



DATE: January 26, 2011
TO: Honorable Mayor and City Councilmembers
FROM: Public Works Department
SUBJECT: **PROFESSIONAL SERVICES AGREEMENT FOR HEATING,
VENTILATING AND AIR CONDITIONING UNIT REPLACEMENT**

SYNOPSIS

Staff recommends that the City Council approve a Professional Services Agreement with Advance Energy Design of Orange, California, in the amount of \$258,050 in grant funds for the replacement of 33 Heating, Ventilating and Air Conditioning (HVAC) package units on various City buildings, and authorization for the City Manager to execute the agreement.

BACKGROUND

In 2005 the City instituted a program to replace marginally performing components of the Civic Center HVAC system and HVAC package units on other City buildings as they reached the end of their productive life cycle and it was no longer economically prudent to repair them.

On December 16, 2009, the City Council accepted funds in the amount of \$1,517,100 from the U.S. Department of Energy (DOE) awarded the City of Oceanside for Phase I energy-efficiency planning, retrofits, and the Transportation Monitoring Center project. This grant has allowed the City to fund the replacement program for the essential components of the Civic Center HVAC system, the installation of the Metasys Building Automation Control System, and the purchase and installation of the HVAC package units that have reached the end of their productive life cycle.

ANALYSIS

A notice inviting sealed bids for the Professional Services Agreement was advertised in local newspapers and trade journals in accordance with the City's standard bidding procedure. The bids were opened on October 3, 2010. Five (5) qualified bids were received and are summarized in Exhibit A.

Advance Energy Design of Orange, California was the low bidder with a bid of \$245,500. Staff considered their overall qualifications, including the qualifications of key personal, prior experience, availability and ability to complete the project in the prescribed timeframe, and checked their references. Staff feels the City would be best served by awarding the agreement to Advance Energy Design.

Advance Energy Design's bid was lower than expected. As part of the agreement negotiations with Advance Energy Design a new unit was added for the old art school space next to the Brooks Theater and an additional unit at the City Operation Center was replaced which brought the agreement total to \$258,050. The final negotiated purchase agreement meets the requirements of City Code Chapter 28.

FISCAL IMPACT

Funding for the \$258,050 agreement plus contingency is included in the \$1,517,100 in grant funds from the United States Department of Energy (DOE) awarded to the City of Oceanside for Phase I energy efficiency planning, retrofits and the Transportation Monitoring Center project. The funds are in account number 999115900274.5320.

INSURANCE REQUIREMENTS

The City's standard insurance requirements will be met.

COMMISSION OR COMMITTEE REPORT

Does not apply.

CITY ATTORNEY'S ANALYSIS

The referenced documents have been reviewed by the City Attorney and approved as to form.

RECOMMENDATION

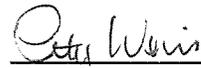
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PREPARED BY:

SUBMITTED BY:



Gary P. Gurley
General Services Manager



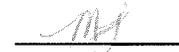
Peter Weiss
City Manager

REVIEWED BY:

Michelle Skaggs Lawrence, Deputy City Manager

Teri Ferro, Financial Services Director

Joseph Arranaga, Deputy Public Works Director





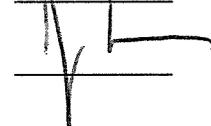


Exhibit A

Exhibit A

<u>BIDDER</u>	<u>BID PRICE</u>
Advanced Energy Design, Orange CA	\$245,500
Countrywide Mechanical Services, Santee, CA	\$247,620
Master Built Construction, San Diego, CA	\$249,546
EMCOR/MESD Energy, Lemon Grove, CA	\$276,500
Johnson Controls, San Diego, CA	\$372,730

CITY OF OCEANSIDE

PROFESSIONAL SERVICES AGREEMENT

PROJECT: HVAC PACKAGE UNIT REPLACEMENT

THIS AGREEMENT dated _____, 2011 for identification purposes is made and entered into by and between the CITY OF OCEANSIDE, a municipal corporation, hereinafter designated as "CITY", and Advanced Energy Design, hereinafter designated as "CONTRACTOR."

Contents of AGREEMENT Documents. The AGREEMENT Documents for this project shall consist of the Notice Inviting Sealed Bids, Instructions to Bidders, Bid Documents, Notice of Award, Award Documents, Notice to Proceed, General Provisions, Special Provisions, Plans, and all permits from other agencies as may be required by law. All AGREEMENT Documents not attached hereto are incorporated herein by reference.

The AGREEMENT Documents may be amended in writing from time to time in accordance with Section 11 to clarify or modify the work contemplated in order to ensure the completion of the work in an acceptable manner. These amendments shall be incorporated into the AGREEMENT Documents.

If there is a conflict between AGREEMENT Documents, the document highest in precedence shall control. The precedence shall be:

- a. Requirements set by Local, State and Federal law, including permits required thereby.
- b. Amendments approved pursuant to Section 11.
- c. Instructions to Bidders, Notice of Award, Award Documents, and Notice to Proceed.
- d. General Provisions.
- e. Special Provisions.
- f. Bid Documents and Exhibits.

HVAC PACKAGE UNIT REPLACEMENT

- g. Notice Inviting Sealed Bids, all other notices, reports, and documents to the extent specifically referred to in other AGREEMENT Documents.

NOW THEREFORE, THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. **SCOPE OF WORK.** The project is more particularly described in Exhibit "A" attached hereto and by this reference made a part of this Agreement.
2. **INDEPENDENT CONTRACTOR.** CONTRACTOR'S relationship to the CITY shall be that of an independent contractor. CONTRACTOR shall have no authority, express or implied, to act on behalf of the CITY as an agent, or to bind the CITY to any obligation whatsoever, unless specifically authorized in writing by the Director, Public Works. The CONTRACTOR shall not be authorized to communicate directly with, nor in any way direct the actions of, any bidder or the construction contractor for this project without the prior written authorization by the Director, Public Works. CONTRACTOR shall be solely responsible for the performance of any of its employees, agents, or subcontractors under this Agreement. CONTRACTOR shall report to the CITY any and all employees, agents, and consultants performing work in connection with this project, and all shall be subject to the approval of the CITY.
3. **WORKERS' COMPENSATION.** Pursuant to Labor Code section 1861, the CONTRACTOR hereby certifies that the CONTRACTOR is aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of that Code, and the CONTRACTOR will comply with such provisions, and provide certification of such compliance as a part of this Agreement.
4. **LIABILITY INSURANCE.**
 - 4.1. CONTRACTOR shall, throughout the duration of this Agreement maintain comprehensive general liability and property damage insurance, or commercial general liability insurance, covering all operations of CONTRACTOR, its agents and employees, performed in connection with this Agreement including but not limited to premises and automobile.
 - 4.2. CONTRACTOR shall maintain liability insurance in the following minimum limits:

Comprehensive General Liability Insurance
(Bodily injury and property damage)

Combined Single Limit per Occurrence	\$ 1,000,000
General Aggregate	\$ 2,000,000*

HVAC PACKAGE UNIT REPLACEMENT

Commercial General Liability Insurance
(Bodily injury and property damage)

General limit per occurrence	\$ 1,000,000
General limit project specific aggregate	\$ 2,000,000

<u>Automobile Liability Insurance</u>	\$ 1,000,000
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*General aggregate per year, or part thereof, with respect to losses or other acts or omissions of CONTRACTOR under this Agreement.

- 4.3** If coverage is provided through a Commercial General Liability Insurance policy, a minimum of 50% of each of the aggregate limits shall remain available at all times. If over 50% of any aggregate limit has been paid or reserved, the CITY may require additional coverage to be purchased by the CONTRACTOR to restore the required limits. The CONTRACTOR shall also notify the CITY'S Project Manager promptly of all losses or claims over \$25,000 resulting from work performed under this contract, or any loss or claim against the CONTRACTOR resulting from any of the CONTRACTOR'S work.
- 4.4** All insurance companies affording coverage to the CONTRACTOR for the purposes of this Section shall add the City of Oceanside as "additional insured" under the designated insurance policy for all work performed under this agreement. Insurance coverage provided to the City as additional insured shall be primary insurance and other insurance maintained by the City of Oceanside, its officers, agents, and employees shall be excess only and not contributing with insurance provided pursuant to this Section.
- 4.5** All insurance companies affording coverage to the CONTRACTOR pursuant to this agreement shall be insurance organizations admitted by the Insurance Commissioner of the State of California to transact business of insurance in the state or be rated as A-X or higher by A.M. Best.
- 4.6** All insurance companies affording coverage shall provide thirty (30) days written notice to the CITY should the policy be cancelled before the expiration date. For the purposes of this notice requirement, any material change in the policy prior to the expiration shall be considered a cancellation.
- 4.7** CONTRACTOR shall provide evidence of compliance with the insurance requirements listed above by providing a Certificate of Insurance, in a form satisfactory to the City Attorney, concurrently with the submittal of this Agreement.
- 4.8** CONTRACTOR shall provide a substitute Certificate of Insurance no later than thirty (30) days prior to the policy expiration date. Failure by the CONTRACTOR

HVAC PACKAGE UNIT REPLACEMENT

to provide such a substitution and extend the policy expiration date shall be considered a default by CONTRACTOR and may subject the CONTRACTOR to a suspension or termination of work under the Agreement.

- 4.9 Maintenance of insurance by the CONTRACTOR as specified in this Agreement shall in no way be interpreted as relieving the CONTRACTOR of any responsibility whatsoever and the CONTRACTOR may carry, at its own expense, such additional insurance as it deems necessary.

5. **PROFESSIONAL ERRORS AND OMISSIONS INSURANCE.** Intentionally omitted.

6. **CONTRACTOR'S INDEMNIFICATION OF CITY.** CONTRACTOR shall indemnify and hold harmless the CITY and its officers, agents and employees against all claims for damages to persons or property arising out of the negligent acts, errors or omissions or wrongful acts or conduct of the CONTRACTOR, or its employees, agents, subcontractors, or others in connection with the execution of the work covered by this Agreement, except for those claims arising from the willful misconduct, sole negligence or active negligence of the CITY, its officers, agents, or employees. CONTRACTOR'S indemnification shall include any and all costs, expenses, attorneys' fees, expert fees and liability assessed against or incurred by the CITY, its officers, agents, or employees in defending against such claims or lawsuits, whether the same proceed to judgment or not. Further, CONTRACTOR at its own expense shall, upon written request by the CITY, defend any such suit or action brought against the CITY, its officers, agents, or employees resulting or arising from the conduct, tortious acts or omissions of the CONTRACTOR.

CONTRACTOR'S indemnification of CITY shall not be limited by any prior or subsequent declaration by the CONTRACTOR.

7. **COMPENSATION.** CONTRACTOR'S compensation for all work performed in accordance with this Agreement is contained in Exhibit "B" attached hereto and by this reference made a part of this Agreement.

No work shall be performed by CONTRACTOR in excess of the total contract price without prior written approval of the Director, Public Works. CONTRACTOR shall obtain approval by the Director, Public Works prior to performing any work, which results in incidental expenses to CITY.

8. **TIMING REQUIREMENTS.** Time is of the essence in the performance of work under this Agreement and the timing requirements shall be strictly adhered to unless otherwise modified in writing. All work shall be completed in every detail to the satisfaction of the Engineer within [number of working or calendar days] [project manager may insert a phased timing requirement instead of time certain, if desired].

HVAC PACKAGE UNIT REPLACEMENT

- 9. **ENTIRE AGREEMENT.** This Agreement comprises the entire integrated understanding between CITY and CONTRACTOR concerning the work to be performed for this project and supersedes all prior negotiations, representations, or agreements.
- 10. **INTERPRETATION OF THE AGREEMENT.** The interpretation, validity and enforcement of the Agreement shall be governed by and construed under the laws of the State of California. The Agreement does not limit any other rights or remedies available to CITY.

The CONTRACTOR shall be responsible for complying with all local, state, and federal laws whether or not said laws are expressly stated or referred to herein.

Should any provision herein be found or deemed to be invalid, the Agreement shall be construed as not containing such provision, and all other provisions, which are otherwise lawful, shall remain in full force and effect, and to this end the provisions of this Agreement are severable.

- 11. **AGREEMENT MODIFICATION.** This Agreement may not be modified orally or in any manner other than by an agreement in writing signed by the parties hereto.
- 12. **SIGNATURES.** The individuals executing this Agreement represent and warrant that they have the right, power, legal capacity and authority to enter into and to execute this Agreement on behalf of the respective legal entities of the CONTRACTOR and the CITY.

IN WITNESS WHEREOF the parties hereto for themselves, their heirs, executors, administrators, successors, and assigns do hereby agree to the full performance of the covenants herein contained and have caused this Professional Services Agreement to be executed by setting hereunto their signatures on the dates set below.

ADVANCED ENERGY DESIGN

CITY OF OCEANSIDE

By: [Signature]
Name/Title LEONARD MICHAEL BARTH
V.P.

By: _____
Peter A. Weiss, City Manager

By: [Signature]
Name/Title D. T. DE STEFANO
CORP SECTY
27-0473274
Employer ID No. CORPORATION

APPROVED AS TO FORM:
[Signature]
City Attorney

NOTARY ACKNOWLEDGMENTS OF CONTRACTOR MUST BE ATTACHED.

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

State of California

County of Orange }

On January 3 2011 before me, Maureen Abel Notary Public
Date Here Insert Name and Title of the Officer

personally appeared Leonard Michael Barth and
Name(s) of Signer(s)
D. J. De Stefano

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: Maureen Abel
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

- Corporate Officer — Title(s): _____
- Individual
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

Signer Is Representing: _____

Signer's Name: _____

- Corporate Officer — Title(s): _____
- Individual
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

Signer Is Representing: _____

Exhibit A

HVAC PACKAGE UNIT REPLACEMENT

The CONTRACTOR shall furnish all labor, equipment, materials, tools, services and special skills required to HVAC package units as set forth in this specification.

The equipment will be the highest SEER/EER YORK or CARRIER equipment being manufactured at this time and available without the need of adding a building management system.

Fire Station #6 includes change out of all equipment but existing line sets to remain where not accessible. Refrigerant line sets are in wall on south end behind cabinets. Purge, flush and pressure test of existing and replace what lines are exposed. Cut concrete and remove, minimal trenching, install new refrigerant lines from furnace through attic to condenser outside. Replace concrete for trench to existing elevation.

City Operations Center complete change out of existing package and split units named or referred to. There are two existing York units which are belt drive blower's commercial line. To get a higher efficiency we need to go to direct drive blower to get variable speed to raise Seer. The rest of the units are side shot direct drive units on roof. The two large units will be removed and existing curb adapter. All side shot units will have new supply and return ducting stub outs or adapters to connect to existing roof penetrations.

Melba Community Center is a straight change out with adapter curbs from Carrier to York.

Senior Center set units on curbs where ducts penetrate roof. Eliminate long ducting runs. Electrical is by roof penetrations

Brooks Theater includes replacing the wood support structure for the units that are dry rotted. Also ducting will be replaced. New units are heat pumps.

Surf Museum includes cutting penetrations, set roof curb, drop plenums, stat wire and set disconnect. No roofing repair.

**All units to have new disconnect proper sized fuses and code required rejection clips. New condensate PVC piping properly supported. **

Exhibit A

HVAC PACKAGE UNIT REPLACEMENT

The listed equipment is the highest SEER / EER rated YORK equipment being manufactured and available at this time. Comparable Carrier brand equipment may be substituted with written City approval.

FIRE STATION #6

2	YP9C120D20MP12	5T 97% Modulating Multi-position Furnace
2	CH602D6	5T Hi efficiency Horizontal Coil
1	YP9C080C16MP12	4T 97% Modulating Multi-position Furnace
1	CH480C6	4T Hi efficiency Horizontal Coil
1	YP9C060B12MP12	3T 97% Modulating Multi-position Furnace
1	CH360B6	3T Hi efficiency Horizontal Coil
2	TCHD60S43S3	5T 13 seer Horiz discharge R410 208/230 3ph condenser
1	TCHD48S43S3	4T 13 seer Horiz discharge R410 208/230 3ph condenser
1	TCHD36S43S3	3T 13 seer Horiz discharge R410 208/230 3ph condenser

CITY OPERATIONS CENTER

2	YZH02411	2T 18 seer R410 HP 208/1ph
1	YZH03611	3T 18 seer R410 HP 208/1ph
2	AVY24B3XH21	2T Variable speed 220 Air Handler
1	AVY36C3XH21	3T Variable Speed 220 Air Handler
1	BHX048A25	4T 15 seer pkg HP 208/230 3ph w/variable speed
2	BHX036A25	3T 15 seer pkg HP 208/230 3ph w/variable speed
1	BHX024A06	2T pkg HP 208/230 1ph w/variable speed blower
1	DNX024N03606NX	2T 15 seer G/E pkg unit 208/230 1ph
2	DNQ060N06525NX	5T 14 seer G/E pkg unit 208/230 3ph
1	ZF180N24P2AAA*	15T G/E pkg unit 208/230 3ph High Static / economizer
1	ZF300N32P2AAA*	25T G/E pkg unit 208/230 3ph High Static / economizer

MELBA BISHOP Park

4	BHX024A06	2T pkg HP 208/230 1ph w/variable speed 16 seer
1	XP090	7.5T HP 208/230 3ph pkg unit 11.2 EER
1	AVY30C3XH21	2.5T Variable speed 220 air Handler
1	YZH03011	2.5T 18 seer R410 HP 208/1

SENIOR CENTER

2	DNQ 036N06525NX	3T G/E pkg unit 14 seer 208/230 3ph
3	DNX024N03606NX	2T G/E pkg unit 15 seer 208/230 1ph

HVAC PACKAGE UNIT REPLACEMENT

BROOKS THEATER

2	XP120	10T HP pkg unit 208/230 3ph 11.0 EER
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New Units for Surf Museum

1	BHX024A06	2T pkg HP 208/230 1ph w/variable speed 16 seer
1	BHX048A25	4T 15 seer pkg HP 208/230 3ph w/variable speed

Exhibit B

HVAC PACKAGE UNIT REPLACEMENT

<u>LOCATION</u>	<u>COST</u>
Fire Station #6	\$33,500
City Operation Center	\$110,200
Melba Bishop Park	\$38,950
Senior Center	\$26,600
Brooks Theater	\$38,000
Surf Museum	<u>\$10,800</u>
Total Compensation	\$258,050