrigeration and Air Conditioning, Inc. Contract
Attachment B: Project Approval Council Item- April 1, 2008

CONTRACT SERVICES AGREEMENT

This CONTRACT SERVICES AGREEMENT ("Agreement") is made and entered into as of July 15, 2008 by and between the CITY OF TORRANCE, a municipal corporation ("CITY"), and Precision Refrigeration and Air Conditioning Inc., a California Corporation.

RECITALS:

- A. The CITY wishes to retain the services of an experienced and qualified CONTRACTOR to furnish all labor, materials, tools, equipment and incidentals in accordance with the specifications prepared for the City of Torrance by Bartef Yoosephiance & Associates;
- B. In order to obtain the desired services, The CITY has circulated a Notice Inviting Bids for the Torrance Cultural Arts Center Chiller Unit Replacement, Notice Inviting Bids No. **2008-24** (the "NIB"); and
- C. CONTRACTOR has submitted a Bid (the "Bid") in response to the NIB. CONTRACTOR represents that it is qualified to perform those services requested in the Plans and Specifications. Based upon its review of all Bids submitted in response to the NIB, The CITY is willing to award the contract to CONTRACTOR.

AGREEMENT:

1. SERVICES TO BE PERFORMED BY CONTRACTOR

CONTRACTOR will provide the services and install those materials listed in the Plans and Specifications, which are on file in the General Services Department. The NIB and the Plans and Specifications are made a part of this Agreement. A copy of the Bid is attached as Exhibit A.

2. TERM

Unless earlier terminated in accordance with Paragraph 4 below, this Agreement will continue in full force and effect for one year from the Effective Date.

3. COMPENSATION

A. CONTRACTOR's Fee.

For services rendered pursuant to this Agreement, CONTRACTOR will be paid in accordance with CONTRACTOR's Bid; provided, however, that in no event will the total amount of money paid the CONTRACTOR, for services initially contemplated by this Agreement, exceed the sum of \$ 148,500, unless otherwise first approved in writing by the CITY.

B. Schedule of Payment.

Provided that the CONTRACTOR is not in default under the terms of this Agreement, upon presentation of an invoice, CONTRACTOR will be paid monthly, within 30 days after the date of the monthly invoice.

4. **TERMINATION OF AGREEMENT**

A. Termination by CITY for Convenience.

1. CITY may, at any time, terminate the Agreement for CITY's convenience and without cause.
2. Upon receipt of written notice from CITY of such termination for CITY's convenience, CONTRACTOR will:
 - a. cease operations as directed by CITY in the notice;
 - b. take actions necessary, or that CITY may direct, for the protection and preservation of the work; and
 - c. except for work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.
3. In case of such termination for CITY's convenience, CONTRACTOR will be entitled to receive payment for work executed; and costs incurred by reason of such termination, along with reasonable overhead and profit on the work not executed.

B. Termination for Cause.

1. If either party fails to perform any term, covenant or condition in this Agreement and that failure continues for 15 calendar days after the nondefaulting party gives the defaulting party written notice of the failure to perform, this Agreement may be terminated for cause; provided, however, that if during the notice period the defaulting party has promptly commenced and continues diligent efforts to remedy the default, the defaulting party will have such additional time as is reasonably necessary to remedy the default.
2. In the event this Agreement is terminated for cause by the default of the CONTRACTOR, the CITY may, at the expense of the CONTRACTOR and its surety, complete this Agreement or cause it to be completed. Any check or bond delivered to the CITY in connection with this Agreement, and the money payable thereon, will be forfeited to and remain the property of the CITY. All moneys due the CONTRACTOR under the terms of this Agreement will be retained by the CITY, but the retention will not release the CONTRACTOR and its surety from liability for the default. Under these circumstances, however, the CONTRACTOR and its surety

will be credited with the amount of money retained, toward any amount by which the cost of completion exceeds the Agreement Sum and any amount authorized for extra services.

3. Termination for cause will not affect or terminate any of the rights of the CITY as against the CONTRACTOR or its surety then existing, or which may thereafter accrue because of the default; this provision is in addition to all other rights and remedies available to the CITY under law.

C. Termination for Breach of Law.

In the event the CONTRACTOR or any of its officers, directors, shareholders, employees, agents, subsidiaries or affiliates is convicted (i) of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of a contract or subcontract; (ii) under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty which currently, seriously, and directly affects responsibility as a public consultant or contractor; (iii) under state or federal antitrust statutes arising out of the submission of bids or proposals; or (iv) of violation of Paragraph 19 of this Agreement; or for any other cause the CITY determines to be so serious and compelling as to affect CONTRACTOR's responsibility as a public consultant or contractor, including but not limited to, debarment by another governmental agency, then the CITY reserves the unilateral right to terminate this Agreement or to impose such other sanctions (which may include financial sanctions, temporary suspensions or any other condition deemed appropriate short of termination) as it deems proper. The CITY will not take action until CONTRACTOR has been given notice and an opportunity to present evidence in mitigation.

5. **FORCE MAJEURE**

If any party fails to perform its obligations because of strikes, lockouts, labor disputes, embargoes, acts of God, inability to obtain labor or materials or reasonable substitutes for labor or materials, governmental restrictions, governmental regulations, governmental controls, judicial orders, enemy or hostile governmental action, civil commotion, fire or other casualty, or other causes beyond the reasonable control of the party obligated to perform, then that party's performance shall be excused for a period equal to the period of such cause for failure to perform.

6. **RETENTION OF FUNDS**

CONTRACTOR authorizes the CITY to deduct from any amount payable to CONTRACTOR (whether or not arising out of this Agreement) any amounts the

payment of which may be in dispute or that are necessary to compensate the CITY for any losses, costs, liabilities, or damages suffered by the CITY, and all amounts for which the CITY may be liable to third parties, by reason of CONTRACTOR's negligent acts or omissions or willful misconduct in performing or failing to perform CONTRACTOR's obligations under this Agreement. In the event that any claim is made by a third party, the amount or validity of which is disputed by CONTRACTOR, or any indebtedness exists that appears to be the basis for a claim of lien, the CITY may withhold from any payment due, without liability for interest because of the withholding, an amount sufficient to cover the claim. The failure of the CITY to exercise the right to deduct or to withhold will not, however, affect the obligations of CONTRACTOR to insure, indemnify, and protect the CITY as elsewhere provided in this Agreement.

7. THE CITY'S REPRESENTATIVE

Hrand Ibranossian, HVAC Supervisor, is designated as the "City Representative," authorized to act in its behalf with respect to the work and services specified in this Agreement and to make all decisions in connection with this Agreement. Whenever approval, directions, or other actions are required by the CITY under this Agreement, those actions will be taken by the City Representative, unless otherwise stated. The City Manager has the right to designate another City Representative at any time, by providing notice to CONTRACTOR.

8. CONTRACTOR REPRESENTATIVE(S)

The following principal(s) of CONTRACTOR are designated as being the principal(s) and representative(s) of CONTRACTOR authorized to act in its behalf with respect to the work specified in this Agreement and make all decisions in connection with this Agreement:

Igor Cherdak
Alexander Taran

9. INDEPENDENT CONTRACTOR

The CONTRACTOR is, and at all times will remain as to the CITY, a wholly independent contractor. Neither the CITY nor any of its agents will have control over the conduct of the CONTRACTOR or any of the CONTRACTOR's employees, except as otherwise set forth in this Agreement. The CONTRACTOR may not, at any time or in any manner, represent that it or any of its agents or employees are in any manner agents or employees of the CITY.

10. BUSINESS LICENSE

The CONTRACTOR must obtain a City business license prior to the start of work under this Agreement, unless CONTRACTOR is qualified for an exemption.

11. OTHER LICENSES AND PERMITS

CONTRACTOR warrants that it has all professional, contracting and other permits and licenses required to undertake the work contemplated by this Agreement.

12. FAMILIARITY WITH WORK

By executing this Agreement, CONTRACTOR warrants that CONTRACTOR (a) has thoroughly investigated and considered the scope of services to be performed, (b) has carefully considered how the services should be performed, and (c) fully understands the facilities, difficulties and restrictions attending performance of the services under this Agreement. If the services involve work upon any site, CONTRACTOR warrants that CONTRACTOR has or will investigate the site and is or will be fully acquainted with the conditions there existing, prior to commencement of services set forth in this Agreement. Should CONTRACTOR discover any latent or unknown conditions that will materially affect the performance of the services set forth in this Agreement, CONTRACTOR must immediately inform the CITY of that fact and may not proceed except at CONTRACTOR's risk until written instructions are received from the CITY.

13. CARE OF WORK

CONTRACTOR must adopt reasonable methods during the life of the Agreement to furnish continuous protection to the work, and the equipment, materials, papers, documents, plans, studies and other components to prevent losses or damages, and will be responsible for all damages, to persons or property, until acceptance of the work by the CITY, except those losses or damages as may be caused by the CITY's own negligence.

14. CONTRACTOR'S ACCOUNTING RECORDS; OTHER PROJECT RECORDS

Records of the CONTRACTOR's time pertaining to the project, and records of accounts between the CITY and the CONTRACTOR, will be kept on a generally recognized accounting basis. CONTRACTOR will also maintain all other records, including without limitation specifications, drawings, progress reports and the like, relating to the project. All records will be available to the CITY during normal working hours. CONTRACTOR will maintain these records for three years after final payment.

15. INDEMNIFICATION

CONTRACTOR will indemnify, defend, and hold harmless CITY, the City Council, each member thereof, present and future, its officers, agents and employees from and against any and all liability, expenses, including defense costs and legal fees, and claims for damages whatsoever, including, but not limited to, those arising from breach of contract, bodily injury, death, personal

injury, property damage, loss of use, or property loss however the same may be caused and regardless of the responsibility for negligence. The obligation to indemnify, defend and hold harmless includes, but is not limited to, any liability or expense, including defense costs and legal fees, arising from the negligent acts or omissions, or willful misconduct of CONTRACTOR, its officers, employees, agents, subcontractors or vendors. It is further agreed, CONTRACTOR's obligations to indemnify, defend and hold harmless will apply even in the event of concurrent negligence on the part of CITY, the City Council, each member thereof, present and future, or its officers, agents and employees, except for liability resulting solely from the negligence or willful misconduct of CITY, its officers, employees or agents. Payment by CITY is not a condition precedent to enforcement of this indemnity. In the event of any dispute between CONTRACTOR and CITY, as to whether liability arises from the sole negligence of the CITY or its officers, employees, agents, subcontractors or vendors, CONTRACTOR will be obligated to pay for CITY's defense until such time as a final judgment has been entered adjudicating the CITY as solely negligent. CONTRACTOR will not be entitled in the event of such a determination to any reimbursement of defense costs including but not limited to attorney's fees, expert fees and costs of litigation.

16. NON-LIABILITY OF THE CITY'S OFFICERS AND EMPLOYEES

No officer or employee of the CITY will be personally liable to CONTRACTOR, in the event of any default or breach by the CITY or for any amount that may become due to CONTRACTOR.

17. INSURANCE

A. CONTRACTOR must maintain at its sole expense the following insurance, which will be full coverage not subject to self insurance provisions:

- (1) Automobile Liability, including owned, non-owned and hired vehicles, with at least the following limits of liability:
 - (a) Primary Bodily Injury with limits of at least \$500,000 per person, \$1,000,000 per occurrence; and
 - (b) Primary Property Damage of at least \$250,000 per occurrence; or
 - (c) Combined single limits of \$1,000,000 per occurrence.
- (2) General Liability including coverage for premises, products and completed operations, independent contractors, personal injury and contractual obligations with combined single limits of coverage of at least \$2,000,000 per occurrence.

- (3) Workers' Compensation with limits as required by the State of California and Employers Liability with limits of at least \$1,000,000.
- B. The insurance provided by CONTRACTOR will be primary and non-contributory.
- C. The CITY of Torrance, the City Council and each member thereof, members of boards and commissions, every officer, agent, official, employee and volunteer must be named as additional insureds under the automobile and general liability policies.
- D. CONTRACTOR must provide certificates of insurance and/or endorsements to the City Clerk of the City of Torrance before the commencement of work.
- E. Each insurance policy required by this Paragraph must contain a provision that no termination, cancellation or change of coverage can be made without thirty days notice to the CITY.
- F. CONTRACTOR must include all subcontractors as insureds under its policies or must furnish separate certificates and endorsements for each subcontractor. All coverage for subcontractors will be subject to all of the requirements of this Paragraph 17.

18. SUFFICIENCY OF INSURERS

Insurance required by this Agreement will be satisfactory only if issued by companies admitted to do business in California, rated "B+" or better in the most recent edition of Best's Key Rating Guide, and only if they are of a financial category Class VII or better, unless these requirements are waived by the Risk Manager of the CITY ("Risk Manager") due to unique circumstances. In the event the Risk Manager determines that the work or services to be performed under this Agreement creates an increased or decreased risk of loss to the CITY, the CONTRACTOR agrees that the minimum limits of any insurance policies and/or the performance bond required by this Agreement may be changed accordingly upon receipt of written notice from the Risk Manager; provided that CONTRACTOR will have the right to appeal a determination of increased coverage by the Risk Manager to the City Council of the CITY within 10 days of receipt of notice from the Risk Manager.

19. CONFLICT OF INTEREST

- A. No officer or employee of the CITY may have any financial interest, direct or indirect, in this Agreement, nor may any officer or employee participate in any decision relating to the Agreement that effects the officer or employee's financial interest or the financial interest of any corporation, partnership or association in which the officer or employee is, directly or indirectly interested, in violation of any law, rule or regulation.

- B. No person may offer, give, or agree to give any officer or employee or former officer or employee, nor may any officer or employee solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation or any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any way pertaining to any program requirement, contract or subcontract, or to any solicitation or proposal.

20. NOTICE

- A. All notices, requests, demands, or other communications under this Agreement will be in writing. Notice will be sufficiently given for all purposes as follows:
- (1) Personal delivery. When personally delivered to the recipient: notice is effective on delivery.
 - (2) First Class mail. When mailed first class to the last address of the recipient known to the party giving notice: notice is effective three mail delivery days after deposit in an United States Postal Service office or mailbox.
 - (3) Certified mail. When mailed certified mail, return receipt requested: notice is effective on receipt, if delivery is confirmed by a return receipt.
 - (4) Overnight delivery. When delivered by an overnight delivery service, charges prepaid or charged to the sender's account: notice is effective on delivery, if delivery is confirmed by the delivery service.
 - (5) Facsimile transmission. When sent by fax to the last fax number of the recipient known to the party giving notice: notice is effective on receipt. Any notice given by fax will be deemed received on the next business day if it is received after 5:00 p.m. (recipient's time) or on a non-business day.

Addresses for purpose of giving notice are as follows:

CONTRACTOR: Precision Refrigeration and Air
Conditioning Inc.
1334 W. 11th Place
Los Angeles, CA 90015

Fax: 213-746-8790

CITY: City Clerk
City of Torrance
3031 Torrance Boulevard
Torrance, CA 90509-2970
Fax: (310) 618-2931

- B. Any correctly addressed notice that is refused, unclaimed, or undeliverable because of an act or omission of the party to be notified, will be deemed effective as of the first date the notice was refused, unclaimed or deemed undeliverable by the postal authorities, messenger or overnight delivery service.
- C. Either party may change its address or fax number by giving the other party notice of the change in any manner permitted by this Agreement.

21. **PROHIBITION AGAINST ASSIGNMENT AND SUBCONTRACTING**

This Agreement and all exhibits are binding on the heirs, successors, and assigns of the parties. The Agreement may not be assigned or subcontracted by either the CITY or CONTRACTOR without the prior written consent of the other.

22. **INTEGRATION; AMENDMENT**

This Agreement represents the entire understanding of the CITY and CONTRACTOR as to those matters contained in it. No prior oral or written understanding will be of any force or effect with respect to the terms of this Agreement. The Agreement may not be modified or altered except in writing signed by both parties.

23. **INTERPRETATION**

The terms of this Agreement should be construed in accordance with the meaning of the language used and should not be construed for or against either party by reason of the authorship of this Agreement or any other rule of construction that might otherwise apply.

24. SEVERABILITY

If any part of this Agreement is found to be in conflict with applicable laws, that part will be inoperative, null and void insofar as it is in conflict with any applicable laws, but the remainder of the Agreement will remain in full force and effect.

25. TIME OF ESSENCE

Time is of the essence in the performance of this Agreement.

26. GOVERNING LAW; JURISDICTION

This Agreement will be administered and interpreted under the laws of the State of California. Jurisdiction of any litigation arising from the Agreement will be in Los Angeles County, California.

27. COMPLIANCE WITH STATUTES AND REGULATIONS

CONTRACTOR will be knowledgeable of and will comply with all applicable federal, state, county and city statutes, rules, regulations, ordinances and orders.

28. WAIVER OF BREACH

No delay or omission in the exercise of any right or remedy by a nondefaulting party on any default will impair the right or remedy or be construed as a waiver. A party's consent or approval of any act by the other party requiring the party's consent or approval will not be deemed to waive or render unnecessary the other party's consent to or approval of any subsequent act. Any waiver by either party of any default must be in writing and will not be a waiver of any other default concerning the same or any other provision of this Agreement.

29. ATTORNEY'S FEES

Except as provided for in Paragraph 15, in any dispute, litigation, arbitration, or other proceeding by which one party either seeks to enforce its rights under this Agreement (whether in contract, tort or both) or seeks a declaration of any rights or obligations under this Agreement, the prevailing party will be awarded reasonable attorney's fees, together with any costs and expenses, to resolve the dispute and to enforce any judgment.

30. EXHIBITS

All exhibits identified in this Agreement are incorporated into the Agreement by this reference.

31. **CONTRACTOR'S AUTHORITY TO EXECUTE**

The persons executing this Agreement on behalf of the CONTRACTOR warrant that (i) the CONTRACTOR is duly organized and existing; (ii) they are duly authorized to execute this Agreement on behalf of the CONTRACTOR; (iii) by so executing this Agreement, the CONTRACTOR is formally bound to the provisions of this Agreement; and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which the CONTRACTOR is bound.

CITY OF TORRANCE,
a Municipal Corporation

Precision Refrigeration and Air
Conditioning Inc.
A California Corporation

Frank Scotto, Mayor

By: _____
Igor Cherdak
President

ATTEST:

Sue Herbers, City Clerk

APPROVED AS TO FORM:

JOHN L. FELLOWS III
City Attorney

By: _____

Deputy City Attorney

Attachments: Exhibit A: Bid

EXHIBIT A

Bid

[To be attached]

BIDDER'S PROPOSAL
B 2008-24

Company: PRECISION REFRIGERATION&AIRCOND.
Base Bid: \$ 148,500.00

TORRANCE CULTURAL ARTS CENTER
CHILLER UNIT REPLACEMENT

In accordance with the Notice Inviting Bids pertaining to the receiving of sealed proposals by the City Clerk of the City of Torrance for the above titled improvement, the undersigned hereby proposes to furnish all work to be performed in accordance with the Plans, Specifications and Contract Documents, prepared by Bartef Yoosephiance & Associates for the lump sum bid as set forth in the following schedules.

Item	Description	Prices written in words	Total Bid
1.	Base Bid per bid B2008-24 in its entirety	One Hundred Fourty Eight Thousand Five Hundred Dollars 00 ¢	\$ 148,500.00

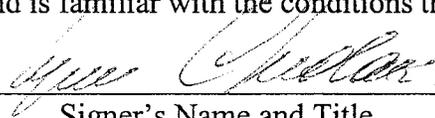
The undersigned furthermore agrees to enter into and execute a contract, with necessary bonds, at the prices set forth herein and in case of default in executing such contract, with necessary bonds, the check or bond accompanying this bid and the money payable thereon shall be forfeited thereby to and remain the property of the City of Torrance.

The above prices include all work appurtenant to the various items as outlined in the specifications and all work or expense required for the satisfactory completion of said item.

The undersigned declares that it has carefully examined the Plans, Specifications, and Contract Documents, and has investigated the site of the work and is familiar with the conditions thereon.

PRECISION REFRIGERATION&AIRCONDIT. INC

Contractor Name

 PRESIDENT
Signer's Name and Title

Date: 06/17/2008 License No. & Classification 860111 B, C20,C38

Address: 1334 W. 11th Place Los Angeles CA 90015

STATE OF CALIFORNIA }

CONTRACTOR'S AFFIDAVITCOUNTY OF } Los Angeles }

B 2008-24

Alexander Taran, being first duly sworn,
deposes and says:

1. That he/she is the Vice President
Title

of Precision Refrigeration & Air Conditioning, Inc.
Name of Partnership, Corporation, or Sole Proprietorship

hereinafter called "Contractor", who has submitted to the City of Torrance a proposal for the construction of:

TORRANCE CULTURAL ARTS CENTER CHILLER UNIT REPLACEMENT

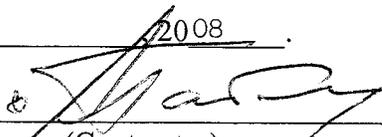
2. That said proposal is genuine; that the same is not sham; that all statement of facts therein are true;
3. That such proposal was not made in the interest or behalf of any person, partnership, company, association, organization or corporation not named or disclosed;
4. That the Contractor did not, directly or indirectly, induce, solicit or agree with anyone else to submit a false or sham bid, to refrain from bidding, or to withdraw the bid, to raise or fix the bid price of the Contractor or anyone else, or to raise or fix any overhead, profit or cost element of the Contractor's price or the price of anyone else; and did not attempt to induce action prejudicial to the interest of the City of Torrance, or of any other bidder, or anyone else interested in the proposed contract;
5. That the Contractor has not in any manner sought by collusion to secure for itself an advantage over any other bidder or to induce action prejudicial to the interests of the City of Torrance, or of any other bidder or of anyone else interested in the proposed contract;
6. That the Contractor has not accepted any bid from any subcontractor or materialman through any bid depository, the bylaws, rules or regulations of which prohibit or prevent the Contractor from considering any bid from any subcontractor or materialman, which is not processed through said bid depository, or which prevent any subcontractor or materialman from bidding to any contractor who does not use the facilities of or accept bids from or through such bid depository;

CONTRACTOR'S AFFIDAVIT (CONTINUED)

7. That the Contractor did not, directly or indirectly, submit the Contractor's bid price or any breakdown thereof, or the contents thereof, or divulge information or data relative thereto, to any corporation, partnership, company, association, organization, bid depository, or to any member or agent thereof, or to any individual or group of Individuals, except to the City of Torrance, or to any person or persons who have a partnership or other financial interest with said Contractor in its business.

Dated this 16 day of June _____, 2008.

Subscribed and Sworn to
before me this 16 day
of June, 2008.

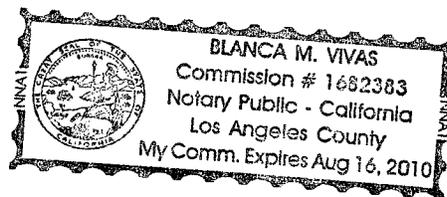


(Contractor)
Vice President

(Title)

Notary Public in and for said
County and State.
(Seal)

State of California County of
Los Angeles
Subscribed and sworn to (or affirmed)
before me on this 16 day of June, 2008, by
Alexander Tarata
proved to me on the basis of satisfactory evidence
to be the person(s) who appeared before me.
Signature Blanca M. Vivas
(Seal)



BID BOND

B 2008-24

KNOW ALL MEN BY THESE PRESENTS: That we, _____

_____ as principal, and _____

as sureties, are held and firmly bound unto the City of Torrance, State of California, in the penal sum of _____ dollars (\$ _____), for the payment whereof we hereby bind ourselves, our successors, heirs, executors or administrators jointly and severally, firmly by these presents.

The condition of this obligation is such that, whereas the above bonded principal is about to file with and submit to the City of Torrance a bid or proposal for the performance of certain work as required in the City of Torrance, Project No. B 2008-24 said work being:

**TORRANCE CULTURAL ARTS CENTER
CHILLER UNIT REPLACEMENT**

and in compliance with the specifications therefore under an invitation of said City contained in a notice or advertisement for bids or proposals; now if the bid or proposal of the said principal shall be accepted and if the said work be thereupon awarded to the principal by said City and if the said principal shall enter into a contract with the said City in accordance with said bid or proposal, or if the bid or proposal of the said principal is rejected, then this bond shall be void and of no effect and otherwise in full force and effect.

WITNESS our hands this _____ day of _____, 20 _____.

*Cashier's
Check*

Principal

Surety

Surety

LIST OF SUBCONTRACTORS

Page 1 of 2

The bidder is required to fill in the following blanks in accordance with the provisions of the Subletting and Subcontracting Fair Practices Act (Chapter 2 of Division 5, Title 1 of the Government Code of the State of California) and should familiarize itself with section 2-3 of the Standard Specifications for Public Works Construction.

Name Under Which Subcontractor is Licensed: RDM Electric Co., Inc

License Number: 539194 .

Address of Office, Mill or Shop: 13867 Redwood Avenue Chino, CA 91710 .

Percentage of Total Contract 5% .

Specific Description of Sub-Contract: Disconnect power, re-connect power supply

Name Under Which Subcontractor is Licensed: ACCU-Cut, Inc

License Number: 477040 .

Address of Office, Mill or Shop: 417 W. 130th Street, Los Angeles, CA 90061

Percentage of Total Contract 5% .

Specific Description of Sub-Contract: Concrete Work

Name Under Which Subcontractor is Licensed: Crainco

License Number: 743973 .

Address of Office, Mill or Shop: 10702 Painter Avenue Santa Fe Springs, CA 90670

Percentage of Total Contract 5% .

Specific Description of Sub-Contract: Crane and Rigging

Name Under Which Subcontractor is Licensed: Dawson Co.

License Number: n/a

Address of Office, Mill or Shop: 2124 N. Lincoln Avenue, Altadena, CA 91001

Percentage of Total Contract 5%

Specific Description of Sub-Contract: Pump repair and installation

Name Under Which Subcontractor is Licensed: Insulation Systems

License Number: 772605

Address of Office, Mill or Shop: 1927 Monte Vista Avenue, San Dimas, CA 91773

Percentage of Total Contract 5%

Specific Description of Sub-Contract: Insulation of piping

Name Under Which Subcontractor is Licensed: _____

License Number: _____

Address of Office, Mill or Shop: _____

Percentage of Total Contract _____

Specific Description of Sub-Contract: _____

Name Under Which Subcontractor is Licensed: _____

License Number: _____

Address of Office, Mill or Shop: _____

Percentage of Total Contract _____

Specific Description of Sub-Contract: _____

Subcontractors listed in accordance with the provisions of Section 2-3 must be properly licensed under the laws of the State of California for the type of work, which they are to perform. Do not list alternate subcontractors for the same work.

REFERENCES

(Work similar in magnitude and degree of difficulty completed by Contractor within the past five (5) years.)

1. Name (Firm/Agency): City of Torrance
 Address: 3350 Center Drive
 Contact Person: Haran Telephone No.: 310-781-6951
 Title of Project: City Hall/Library
 Project Location: Torrance
 Date of Completion 11/2004 Contract Amount:\$ 280,000.00
2. Name (Firm/Agency): Sodexho
 Address: 86 Hopmeadow Street Simsberry, CT 06089
 Contact Person: Swami Veerachaney Telephone No.: 860-325-1460
 Title of Project: Redlands Community Hospital
 Project Location: Redlands CA
 Date of Completion 11/2007 Contract Amount:\$ 300,000.00
3. Name (Firm/Agency): Sodexho
 Address: 86 Hopmeadow Street Simsberry, CT 06089
 Contact Person: Swami Veerachaney Telephone No.: 860-325-1400
 Title of Project: Verdugo Hills Hospital
 Project Location: Verdugo Hills CA
 Date of Completion 08/2007 Contract Amount:\$ 280,000.00
4. Name (Firm/Agency): Noresco
 Address: PO BOX 729, Carnegie, PA 15106
 Contact Person: Leo Saliz Telephone No.: 957-850-2356
 Title of Project: Riverside Community College
 Project Location: Riverside CA
 Date of Completion 11/2007 Contract Amount:\$ 300,000.00

Bidder's Information

The bidder must provide a detailed list of the trades and the description of the work they will perform with their own company for this project.

1. RDM Electric - Disconnect power/Re-connect power as per specs
2. ACCU-CUT - Additional concrete work per specs
3. Crainco - Crane and Rigging Work
4. Dawson Co. - Rebuild pumps as per specs
5. Insulation Systems - insulation of piping as per specs
- 6.
- 7.
- 8.
- 9.
- 10.
- 11.
- 12.
- 13.
- 14.
- 15.
- 16.
- 17.
- 18.
- 19.
- 20.

Contractor's License No.: 860111 Class: B, C20, C38

a. Date first obtained: 1/1/96

b. Has License ever been suspended or revoked? NO
 If yes, describe when and why: _____

c. Any current claims against License or Bond? NO
 If yes, describe claims: _____

Type of entity (check one)

xxx Incorporated _____ Partnership _____ Sole Proprietorship

If incorporated, in what state CA

Federal Tax ID Number # 20-2006566

Principals in Company (List all - attach additional sheets if necessary):

<u>NAME</u>	<u>TITLE</u>	<u>LICENSE NO.</u> <u>(If Applicable)</u>
<u>Igor Cherdak</u>	<u>President</u>	_____
<u>Alexander Taran</u>	<u>Vice President</u>	_____
<u>Anna Cherdak</u>	<u>Controller</u>	_____

ADDENDUM #1

CITY OF TORRANCE
3031 Torrance Blvd.
Torrance, CA 90503

BID NO. B2008-24

Bid for Torrance Cultural Arts Center Chiller Unit Replacement

ADDENDUM # 1

THE FOLLOWING CHANGES ARE HEREBY INCORPORATED INTO AND MADE A MANDATORY PART OF SUBJECT BID:

CHANGED: Due to adding a 2nd job walk for this project, the bid opening has been changed to Wednesday, June 18th, 2008.

June 3, 2008

Please return this addendum with your bid proposal.

I hereby acknowledge receipt of this addendum.

Precision Refrigeration and Air Conditioning
Name of Company

1334 W. 11th Place
Address

Los Angeles, CA 90015
City State Zip Code

Council Meeting
April 1, 2008

Honorable Mayor and Members
of the Torrance City Council
City Hall
Torrance, California

Members of the Council:

SUBJECT: General Services- Approve contract with Bartef Yoosephiance & Associates, Inc., Authorize a purchase order with La Brea Air Inc., Appropriate \$235,000 from the Building and Facilities Fund. Expenditure: \$ 235,000

RECOMMENDATION

Recommendation of the General Services Director that City Council:

- 1) Award a contract with Bartef Yoosephiance & Associates, Inc. for \$12,000 and a \$2,000 contingency for design of the Cultural Arts Center Chiller.
- 2) Authorize a purchase order with La Brea Air Inc for chiller rental for a not to exceed amount of \$60,000.
- 3) Appropriate \$ 235,000 from the Building and Facilities Fund.

FUNDING Funding is available from the Annual Building and Facilities Fund.

BACKGROUND / ANALYSIS

In February 2008 the chiller for the Cultural Arts Center air conditioning system experienced operational problems. After an investigation by both in house staff and manufacturer representatives it was determined that one of the two compressors within the system was no longer operational and could not be repaired. As a result the building cooling system is operating at 50 percent of its capacity. The chiller requires either extensive repairs or replacement. Given that the chiller is near the end of the normally expected life, staff recommends replacement with a new high efficiency chiller. The new chiller will result in a reduction in future energy usage and is likely eligible to receive various rebates.

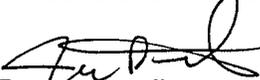
The overall cost to replace the chiller is estimated at \$235,000, which includes design, rental of a chiller for interim use and installation of a new chiller. Due to the importance of the project, we request to defer other currently approved building maintenance projects from the Building Maintenance Capital Project List. Replacement funding for these deferred projects will be sought during the upcoming Capital Projects Budget Review period.

Bartef Yoosephiance & Associates Inc. (B.Y.A.) has designed several air conditioning systems within the City with very positive results. Their proposal is in line with the magnitude of the project. The rental of the chiller with La Brea Air Inc. will cover cooling the Cultural Arts Center beginning approximately May 1st to cool the facilities during the summer months while design and construction occur. Staff will return to Council to award the construction portion of this project as rapidly as possible after design is completed and bids for the replacement contract are received.

The General Services Director recommends City Council award a contract with Barteff Yoosephiance & Associates Inc. for \$12,000 and a \$2,000 contingency for design, authorize a purchase order for a not to exceed amount of \$60,000 with La Brea Air Inc. for the rental of the chiller and approve the appropriation of \$235,000 from the Building and Facilities Fund for the chiller replacement project.

Respectfully submitted,

SHERYL BALLEW
General Services Director


By Jon Landis
Facility Services Manager

CONCUR:


Sheryl Ballew
General Services Director


LeRoy J. Jackson
City Manager

CONSULTING SERVICES AGREEMENT

This CONSULTING SERVICES AGREEMENT ("Agreement") is made and entered into as of April 1, 2008 (the "Effective Date"), by and between the CITY OF TORRANCE, a municipal corporation ("CITY"), and Bartef Yoosephiance & Associates, Inc., a California Corporation ("CONSULTANT").

RECITALS:

- A. CITY wishes to retain the services of an experienced and qualified CONSULTANT to provide mechanical design services for the replacement of the chiller unit at the Torrance Cultural Arts Center.
- B. CONSULTANT represents that it is qualified to perform those services.

AGREEMENT:

1. SERVICES TO BE PERFORMED BY CONSULTANT

CONSULTANT will provide the services listed in the Proposal attached as Exhibit A. CONSULTANT warrants that all work and services set forth in the Scope of Services will be performed in a competent, professional and satisfactory manner.

2. TERM

Unless earlier terminated in accordance with Paragraph 4 below, this Agreement will continue in full force and effect from the Effective Date through June 30, 2009.

3. COMPENSATION

- A. CONSULTANT's Fee.

For services rendered pursuant to this Agreement, CONSULTANT will be paid in accordance with the Proposal, provided, however, that in no event will the total amount of money paid the CONSULTANT, for services initially contemplated by this Agreement, exceed the sum of 12,000 ("Agreement Sum"), unless otherwise first approved in writing by CITY.

- B. Schedule of Payment.

Provided that the CONSULTANT is not in default under the terms of this Agreement, upon presentation of an invoice, CONSULTANT will be paid monthly the fees described in Paragraph 3.A. above, according to the Compensation Schedule. Payment will be due within 30 days after the date of the monthly invoice.

4. TERMINATION OF AGREEMENT

- A. Termination by CITY for Convenience.

- 1. CITY may, at any time, terminate the Agreement for CITY's convenience and without cause.

2. Upon receipt of written notice from CITY of such termination for CITY's convenience, CONSULTANT will:
 - a. cease operations as directed by CITY in the notice;
 - b. take actions necessary, or that CITY may direct, for the protection and preservation of the work; and
 - c. except for work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.
3. In case of such termination for CITY's convenience, CONSULTANT will be entitled to receive payment for work executed; and costs incurred by reason of such termination, along with reasonable overhead and profit on the work not executed.

B. Termination for Cause.

1. If either party fails to perform any term, covenant or condition in this Agreement and that failure continues for 15 calendar days after the nondefaulting party gives the defaulting party written notice of the failure to perform, this Agreement may be terminated for cause; provided, however, that if during the notice period the defaulting party has promptly commenced and continues diligent efforts to remedy the default, the defaulting party will have such additional time as is reasonably necessary to remedy the default.
2. In the event this Agreement is terminated for cause by the default of the CONSULTANT, the CITY may, at the expense of the CONSULTANT and its surety, complete this Agreement or cause it to be completed. Any check or bond delivered to the CITY in connection with this Agreement, and the money payable thereon, will be forfeited to and remain the property of the CITY. All moneys due the CONSULTANT under the terms of this Agreement will be retained by the CITY, but the retention will not release the CONSULTANT and its surety from liability for the default. Under these circumstances, however, the CONSULTANT and its surety will be credited with the amount of money retained, toward any amount by which the cost of completion exceeds the Agreement Sum and any amount authorized for extra services.
3. Termination for cause will not affect or terminate any of the rights of the CITY as against the CONSULTANT or its surety then existing, or which may thereafter accrue because of the default; this provision is in addition to all other rights and remedies available to the CITY under law.

C. Termination for Breach of Law.

In the event the CONSULTANT or any of its officers, directors, shareholders, employees, agents, subsidiaries or affiliates is convicted (i) of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of a contract or subcontract; (ii) under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty which currently, seriously, and directly affects responsibility as a public consultant or contractor; (iii) under state or federal antitrust statutes arising out of the submission of bids or proposals; or (iv) of violation of Paragraph 19 of this Agreement; or for any other cause the CITY determines to be so serious and compelling as to affect CONSULTANT's responsibility as a public consultant or contractor, including but not limited to, debarment by another governmental agency, then the CITY reserves the unilateral right to terminate this Agreement or to impose such other sanctions (which may include financial sanctions, temporary suspensions or any other condition deemed appropriate short of termination) as it deems proper. The CITY will not take action until CONSULTANT has been given notice and an opportunity to present evidence in mitigation.

5. **FORCE MAJEURE**

If any party fails to perform its obligations because of strikes, lockouts, labor disputes, embargoes, acts of God, inability to obtain labor or materials or reasonable substitutes for labor or materials, governmental restrictions, governmental regulations, governmental control, judicial orders, enemy or hostile governmental action, civil commotion, fire or other casualty, or other causes beyond the reasonable control of the party obligated to perform, then that party's performance shall be excused for a period equal to the period of such cause for failure to perform.

6. **RETENTION OF FUNDS**

CONSULTANT authorizes CITY to deduct from any amount payable to CONSULTANT (whether or not arising out of this Agreement) any amounts the payment of which may be in dispute or that are necessary to compensate CITY for any losses, costs, liabilities, or damages suffered by CITY, and all amounts for which CITY may be liable to third parties, by reason of CONSULTANT's negligent acts or omissions or willful misconduct in performing or failing to perform CONSULTANT's obligations under this Agreement. In the event that any claim is made by a third party, the amount or validity of which is disputed by CONSULTANT, or any indebtedness exists that appears to be the basis for a claim of lien, CITY may withhold from any payment due, without liability for interest because of the withholding, an amount sufficient to cover the claim. The failure of CITY to exercise the right to deduct or to withhold will not, however, affect the obligations of CONSULTANT to insure, indemnify, and protect CITY as elsewhere provided in this Agreement.

7. **CITY REPRESENTATIVE**

Hrand Ibranossian is designated as the "City Representative," authorized to act in its behalf with respect to the work and services specified in this Agreement and to make all decisions in connection with this Agreement. Whenever approval, directions, or other actions are required by CITY under this Agreement, those actions will be taken by the City Representative, unless otherwise stated. The City Manager has the right to designate another City Representative at any time, by providing notice to CONSULTANT.

8. **CONSULTANT REPRESENTATIVE(S)**

The following principal(s) of CONSULTANT are designated as being the principal(s) and representative(s) of CONSULTANT authorized to act in its behalf with respect to the work specified in this Agreement and make all decisions in connection with this Agreement:

Bartef Yoosephiance

9. **INDEPENDENT CONTRACTOR**

The CONSULTANT is, and at all times will remain as to CITY, a wholly independent contractor. Neither CITY nor any of its agents will have control over the conduct of the CONSULTANT or any of the CONSULTANT's employees, except as otherwise set forth in this Agreement. The CONSULTANT may not, at any time or in any manner, represent that it or any of its agents or employees are in any manner agents or employees of CITY.

10. **BUSINESS LICENSE**

The CONSULTANT must obtain a City business license prior to the start of work under this Agreement, unless CONSULTANT is qualified for an exemption.

11. **OTHER LICENSES AND PERMITS**

CONSULTANT warrants that it has all professional, contracting and other permits and licenses required to undertake the work contemplated by this Agreement.

12. **FAMILIARITY WITH WORK**

By executing this Agreement, CONSULTANT warrants that CONSULTANT (a) has thoroughly investigated and considered the scope of services to be performed, (b) has carefully considered how the services should be performed, and (c) fully understands the facilities, difficulties and restrictions attending performance of the services under this Agreement. If the services involve work upon any site, CONSULTANT warrants that CONSULTANT has or will investigate the site and is or will be fully acquainted with the conditions there existing, prior to commencement of services set forth in this Agreement. Should CONSULTANT discover any latent or unknown conditions that will materially affect the performance of the services set forth in this Agreement, CONSULTANT must immediately inform CITY of that fact and may not proceed except at CONSULTANT's risk until written instructions are received from CITY.

13. **CARE OF WORK**

CONSULTANT must adopt reasonable methods during the term of the Agreement to furnish continuous protection to the work, and the equipment, materials, papers, documents, plans, studies and other components to prevent losses or damages, and will be responsible for all damages, to persons or property, until acceptance of the work by CITY, except those losses or damages as may be caused by CITY's own negligence.

14. **CONSULTANT'S ACCOUNTING RECORDS; OTHER PROJECT RECORDS**

Records of the CONSULTANT's time pertaining to the project, and records of accounts between CITY and the CONSULTANT, will be kept on a generally recognized accounting basis. CONSULTANT will also maintain all other records, including without limitation specifications, drawings, progress reports and the like, relating to the project. All records will be available to CITY during normal working hours. CONSULTANT will maintain these records for three years after final payment.

15. **INDEMNIFICATION**

CONSULTANT will indemnify, defend, and hold harmless CITY, the City Council, each member thereof, present and future, its officers, agents and employees from and against any and all liability, expenses, including defense costs and legal fees, and claims for damages whatsoever, including, but not limited to, those arising from breach of contract, bodily injury, death, personal injury, property damage, loss of use, or property loss however the same may be caused and regardless of the responsibility for negligence. The obligation to indemnify, defend and hold harmless includes, but is not limited to, any liability or expense, including defense costs and legal fees, arising from the negligent acts or omissions, or willful misconduct of CONSULTANT, its officers, employees, agents, subcontractors or vendors. It is further agreed, CONSULTANT's obligations to indemnify, defend and hold harmless will apply even in the event of concurrent negligence on the part of CITY, the City Council, each member thereof, present and future, or its officers, agents and employees, except for liability resulting solely from the negligence or willful misconduct of CITY, its officers, employees or agents. Payment by CITY is not a condition precedent to enforcement of this indemnity. In the event of any dispute between CONSULTANT and CITY, as to whether liability arises from the sole negligence of the CITY or its officers, employees, agents, subcontractors or vendors, CONSULTANT will be obligated to pay for CITY's defense until such time as a final judgment has been entered adjudicating the CITY as solely negligent. CONSULTANT will not be entitled in the event of such a determination to any reimbursement of defense costs including but not limited to attorney's fees, expert fees and costs of litigation.

16. **NON-LIABILITY OF CITY OFFICERS AND EMPLOYEES**

No officer or employee of CITY will be personally liable to CONSULTANT, in the event of any default or breach by the CITY or for any amount that may become due to CONSULTANT.

17. INSURANCE

- A. CONSULTANT must maintain at its sole expense the following insurance, which will be full coverage not subject to self insurance provisions:
1. Automobile Liability, including owned, non-owned and hired vehicles, with at least the following limits of liability:
 - a. Primary Bodily Injury with limits of at least \$500,000 per person, \$1,000,000 per occurrence; and
 - b. Primary Property Damage of at least \$250,000 per occurrence; or
 - c. Combined single limits of \$1,000,000 per occurrence.
 2. General Liability including coverage for premises, products and completed operations, independent contractors/vendors, personal injury and contractual obligations with combined single limits of coverage of at least \$1,000,000 per occurrence.
 3. Professional liability insurance with limits of at least \$1,000,000 per occurrence.
 4. Workers' Compensation with limits as required by the State of California and Employers Liability with limits of at least \$1,000,000.
- B. The insurance provided by CONSULTANT will be primary and non-contributory
- C. CITY, the City Council and each member thereof, members of boards and commissions, every officer, agent, official, employee and volunteer must be named as additional insured under the automobile and general liability policies.
- D. CONSULTANT must provide certificates of insurance and/or endorsements to the City Clerk of the City of Torrance before the commencement of work.
- E. Each insurance policy required by this Paragraph must contain a provision that no termination, cancellation or change of coverage can be made without thirty days notice to CITY.

18. SUFFICIENCY OF INSURERS AND SURETIES

Insurance or bonds required by this Agreement will be satisfactory only if issued by companies admitted to do business in California, rated "B+" or better in the most recent edition of Best's Key Rating Guide, and only if they are of a financial category Class VII or better, unless these requirements are waived by the Risk Manager of CITY ("Risk Manager") due to unique circumstances. In the event the Risk Manager determines that the work or services to be performed under this Agreement creates an increased or decreased risk of loss to CITY, the CONSULTANT agrees that the minimum limits of any insurance policies or performance bonds required by this Agreement may be changed

accordingly upon receipt of written notice from the Risk Manager; provided that CONSULTANT will have the right to appeal a determination of increased coverage by the Risk Manager to the City Council of CITY within 10 days of receipt of notice from the Risk Manager.

19. CONFLICT OF INTEREST

- A. No officer or employee of the CITY may have any financial interest, direct or indirect, in this Agreement, nor may any officer or employee participate in any decision relating to the Agreement that effects the officer or employee's financial interest or the financial interest of any corporation, partnership or association in which the officer or employee is, directly or indirectly interested, in violation of any law, rule or regulation.

- B. No person may offer, give, or agree to give any officer or employee or former officer or employee, nor may any officer or employee solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation or any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any way pertaining to any program requirement, contract or subcontract, or to any solicitation or proposal.

20. NOTICE

- A. All notices, requests, demands, or other communications under this Agreement will be in writing. Notice will be sufficiently given for all purposes as follows:
 - 1. Personal delivery. When personally delivered to the recipient: notice is effective on delivery.

 - 2. First Class mail. When mailed first class to the last address of the recipient known to the party giving notice: notice is effective three mail delivery days after deposit in an United States Postal Service office or mailbox.

 - 3. Certified mail. When mailed certified mail, return receipt requested: notice is effective on receipt, if delivery is confirmed by a return receipt.

 - 4. Overnight delivery. When delivered by an overnight delivery service, charges prepaid or charged to the sender's account: notice is effective on delivery, if delivery is confirmed by the delivery service.

 - 5. Facsimile transmission. When sent by fax to the last fax number of the recipient known to the party giving notice: notice is effective on receipt. Any notice given by fax will be deemed received on the next business day if it is received after 5:00 p.m. (recipient's time) or on a non-business day.

6. Addresses for purpose of giving notice are as follows:

CONSULTANT: Bartef Yoosephiance & Associates, Inc.
18345 Ventura Boulevard, Suite 514
Tarzana, CA 91356

Fax: 818-345-8615

CITY: City Clerk
City of Torrance
3031 Torrance Boulevard
Torrance, CA 90509-2970
Fax: (310) 618-2931

- B. Any correctly addressed notice that is refused, unclaimed, or undeliverable because of an act or omission of the party to be notified, will be deemed effective as of the first date the notice was refused, unclaimed or deemed undeliverable by the postal authorities, messenger or overnight delivery service.
- C. Either party may change its address or fax number by giving the other party notice of the change in any manner permitted by this Agreement.

21. PROHIBITION AGAINST ASSIGNMENT AND SUBCONTRACTING

This Agreement and all exhibits are binding on the heirs, successors, and assigns of the parties. The Agreement may not be assigned or subcontracted by either CITY or CONSULTANT without the prior written consent of the other.

22. INTEGRATION; AMENDMENT

This Agreement represents the entire understanding of CITY and CONSULTANT as to those matters contained in it. No prior oral or written understanding will be of any force or effect with respect to the terms of this Agreement. The Agreement may not be modified or altered except in writing signed by both parties.

23. INTERPRETATION

The terms of this Agreement should be construed in accordance with the meaning of the language used and should not be construed for or against either party by reason of the authorship of this Agreement or any other rule of construction that might otherwise apply.

24. SEVERABILITY

If any part of this Agreement is found to be in conflict with applicable laws, that part will be inoperative, null and void insofar as it is in conflict with any applicable laws, but the remainder of the Agreement will remain in full force and effect.

25. TIME OF ESSENCE

Time is of the essence in the performance of this Agreement.

26. **GOVERNING LAW; JURISDICTION**

This Agreement will be administered and interpreted under the laws of the State of California. Jurisdiction of any litigation arising from the Agreement will be in Los Angeles County, California.

27. **COMPLIANCE WITH STATUTES AND REGULATIONS**

CONSULTANT will be knowledgeable of and will comply with all applicable federal, state, county and city statutes, rules, regulations, ordinances and orders.

28. **WAIVER OF BREACH**

No delay or omission in the exercise of any right or remedy by a nondefaulting party on any default will impair the right or remedy or be construed as a waiver. A party's consent or approval of any act by the other party requiring the party's consent or approval will not be deemed to waive or render unnecessary the other party's consent to or approval of any subsequent act. Any waiver by either party of any default must be in writing and will not be a waiver of any other default concerning the same or any other provision of this Agreement.

29. **ATTORNEY'S FEES**

Except as provided for in Paragraph 15, in any dispute, litigation, arbitration, or other proceeding by which one party either seeks to enforce its rights under this Agreement (whether in contract, tort or both) or seeks a declaration of any rights or obligations under this Agreement, the prevailing party will be awarded reasonable attorney's fees, together with any costs and expenses, to resolve the dispute and to enforce any judgment.

30. **EXHIBITS**

All exhibits identified in this Agreement are incorporated into the Agreement by this reference.

31. **CONSULTANT'S AUTHORITY TO EXECUTE**

The person(s) executing this Agreement on behalf of the CONSULTANT warrant that (i) the CONSULTANT is duly organized and existing; (ii) they are duly authorized to execute this Agreement on behalf of the CONSULTANT; (iii) by so executing this Agreement, the CONSULTANT is formally bound to the provisions of this Agreement;

and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which the CONSULTANT is bound.

CITY OF TORRANCE
a Municipal Corporation

Bartef Yoosephiance & Associates, Inc.
a California Corporation

Frank Scotto, Mayor

ATTEST:

By: _____
Bartef Yoosephiance
President

Sue Herbers
City Clerk

APPROVED AS TO FORM:
JOHN L. FELLOWS III
City Attorney

By: _____

Attachments: Exhibit A Proposal

Revised: 1/30/01

EXHIBIT A
PROPOSAL

BYA Bartef Yoosephiance & Associates, Inc.

Consulting Mechanical Engineers
18345 Ventura blvd., Suite 514
Tarzana, CA. 91356
Tel. (818) 345-8614
Fax.(818) 345-8615

March 5, 2008

Mr. Hrand Ibranossian
Department of General Services
City of Torrance,
3031 Torrance Blvd.
Torrance, CA 90503

Regarding: City of Torrance Cultural Arts Center

Dear Mr. Ibranossian:

We are pleased to submit this proposal for consulting mechanical engineering services for the above named projects.

PROJECT DESCRIPTION

The project consists of engineering and specification for replacement of existing water cooled chiller in the Cultural Arts Center building, located at 3330 Civic Center Drive, Torrance, California

A. SCOPE OF WORK

1. Construction document for replacement of existing water cooled chiller with a new more efficient water cooled chiller.
2. Site survey to assess existing conditions.
3. On drawing specification
4. Plan check corrections, as required

B. WORK NOT INCLUDED

1. Construction administration including construction observation site-visits, to observe construction activity (This work will be provided under extra services contract upon written authorization by the Client)
2. Value engineering design

Torrance Cultural Arts Center
March 5, 2008
Page 2 of 2

C. EXTRA SERVICES

1. Client's requested changes, which are inconsistent with previously approved or completed design. All minor revisions or adjustments are part of the basic Scope of Work.
2. Items not included in Paragraph A, Scope of Work.
3. Compensation for extra services shall be reimbursed on a base hourly rate of \$95.00 per hour.

D. COMPENSATION

1. Our fee for services as outlined will be a lump sum of \$12,000.00 due and payable on monthly progress billings.

E. REIMBURSABLES

1. Reproduction costs of drawings and documents, including AutoCAD plotting other than for in house use.
2. Plan check fees.
3. Messenger service charges

We are looking forward to this opportunity of working with you. Please indicate your acceptance of this contract by sending us a work order number to proceed.

Very truly yours,
BARTEF YOOSEPHIANCE AND ASSOCIATES, INC.

Bartef Yoosephiance, PE
President

