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DEPARTMENT OF PUBLIC WORKS

**Engineering Division
100 North Appleton Street
Appleton, WI 54911
TEL (920) 832-6474
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MEMO

TO: Municipal Services Committee

FROM: Ross Buetow, Deputy Director of Public Works

SUBJECT: Professional Engineering and Construction Administration Services - 2023 Repair and Maintenance Program for the Red, Yellow, and Green Parking Ramps

DATE: April 10, 2023

In February of 2021, the Common Council authorized a sole source professional services agreement with Desman Design Management ("Desman") for planning, design and administrative services related to the structural maintenance of the City's public parking ramps. This agreement was authorized for a five-year period, subject to continued satisfactory performance by Desman.

In 2022, Desman completed a comprehensive update to their original 2019 structural condition analysis of all three of the City's parking ramps. The update included detailed descriptions of the structural condition of each ramp as well as general recommendations for short and long-term maintenance and repair needs.

In response to a 2023 request from the Department of Public Works, Desman has provided a proposal for professional engineering & construction administration services for repair and maintenance activities in the Red, Yellow, and Green Parking Ramps. A copy of the proposal accompanies this memo. Their proposed 2023 maintenance activities have been selected and prioritized based on their 2022 structural condition analysis. Desman's proposed fee for these services is \$50,480.00.

There is currently \$40,000.00 allocated in the 2023 Parking budget for consulting services, plus an additional \$6,940.00 of 2022 consulting service funds carried over to 2023. An additional \$3,540.00 of Parking Repairs and Maintenance funds would be used to fully fund the proposed scope of services.

In summary, we recommend award of contract for 2023 Parking Ramp Professional Engineering and Construction Administration Services to Desman Design Management in an amount not to exceed \$50,480.00.

Thank you for your consideration.

March 22nd, 2023

Mr. Ross Buetow
Deputy Director of Public Works | City Engineer
City of Appleton
Appleton, WI 54911

Sent via email to: Ross.Buetow@appleton.org

Re: Proposal for Professional Engineering & Construction Administration Services 2023 Repair and Maintenance Program for the Red, Yellow, and Green Parking Garages in Appleton, WI

Dear Mr. Buetow:

In response to our 2/23/23 discussion, DESMAN is pleased to submit the following proposal to the City of Appleton (Appleton) to provide professional services for the Red, Yellow, and Green Parking garages in the City of Appleton, WI per the recommendations provided in our previous condition assessment report.

UNDERSTANDING OF CAPEX WORK SCOPE

As discussed during our 2/23/23 meeting Appleton expects an estimate repair budget of roughly \$700,000 for 2023. That budget is currently intended to be used to address the 2023 priority repair items in the Red and Green Garages identified in DESMAN's current condition assessment report as well as the 2024 scope recommended for the Yellow Parking Garage.

SCOPE OF SERVICES

DESMAN proposes the following SCOPE OF SERVICES for the Red, Yellow, and Green Parking Garages in 2023:

PHASE II TASKS - Construction Documents (CD's)

- A. Review existing documents within our files, including existing drawings, photos, notes and our most recent condition assessment report, etc.
- B. Discuss with Appleton staff the construction budget, user requirements, and scope of repair work and verify and quantify the types, locations and other details of the repairs in order to prepare a Contractor bid package for 2023 repair and maintenance project at each garage.
- C. Prepare a single bid package for 2023 Repair and Maintenance work. The 2023 Repair and Maintenance program will be competitively bid with the intent to award all properties to one contractor (although individual awards are possible). The bid package will describe the work and generally consist of the following components:
 1. Construction drawings/sketches and details, as required, illustrating repairs, removal and replacement and installation of new products, as applicable, for budgeted work categories listed and described in the current DESMAN Condition Assessment Report and confirmed by discussions with Appleton.
 2. Technical specifications, as required, for each work category shown under item *D.1.*, including outline of performance criteria, repair procedures, material testing requirements during construction, warranties, etc.

3. Front-end requirements, as required, provided by Appleton and incorporated into the Project Manual such as; General and Special Conditions, Insurance Requirements, Bonding Requirements, Incentives and/or Liquidated Damages, as applicable.
 4. Proposal Form describing the work with estimated quantities formatted for payment based on a lump sum or unit price basis, as applicable.
 5. Work phasing plan, if applicable, that meets Appleton's requirements for keeping the parking facilities open (or portion thereof) at all times during construction will be included. Details related to phasing of the work will be reviewed and approved by Appleton.
- D. Furnish up to two reproducible sets of the drawings and technical specifications or pdf electronic format files to Appleton at the 90% completion level for review and comment. If necessary, DESMAN will schedule a meeting or conference call with Appleton to discuss comments on the documents and bidding and construction schedules.
- E. DESMAN will incorporate comments from Appleton and issue finalized drawings and technical specifications.

PHASE III TASKS - Contractor Proposal & Contract Negotiations

- A. Issue the bid package to the Contractor(s), in electronic PDF file format, transmitted via email.
- B. Attend a Pre-bid Conference at one or several properties (to be determined with Appleton), conduct a walk-through site visit at that property with the Contractor(s), and Appleton personnel. Based on Contractor(s) Requests for Information (RFI), DESMAN will prepare an Addenda and issue to the Contractor(s), if necessary, incorporating any changes or clarifications, which arise from the Conference.
- C. Review Contractor(s) bid(s) and provide an acceptance recommendation to Appleton.

PHASE IV TASKS - Construction Observation & Contract Administration

- A. Conduct a Pre-Construction conference between DESMAN, the Contractor, Appleton, and other parties if appropriate and necessary for effective construction of the project. Clarify lines of communication, policies, routing of shop drawings, correspondence, etc. DESMAN will prepare an agenda and distribute meeting minutes.
- B. Maintain the following documents, as applicable, during construction and deliver to Appleton upon project completion:
 1. Reports of job conferences, meetings, and discussions among DESMAN, Appleton and the Contractor via meeting notes, emails, etc.;
 2. Shop drawings and samples submissions as provided by the Contractor;
 3. One set of approved construction Contract Documents;
 4. Addenda, Change Orders or Construction Change Directives if issued;
 5. Additional drawings issued subsequent to execution of the construction Contract Documents;
 6. DESMAN clarifications and interpretations of the construction Contract Documents if required;
 7. Progress Reports from periodic on-site observations;
 8. Names, addresses and telephone numbers of the Contractor, subcontractors, and major suppliers of materials and equipment as supplied by the Contractor;

9. "As Built" set of record construction documents prepared and submitted by the Contractor and reviewed by DESMAN, and Appleton;
- C. Conduct periodic on-site observations of the repair work at intervals appropriate to the stage of construction to become familiar with the progress and quality of the work completed. The number of anticipated site visits per project (including a pre-construction conference and a substantial completion visit) are listed in the appropriate section of the included bid form. DESMAN will make critical observations at the beginning of each repair phase to observe methods of material removal, surface preparation, and installation procedures. On the basis of the on-site observations, DESMAN shall keep Appleton informed of the progress and quality of the work, and shall endeavor to guard against defects and deficiencies in the work. A Site Observation Report will be completed with each site visit and submitted to Appleton and others as appropriate.
- D. Review and respond to requests for information ("RFI's").
- E. Review and certify Contractor's Applications for Payment. DESMAN will verify the quantities of work, which are the basis of the payment request.
- F. Review, provide recommendations or take other appropriate action upon Contractor's submittals such as Shop Drawings or Product Data and Samples; but only for the limited purpose of reviewing for conformance with information given and the design concept expressed in the Contract Documents.
- G. Review Contractor prepared Change Orders, including applications for extensions of construction time, and Construction Change Directives, with supporting documentation and data, if deemed necessary by DESMAN, and Appleton. DESMAN shall evaluate the cost and scheduling aspects of all change orders and, where necessary, negotiate with the Contractor to obtain a fair price for the work. DESMAN may authorize minor changes in the work not involving an adjustment in the Contract Sum or an extension of the Contract Time and which are consistent with the intent of the Contract Documents.
- H. Upon substantial completion of the work, when notified by the contractor, attend a site visit to prepare a list of observed items (Site Observation Report) to be completed or corrected before final completion of the contract for each phase of the project. Contractor shall be responsible to prepare a punch list of work they believe needs to be completed or corrected prior to DESMAN's substantial completion site visit for review.
- I. Upon completion of all work within the Contractors work scope, as accepted by Appleton, DESMAN will review and forward all waivers and warranties and execute the project closeout.
- J. Review a set of "As-Built" drawings prepared by the Contractor regarding the work completed. One set of copies of these documents will be reproduced and issued to Appleton along with a file version of the documents in electronic format.

FEE SCHEDULE

DESMAN will provide the above SCOPE OF SERVICES as outlined for *PHASES II, III and IV* for the Red, Yellow, and Green Parking Garages Repair and Maintenance work following lump sum fee schedule:

PHASE II TASKS - Construction Documents	\$21,600.00
PHASE III TASKS - Contract Negotiations	\$2,880.00
PHASE IV TASKS - Construction Observation & Contract Administration	\$25,200.00*
Total DESMAN Professional Fees for the TASKS II, III & IV	\$49,680.00

Itemized reimbursable expenses for printing costs of project deliverables and travel are expected to add about \$800.00 to this sub-total.

* The PHASE IV TASKS fee shown is a lump sum amount based upon the hourly basis per the hourly rates listed under ADDITIONAL SERVICES. PHASE IV fees are based on a 2023 repair and maintenance program and is based upon a construction phase schedule, to complete the scheduled repair/preventative maintenance work, of twenty weeks which includes services associated with punch-list and project close-out. This fee also includes an average of 4 hours per week for administrative services along with eight visits to the projects (a pre-construction visit, six progress visits, and a substantial completion visit during Phase IV work. Should the actual construction period exceed twenty weeks in duration, or an average of more than 4 hours per week are expended, then an appropriate fee increase to DESMAN’s PHASE IV TASKS fee amount may be necessary.

Invoices will be submitted each month and are due and payable within 30 days.

QUALIFICATIONS TO THE SCOPE OF SERVICES

The following qualifications to the SCOPE OF SERVICES apply:

1. Observation, assessment, reporting and any responsibility regarding the discovery, presence, handling, removal and disposal of, or exposure of persons to, hazardous materials in any form at the project site, including but not limited to, asbestos, asbestos products, lead, polychlorinated biphenyl (PCB) or other toxic substance.
2. Material testing during the construction phase is not included. This service is typically the responsibility of the selected contractor.
3. Charges for reproduction and printing of construction documents for bidding and permitting;
4. Permit Fees of any kind;
5. Preparation of Public Filings or Permits;

CLOSURE

On behalf of DESMAN's team of professionals, we appreciate this opportunity to submit the enclosed proposal. If you are in agreement with the information contained herein, please sign on the space provided below and return a copy of this signed page to DESMAN.

Sincerely,

DESMAN



Jeffrey S. Henriksen, R.A.
Senior Vice President



Kyle Klepitch, PE (IL)
Senior Associate

Proposal Accepted by:
City of Appleton

Signature

Name:

Title:

Date

STANDARD TERMS AND CONDITIONS OF AGREEMENT

The engagement of DESMAN, Inc. ("DESMAN") by the City of Appleton ("Client") is under the following terms and conditions, as applicable, and is an integral part of the Agreement between Client and DESMAN.

1. Unless noted or otherwise requested, the fee estimate for the proposed Scope of Services is valid for 60 days from the date of Proposal.
2. All schedules set forth in the attached Scope of Services commence upon receipt of a signed Agreement unless noted otherwise, and if requested, a retainer. All retainer amounts will be applied to the last invoice. A RETAINER OF \$ 0 IS REQUIRED BEFORE WORK CAN COMMENCE UNDER THE AGREEMENT.
3. Before DESMAN shall be called upon to provide its services there under, the Client shall provide DESMAN, in writing, with all necessary information to permit its proper performance of the services to be provided. DESMAN shall be under no duty or obligation to verify the completeness or accuracy of the information provided by the Client and shall be entitled to fully rely thereon.
4. Client shall provide the necessary access and right-of-entry for DESMAN to enter the Project site, and to all shops and yards where materials are prepared or stored in order to allow DESMAN to perform their services.
5. The Client shall provide DESMAN with sufficient advance notice of required service so as to allow DESMAN a reasonable period of time to coordinate the assignment of its personnel. If DESMAN is required to delay commencement of its work, or is required to stop or interrupt the progress of its work due to action/inaction of Client, additional charges will be applicable and payable by the Client, which must be documented.
6. DESMAN will not act to enforce the provisions of the contract drawings or specifications. Should DESMAN, in the proposal, accept responsibility for site observations or monitoring, it remains the responsibility of the Client to enforce the contract provisions and to effect corrections of any contractual deficiencies, which are discovered by DESMAN. Desman shall not be liable for the contractor's failure to perform the work in accordance with the contract documents.
7. Testing results apply only to the material samples actually tested. Test specimens or samples will be disposed immediately upon completion of the test, unless otherwise agreed.
8. Payment is due upon receipt of DESMAN's invoices. Payment to DESMAN is the sole responsibility of signatory of this Agreement and is not subject to third party agreements. If payment is not received within thirty (30) days of receipt by Client, Client agrees to pay a finance charge on the principal amount of the past due account to one and one half (1 1/2%) percent per month. The Client agrees to pay DESMAN's cost of collection of all amounts due and unpaid after sixty (60) days, including court costs and reasonable attorney's fees.
9. Invoice payments must be kept current for work to continue. If the Client fails to pay any invoice due to DESMAN within 45 days of the date of the invoice, DESMAN may, without waiving any other claim or right against Client, suspend services under this Agreement until DESMAN has been paid in full all amounts due DESMAN and/or any of its Consultants and Subcontractors.

10. DESMAN agrees to carry the following insurance during the term of this Agreement: Workmen's compensation, General Liability, Professional Liability and Comprehensive Automobile Liability. Certificates of insurance will be furnished upon request. If the Client requires insurance coverage or coverage limits in excess of DESMAN's normal policy coverage, and if such coverage is available, Client agrees to reimburse DESMAN for cost premiums to carry such additional coverage.
11. DESMAN's liability for any damage on account of any error, omission, or other professional negligence will be limited to a sum not-to-exceed the fee received under this Agreement. DESMAN, its agents and employees shall not be liable for any lost profits or any claim or demand against Client by any other party unless caused by negligence or wanton act or omission of DESMAN. In no event shall DESMAN be liable for special, consequential or exemplary damages. This provision shall supersede any other provision in this Agreement that may be deemed inconsistent with it. No action, regardless of form, arising out of the service under this Agreement, may be brought by the Client more than one (1) year after the act or omission-giving rise to a cause of action has occurred.
12. The Client shall indemnify, defend, and hold DESMAN, its officers, employees, and agents harmless from any and all claims, suits, losses, costs, and expenses, including but not limited to, court costs and reasonable attorney's fees arising or alleged to have arisen out of or to have resulted from the performance of DESMAN's work on or about the subject Project, and caused in whole or in part by any negligent, willful, or wanton act or omission of the Client.
13. In the event that either party brings any claim, suit, cause of action, of counterclaim against the other, to the extent that such party prevails upon such action, the non-prevailing party shall pay to the prevailing party the costs expended by the prevailing party to defend against such action including reasonable attorney's fees, witness fees, and other related expenses.
14. DESMAN shall not be responsible for failure to perform or for delays in the performance of work, which arise out of causes beyond the control and without the fault or negligence of DESMAN.
15. In entering into this Agreement, Client has relied only upon the warranties or representations (a) set forth in this Agreement; or (b) implied in law. No oral warranties, representations or statements shall be considered a part of this Agreement or a basis upon which the Client relied in entering into this Agreement. No statements, representations, warranties or understandings, unless contained herein, exist between Client and DESMAN.
16. Either party upon seven (7) days prior written notice may terminate this Agreement. In the event of termination without cause, DESMAN shall be compensated by the Client for (a) all services performed up to and including the termination date, (b) reimbursable expenses and; (c) termination expenses.
17. DESMAN's review associated with the Report shall be limited to the examination of the condition of the structure/s as defined by the scope of work, for the sole purpose of determining work required. This report shall be limited to an unaided visual examination and does not include destructive or non-destructive testing, non-invasive investigation techniques.
18. DESMAN's reports and/or documents defined by the scope of work shall not be construed to warrant or guarantee the structure/s and/or any of its components under any circumstances. DESMAN shall not be responsible for latent or hidden defects that may exist, nor shall it be inferred that all defects will have been either observed or recorded. The review and/or report(s) is intended solely to identify the general condition of the structure/s and the necessity for repairs. DESMAN's review and/or report(s) shall not constitute a detailed specification for repairs.