

*STAFF REPORT**CITY OF OCEANSIDE*

DATE: January 6, 2010

TO: Honorable Mayor and City Councilmembers

FROM: Public Works Department

SUBJECT: **APPROVAL OF PROFESSIONAL SERVICES AGREEMENT FOR CONSULTANT SERVICES WITH AECOM ENERGY**

**SYNOPSIS**

Staff recommends that the City Council approve a Professional Services Agreement with AECOM Energy of Solana Beach in an amount not to exceed \$100,000 for consultant services in support of the United States Department of Energy, Energy Efficiency and Conservation Block Grant awarded to the City of Oceanside for Phase I energy efficiency planning and retrofits, and authorize the City Manager to execute the agreement.

**BACKGROUND**

December 16, 2009 the City Council accepted a United States Department of Energy (DOE) Energy Efficiency and Conservation Block Grant (EECBG) for \$1,517,100 for Phase I energy efficiency planning, retrofits and the Transportation Management Center project. These DOE grants are funded by monies made available through various federal stimulus programs.

The grant funds will be use to complete the HVAC equipment retrofit and energy management control system installation at the Civic Center; replace inefficient lighting fixtures and/or bulbs throughout City buildings with high efficiency lighting fixtures and/or bulbs; develop an energy footprint for all City building; and provide partial funding for the Transportation Management Center project.

**ANALYSIS**

The EECBG grant includes \$100,000 of dedicated funds for consultant services to assist with the implementation and accounting requirements of the grant. During September 2009 staff prepared and distributed a request for proposals (RFP) for the grant administration support which included; developing an Investment Grade Audit (IGA) of City buildings; creating a Bench Mark Portfolio of City buildings to support and create a long range plan for energy conservation, job creation and Greenhouse Gas emissions (GHG) reductions; and the evaluation, monitoring, verification of plans, and preparing the grant required reports and audits.

Proposals were received and evaluated from three firms, Living Green of San Clemente, SEED Solutions of Oceanside, and AECOM Energy of Solana Beach. Living Green was not interested in doing all the RFP tasks and their proposal was not considered. A staff panel interviewed the two remaining firms (Exhibit A, Rating Summary.) Based on the grant requirements and the City's needs, AECOM consistently ranked highest in regard to qualifications and ability to satisfactorily complete all the tasks required by the grant. A consensus among the committee members was reached to recommend an agreement with AECOM even though they were not the low bidder.

### **FISCAL IMPACT**

The EECBG grant included dedicated funds of \$100,000 to pay for the consultant services. The grant funds are in the Public Works Deferred Building Maintenance account (630607581.5325). A budget transfer form in the amount of \$100,000 will be submitted to Finance to transfer the funds from the Infrastructure object code 5325 to the Consultant Services object code 5305 for the PSA.

### **INSURANCE REQUIREMENTS**

The City's standard insurance requirements will be provided.

### **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**

Staff recommends that the City Council approve a Professional Services Agreement with AECOM Energy of Solana Beach in an amount not to exceed \$100,000 for consultant services in support of the United States Department of Energy, Energy Efficiency and Conversation Block Grant awarded to the City of Oceanside for Phase I energy efficiency planning and retrofits, and authorize the City Manager to execute the agreement.

PREPARED BY:

SUBMITTED BY:

  
\_\_\_\_\_  
Gary P. Gurley  
General Services Manager

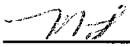
  
\_\_\_\_\_  
Peter Weiss  
City Manager

REVIEWED BY:

Michelle Skaggs Lawrence, Deputy City Manager

Joseph Arranaga, Deputy Public Works Director

Teri Ferro, Financial Services Director

  
\_\_\_\_\_

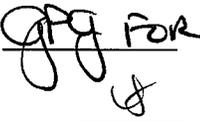
  
\_\_\_\_\_

Exhibit A

**EXHIBIT A**

**RATING SUMMARY**

<u>FIRM RANKING</u>	<u>BID PRICE</u>	<u>TOTAL POINTS</u>
AECOM, Solana Beach	\$100,000	90
SEEDS, Oceanside	\$99,390	81

**CITY OF OCEANSIDE**

**PROFESSIONAL SERVICES AGREEMENT**

**PROJECT: Energy Efficiency Technical Consulting Services**

THIS AGREEMENT dated \_\_\_\_\_, 2009 for identification purposes is made and entered into by and between the CITY OF OCEANSIDE, a municipal corporation, hereinafter designated as "CITY", and AECOM Energy, hereinafter designated as "CONSULTANT."

**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.** CONSULTANT'S relationship to the CITY shall be that of an independent contractor. CONSULTANT 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 CONSULTANT 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. CONSULTANT shall be solely responsible for the performance of any of its employees, agents, or subcontractors under this Agreement. CONSULTANT 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 CONSULTANT hereby certifies that the CONSULTANT 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 CONSULTANT will comply with such provisions, and provide certification of such compliance as a part of this Agreement.
  
4. **LIABILITY INSURANCE.**
  - 4.1. CONSULTANT shall, throughout the duration of this Agreement maintain comprehensive general liability and property damage insurance, or commercial general liability insurance, covering all operations of CONSULTANT, its agents and employees, performed in connection with this Agreement including but not limited to premises and automobile.

## Energy Efficiency Technical Consulting Services

**4.2** CONSULTANT 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*

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 CONSULTANT 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 CONSULTANT to restore the required limits. The CONSULTANT 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 CONSULTANT resulting from any of the CONSULTANT'S work.

**4.4** All insurance companies affording coverage to the CONSULTANT 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 CONSULTANT 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.

## **Energy Efficiency Technical Consulting Services**

**4.7** CONSULTANT 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** CONSULTANT shall provide a substitute Certificate of Insurance no later than thirty (30) days prior to the policy expiration date. Failure by the CONSULTANT to provide such a substitution and extend the policy expiration date shall be considered a default by CONSULTANT and may subject the CONSULTANT to a suspension or termination of work under the Agreement.

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

**5. PROFESSIONAL ERRORS AND OMISSIONS INSURANCE.** Throughout the duration of this Agreement and four (4) years thereafter, the CONSULTANT shall maintain professional errors and omissions insurance for work performed in connection with this Agreement in the minimum amount of One Million Dollars (\$1,000,000.00).

CONSULTANT shall provide evidence of compliance with these insurance requirements by providing a Certificate of Insurance.

**6. CONSULTANT'S INDEMNIFICATION OF CITY.** CONSULTANT 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 CONSULTANT, 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. CONSULTANT'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, CONSULTANT 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 CONSULTANT.

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

**7. COMPENSATION.** CONSULTANT'S compensation for all work performed in accordance with this Agreement, shall not exceed the total contract price of One Hundred Thousand Dollars and No Cents (\$100,000.00).

No work shall be performed by CONSULTANT in excess of the total contract price without prior written approval of the Director, Public Works. CONSULTANT shall obtain

## Energy Efficiency Technical Consulting Services

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].

**9. NOTICES.** All notices, demands, requests, consents or other communications which this Agreement contemplates or authorizes, or requires or permits either party to give to the other, shall be in writing and shall be personally delivered or mailed to the respective party as follows:

To CITY:

CITY OF OCEANSIDE  
Public Works Department  
4927 Oceanside Boulevard  
Oceanside, CA 92056

Attention: General Services Manager

To CONSULTANT:

AECOM Energy  
440 Stevens Avenue, Suite 250  
Solana Beach, CA 92075

Either party may change its address by notice to the other party as provided herein.

**10. ENTIRE AGREEMENT.** This Agreement comprises the entire integrated understanding between CITY and CONSULTANT concerning the work to be performed for this project and supersedes all prior negotiations, representations, or agreements.

**11. 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 CONSULTANT 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

**Energy Efficiency Technical Consulting Services**

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.

12. **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.

13. **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 CONSULTANT 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.

AECOM

CITY OF OCEANSIDE

By: Lucy M Labruzzo  
Name/Title Vice President

By: \_\_\_\_\_  
Peter A. Weiss, City Manager

By: Lucy M. Labruzzo / Vice President\_  
Name/Title

APPROVED AS TO FORM:

Paul Hamilton, ASST.  
City Attorney

636720  
Employer ID No.

**NOTARY ACKNOWLEDGMENTS OF CONSULTANT MUST BE ATTACHED.**

**"See attached certificate"**

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

State of California

County of San Diego

On NOV 19 2009 before me, Walter E. Pueschel, a Notary Public  
Date Here Insert Name and Title of the Officer

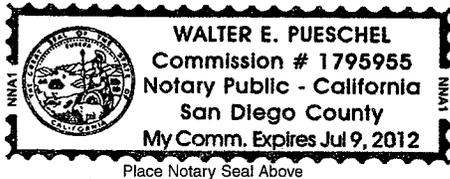
personally appeared LUCY M. LABRUZZO  
Name(s) of Signer(s)

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 [Handwritten Signature]  
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 CITY OF OCEAN SIDE  
Title or Type of Document: PROFESSIONAL SERVICES AGREEMENT  
Document Date: NOV 19 2009 Number of Pages: \_\_\_\_\_  
Signer(s) Other Than Named Above: NONE

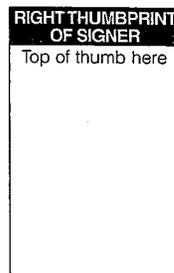
**Capacity(ies) Claimed by Signer(s)**

Signer's Name: LUCY M. LABRUZZO  
 Individual  
 Corporate Officer — Title(s): \_\_\_\_\_  
 Partner —  Limited  General  
 Attorney in Fact  
 Trustee  
 Guardian or Conservator  
 Other: \_\_\_\_\_



Signer Is Representing: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signer's Name: \_\_\_\_\_  
 Individual  
 Corporate Officer — Title(s): \_\_\_\_\_  
 Partner —  Limited  General  
 Attorney in Fact  
 Trustee  
 Guardian or Conservator  
 Other: \_\_\_\_\_



Signer Is Representing: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## Exhibit A

### Energy Efficiency Technical Consulting Services

The following tasks establish the Agreement's Scope of Work:

#### Task 1: Develop Investment Grade Audit (IGA) and finalize the details of the City's allocated Energy Efficiency Conservation Block Grant (EECBG) funds

Establish a baseline database and tracking program to report back to U.S. Department of Energy (DOE) on the City's efforts. This task will provide the information needed to develop a clear inventory of current conditions and set up a system to report the projects progress to DOE.

Actions by CONSULTANT technical team included in this task will include:

- Site Walk(s)
- Developing the Investment Grade Audit (IGA) of the Civic Center (complete mechanical equipment, EMS, lighting water, utilities, etc.)
- Developing the Investment Grade Audit (IGA) for lighting at the following buildings

#	Site
1	Melba Bishop Recreation Center
2	Civic Center
3	Police Department (OPD)
4	COC
5	Firehouse #7
6	El Corazon Senior Center
7	San Luis Rey WWTP
8	La Salina WWTP
9	Senior Center (Old)
10	Oceanside Police Department Building (Old)
11	Firehouse #1
12	Firehouse #2
13	Firehouse #3
14	Firehouse #4
15	Firehouse #5
16	Firehouse #6
17	Firehouse #8 (part of COC)
18	Beach Recreation Center
19	Joe Balderrama Recreation Center

## Energy Efficiency Technical Consulting Services

The IGA(s) will be used to finalize the details of the allocated EECEBG funds and serve as the basis for the project's implementation plan for the facilities listed in the Energy Efficiency Conservation Strategy (EECS) application submitted to the DOE.

Deliverables for this task include:

- a) Detailed description of the work to be performed
- b) Detailed energy analysis
- c) System energy cost and consumption benchmarks
- d) Description of all the relevant project benefits including utility savings, maintenance savings and others (watchful of DOE principle priorities: jobs created, energy saved, funds leveraged, cost savings, and GHG reduced/mitigated)
- e) Implementation costs
- f) Utility and operational savings estimates
- g) Any operational changes (new schedules, sequence of operations, etc.)
- h) Life cycle cost and benefit analysis for proposed retrofits based on existing conditions
- i) Schematic level design
- j) Anticipated Construction schedule for completing the EECEBG project.
- k) Memorandum summarizing selected energy conservation, efficiency, and emission reduction goals and associated metrics for the City staff review.
- l) Finalize the details of the allocated EECEBG funds.

Throughout, consideration will be given to maximizing outcomes and benefit potentials of the EECEBG funds including; optimizing and anticipating other funding sources, such as competitive grants; meeting DOE transparency and reporting expectations and; anticipating future regulatory changes.

As appropriate, CONSULTANT will collaborate with the relevant stakeholders to ensure that the final project plan is consistent with the City's technical, operational, legal and financial standards and guidelines.

### **Task 2: Complete the "Tax-Exempt Customer (TEC)" application under SDG&E's "Energy Savings Bid Program"**

The expected energy savings of the project funded by this EECEBG qualifies for the "Tax-Exempt Customer Incentive Program" administered under the utility's "Energy Savings Bid Program". The CONSULTANT will support all program requirements necessary to secure incentive funds for the City.

## Energy Efficiency Technical Consulting Services

Deliverables include:

- TEC Incentive Application (support City and/or sponsor project on City's behalf)
- Collecting the relevant energy data
- Developing the baseline energy consumption models
- Performing the detailed energy analysis of select Energy Conservation Measures (ECMs)
- Developing a project Measurement and Verification Plan
- Formally documenting the all ECM savings
- Submitting the final documents necessary to secure incentives

**Task 3:** Create Bench Mark Portfolio of City to support and create a long range plan for energy conservation, job creation and Greenhouse Gas emissions (GHG) reductions

To further augment and develop the EECS and identify additional ECMs for future energy savings projects we will use our proprietary holistic energy auditing software, Sustainable Systems Integrated Modeling (SSIMe) Audit. The SSIMe Audit tool utilizes Commercial Building Energy Consumption Survey and Residential Energy Consumption Survey database information, calibrated utilizing available local data, to generate a baseline energy use that allows for the preliminary assessment of energy conservation measures without the need for energy audits of each individual building. By matching the actual demand of the City's energy users the SSIMe Audit allows us to not only calibrate the process but to also advice on the most effective energy upgrade solutions for long term running cost, energy and carbon savings operation.

CONSULTANT will then evaluate the relevance of state and federal grants to the proposed ECM measures and recommend the most feasible grants to pursue for each measure. We will identify partnership opportunities for Oceanside to reduce costs. Finally, CONSULTANT will identify self-financing measures wherever feasible; if structured appropriately, could contribute to both the City's General Fund and its GHG reduction target.

We will also look expansively to leverage the relationships with the state and the region through a strategic coordination of transportation. While much of the local transportation improvement plan funding comes through the federal system, state funding also plays a critical role in a locality's ability to manage air quality, development patterns and other energy-related impacts. We will explore the data and input to determine the opportunities to establish a more effective strategy for the regional transportation plan, typically one of the most constant forums for local, regional and state interaction.

## **Energy Efficiency Technical Consulting Services**

Deliverables include:

- Benchmark portfolio of city buildings that optimizes the available energy savings from City Facilities and prioritize a list of City's potential energy efficiency projects.
- Assist the City in developing a long range plan to support energy conservation, job creation and GHG reductions that will last long after the EEGBC funds are spent.
- Review various financing option with key stakeholders in addition to EEGBC funds that takes advantage of grant funding, tax-exempt resources, along with available rebates and incentive programs offered by area utilities, and state and federal agencies.
- Based on discussions with City staff, CONSULTANT will identify opportunities which appear to warrant detailed investigation. CONSULTANT will examine areas including:
  - i. Energy efficiency
  - ii. Facilities, including mechanical systems, lighting, controls and central plants
  - iii. Street Lighting
  - iv. Water conservation
  - v. Renewable energy generation
  - vi. Solar power site opportunities

### **Task 4: Evaluation, Monitoring, Verifications Plans, and Reports**

DOE requires communities who receive EEGBC allocated funds to report their energy efficiency savings and approach on a continual basis. CONSULTANT will, with CITY oversight, produce all Evaluation, Monitoring, Verification Plans, and Reports that are reporting requirements set forth by the DOE for EEGBC allocations and awards. Furthermore, this plan will assist the City in keeping an organized and efficient approach to maintaining, tracking and reporting documentation that is essential to ensuring successful implementation of EEGBC funds:

- Jobs created / retained
- Energy saved
- Renewable energy capacity installed

## **Energy Efficiency Technical Consulting Services**

- Greenhouse gas emissions reduced
- Funds leveraged

Deliverable: Plan for measuring and verifying savings to ensure ECM savings are achieved. Compile and prepare for submittal all required (pre and post award) Evaluations, Monitoring, Verification Plans, and Reports that are reporting requirements set forth by the DOE for EECBG allocations and awards.

### **Task 5: Gain support from City Leadership**

CONSULTANT will provide the support needed to obtain approval and support from the City's leadership. This may include preparation of briefing documents and presentations, and may also include being present to answer questions from City Council or senior managers regarding the project.

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