

STAFF REPORT



ITEM NO. 13
CITY OF OCEANSIDE

DATE: August 13, 2008
TO: Honorable Mayor and City Councilmembers
FROM: Development Services Department
SUBJECT: **APPROVAL OF A PROFESSIONAL SERVICES AGREEMENT FOR CONSTRUCTION MANAGEMENT SERVICES FOR THE EL CORAZON SENIOR CENTER**

SYNOPSIS

Staff recommends that the City Council approve a professional services agreement in the amount of \$474,924 to Dudek, Incorporated, of Encinitas for construction management services for the El Corazon Senior Center, and authorize the City Manager to execute the agreement.

BACKGROUND

On October 10, 2007, the City Council awarded a construction contract to Jaynes Corporation of California for the construction of the El Corazon Senior Center project. Structural steel and wall framing on the senior center building commenced a month ago, and work on the building will continue until the public opening in spring 2009.

On March 19, 2008, the City Council approved a purchase order in the amount of \$107,341 to San Diego Gas & Electric Company (SDG&E) for construction of new underground gas and electric utility service lines and facilities for the El Corazon Senior Center. The expense was anticipated in the City's project cost estimate. In June 2008, SDG&E refunded \$25,000 to the City for costs estimated, but not incurred by the utility.

The \$8,414,841 construction contract awarded to Jaynes Corporation consists of \$6,000,000 for the Senior Center building and the surrounding parking lot, and \$2,414,841 for the access road and utilities from Rancho del Oro Drive.

ANALYSIS

Six firms in San Diego County responded to the City's requests for qualification statements and fee rate schedules. Dudek, an engineering firm in Encinitas, was found to be the most qualified on the strength of recent local construction management experience, including the Carlsbad Municipal Golf Course Clubhouse, and the Encina Wastewater Authority's Administrative Building.

Because of the number of projects and staffing constraints, there are not immediately-available staff resources to provide these full-time duties.

Among the six firms, the proposed hourly rates for a registered civil engineer acting as an owner’s construction manager ranged from \$125 to \$165 per hour. Dudek’s rate is the second lowest at \$135 per hour, but the construction manager provided by Dudek has the best qualifications, and for that reason the firm is recommended.

In addition to the construction manager, Dudek is providing a part-time construction inspector and a clerical support person to maintain construction documents. The documents include meeting minutes, contractor submittals, requests for information, proposed change orders, and certified payroll.

FISCAL IMPACT

The cost of the construction management services provided by Dudek is included in the construction support cost, which also includes work by Geocon (geotechnical engineering and testing) and Roesling Nakamura Terada Architects (answering construction-related design questions and reviewing contractor submittals). Project costs are summarized as follows:

Bid Award Amount		\$ 8,414,841
Change Order Nos. 1 to 14		\$283,631
Construction Management (Dudek)		\$474,924
Geotechnical Engineering (Geocon)		\$72,300
Water Service Capacity Fees		67,814
SDG&E Purchase Order Authorization		107,341
Change Order/Construction Contingency	\$ 841,484	
Less Change Order Nos. 1 to 14	283,631	
Less SDG&E Purchase Order Authorization	<u>107,341</u>	
Remaining Contingency		\$ 300,512
Construction Support Cost	\$680,000	
Less Dudek Services	474,924	
Less Geocon Services	<u>72,300</u>	
Staff Time		\$150,000
Architectural Review		<u>\$132,776</u>
Current Project Cost		\$10,004,139

The El Corazon Senior Center project has a construction-phase budget of \$10,012,800. The PSA will be encumbered from (598.845657) and (501.874048) which has a combined FY 2007-08 carry forward of \$826,744. Therefore, sufficient funds are available to complete this project.

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 in the amount of \$474,924 to Dudek, Incorporated, of Encinitas, for construction management services for the El Corazon Senior Center, and authorize the City Manager to execute the agreement.

PREPARED BY:



Gary Kellison
Senior Civil Engineer

SUBMITTED BY:



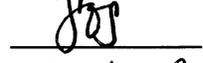
Peter A. Weiss
City Manager

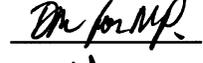
REVIEWED BY:

Michelle Skaggs Lawrence, Deputy City Manager
George Buell, Development Services Director
Scott O. Smith, City Engineer
Margery M. Pierce, Neighborhood Services Director
Teri Ferro, Financial Services Director











Attachment:
Professional Services Agreement

CITY OF OCEANSIDE

PROFESSIONAL SERVICES AGREEMENT

PROJECT: El Corazon Senior Center

THIS AGREEMENT is made and entered into this 16th day of July, 2008, by and between the CITY OF OCEANSIDE, a municipal corporation, hereinafter designated as "CITY", and Dudek, Incorporated, hereinafter designated as "CONSULTANT."

NOW THEREFORE, THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. **SCOPE OF WORK.** The project is more particularly described as follows: The CONSULTANT shall provide construction management and special inspection services for the El Corazon Senior Center project. Description of particular items of work covered in this Agreement is provided in Exhibit "A" attached hereto and made a part hereby.
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 City Engineer. 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 City Engineer. 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.

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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.

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.

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- 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.
- 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 conduct, negligent acts, errors or omissions or wrongful acts of 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

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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 \$474,924.

No work shall be performed by CONSULTANT in excess of the total contract price without prior written approval of the City Engineer. CONSULTANT shall obtain approval by the City Engineer 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.

CONSULTANT shall provide the CITY's Building Department daily special inspection reports for each day that CONSULTANT provides special inspection services. The special inspection reports shall be completed the same day that the inspection services are performed and turned in to the Building Official or his designated representative no later than the following work day.

9. **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.

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 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.

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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.

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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 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 this _____ day of March, 2008.

DUDEK INCORPORATED

By:  **Dudek**
2-29-08 **Frank Dudek**
President

By:  **Dudek** 2/29/08
June Collins
Vice President

95-3873865

Employer ID No.

CITY OF OCEANSIDE

By: _____
Peter Weiss, City Manager

APPROVED AS TO FORM:

 ASST.
City Attorney

NOTARY ACKNOWLEDGMENTS OF CONSULTANT MUST BE ATTACHED.

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of San Diego }

On 2/29/08 before me, Kimberly S. Tessada, Notary Public,
Date Here Insert Name and Title of the Officer

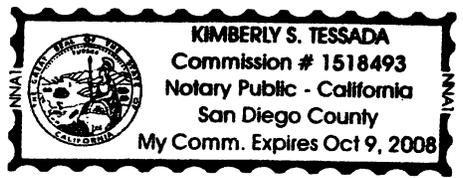
personally appeared Frank Dudek and June Collins
Name(s) of Signer(s)

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 Kimberly S. Tessada
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: _____

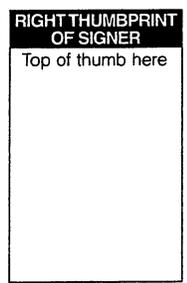
Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

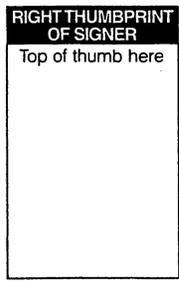
- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____



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: _____

**El Corazon Senior Center
Construction Management Services
Detailed Cost Breakdown
"Not to Exceed"**

Task	Task Description	DUDEK Proposed Services and Cost Estimate										Extended Cost	Notes	
		Billing Rate		Hours				Costs		Extended Cost	Notes			
		Hours	Rate	Director	CM	QC Mgr	ADMIN	Hours	Rate					
1	Project Startup													
1.1	Kick Off Meeting	8		8	10	8	4	\$0			\$3,072	Attend coordination job walk, coordinate with DSOD and start-up meeting		
1.2	Pre-construction activities	4		4	8	8	4	\$0			\$2,332	Meeting coordination, meeting agenda, and start-up meeting with project team.		
2	Construction Management and Project Management													
2.1	Construction Management	112		112	1800	2,400	600	\$0			\$451,920	CM=3/4 time for 300 working days/QC Mgr=Full time for 300 working days/Admin=1/4 time for 300 working days.		
3	Project Closeout													
3.1	As-Built Drawings/Project Closeout	0		0	40	40	0	\$0			\$7,600	Review contractors' redline as-built drawings, punchlist, review correspondence, and approve and copy.		
4	Other Direct Costs													
	Travel (Allowance)							\$5,000			\$5,000	44 cents per mile for travel to fabrication shop		
	Field Supplies (Allowance)							\$5,000			\$5,000	Cell Phone, reproduction cost, printer paper, etc.		
	Testing & Inspection Services							\$71,992			\$71,992	Testing per attached schedule of services including mark up		
	Total	124		124	1858	2456	808	\$81,992			\$546,916	TOTAL T&M Not-To-Exceed		

Notes:

- (1). Construction schedule is based on a 300 working day contract or 14 months.
- (2). Full-time onsite QC Manager for 300 working days. 3/4-time onsite/offsite Construction Manager for 300 working days.
- (3). Special inspection and testing will be performed per the attached schedule of services by MTGL, Inc. dated 11-27-07
- (4). Limited Director role (Shannon Goodrich) assume 8-hours per month for 300 days.
- (5). Administration 1/4 time for 300 working days to assist in document control.
- (6). Construction Director: Shannon Goodrich
- (7). Construction Manager: Eric Honour
- (8). Quality Control Manager: David Goins
- (9). Administrative Support: Deb Mahre
- (10). Contract Format: Conventional Time and Materials, Not-to-Exceed.

Oceanside Senior Center
List of Tests and Inspections

Item#	Item Description	Unit	Est Quant	Insp Type
1	SITE WORK			
2	Rough Grading-Maximum Density & Optimum Moisture (Laboratory)	Ea	6	Owner
3	Rough Grading-Resistance Value (Laboratory)	Ea	6	Owner
4	Rough Grading-Sieve Analysis (Laboratory)	Ea	6	Owner
5	Rough Grading-Full Time Field Observation (6 Weeks)	Hrs	240	Owner
6	Rough Grading-Soil Compaction Density Tests (1 test per 200CY/10,240CY)	Ea	512	Owner
7	Rough Grading-Building Pad Soil Certification	Ea	1	Owner
8	U/G Utilities-Water Piping-Visual Inspection	Hrs	10	City Eng
9	U/G Utilities-Sewer Piping-Visual Inspection	Hrs	10	City Eng
10	U/G Utilities-Storm Drain Structures-Reinforcing Steel-Visual Inspection	Hrs	4	City Eng
11	U/G Utilities-Storm Drain Structures-Concrete Sampling	Hrs	8	Owner
12	U/G Utilities-Storm Drain Struct-Conc Compressive Strength Tests (Laboratory)	Ea	12	Owner
13	U/G Utilities-Storm Drain Piping & Structures-Visual Inspection	Hrs	16	City Eng
14	U/G Utilities-Electrical Piping and Transformer Pads-Visual Inspection	N/A	0	SDGE
15	U/G Utilities-Electrical Conductors & Finish-Visual Inspection	N/A	0	SDGE
16	U/G Utilities-Gas Piping-Pressure Test & Visual Inspection	N/A	0	SDGE
17	U/G Utilities-Telephone Piping-Visual Inspection	N/A	0	AT&T
18	U/G Utilities-Cable TV Piping-Visual Inspection	N/A	0	COX
19	U/G Utilities-Soil Compaction Density Tests @ Trench Backfill	Ea	150	Owner
20	Concrete Curb, Gutter & Sidewalk-Observation & Sampling	Hrs	16	Owner
21	Concrete Curb, Gutter & Sidewalk-Compressive Strength Tests (Laboratory)	Ea	25	Owner
22	Asphalt Paving-Maximum Density (Laboratory)	Ea	1	Owner
23	Asphalt Paving-Soil Compaction Density Tests @ Subgrade & Base	Ea	175	Owner
24	Asphalt Paving-Asphalt Placement Observation and Sampling	Hrs	24	Owner
25	Asphalt Paving-Asphalt Compaction Density Tests	Ea	10	Owner
26	Landscape Irrigation Piping-Pressure Tests & Visual Inspection	Hrs	4	City Eng
27	BUILDING			
28	Below Grade Plumbing-Pressure Test & Visual Inspection	Hrs	6	City Bldg
29	Below Grade Electrical-Visual Inspection	Hrs	4	City Bldg
30	Below Grade Utilities-Soil Compaction Density Tests @ Trench Backfill	Ea	35	Owner
31	Foundation-Soil Compaction Density Tests @ Bottom of Excavation	Ea	12	Owner
32	Foundation & SOG-Reinforcing Steel/Bolt Placement-Visual Inspection	Hrs	8	City Bldg
33	Foundation & SOG-Concrete Placement Observation & Sampling	Hrs	16	Owner
34	Foundation & SOG-Concrete Compressive Strength Tests (Laboratory)	Ea	16	Owner
35	Masonry Wall-CMU/Rebar Placement & Grouting-Periodic Visual Inspection	Hrs	24	Owner
36	Masonry Wall-CMU Prism Test (Laboratory)	Ea	2	Owner
37	Masonry Wall-CMU Compressive Strength Test (Laboratory)	Ea	12	Owner
38	Masonry Wall-Grout Compressive Strength Tests (Laboratory)	Ea	12	Owner
39	Masonry Wall-Mortar Compressive Strength Tests (Laboratory)	Ea	24	Owner
40	Structural & Misc Steel-Shop Fabrication Welding-Visual Inspection	Hrs	24	Owner
41	Structural Steel-Field Welding-Visual Inspection	Hrs	12	Owner
42	Structural Steel-High Strength Bolting-Torque Tests & Visual Inspection	Hrs	16	Owner
43	Wall & Roof Framing & Sheathing-Visual Inspection	Hrs	2	City Bldg
44	Fire Sprinkler Piping-Pressure Test & Visual Inspection	Hrs	4	City Bldg
45	Above Grade Plumbing Rough In-Pressure Tests & Visual Inspection	Hrs	8	City Bldg
46	Above Grade Electrical Rough In-Visual Inspection	Hrs	12	City Bldg
47	Mechanical Duct & Equipment-Visual Inspection	Hrs	4	City Bldg
48	Plaster Lath-Fastners, Screeds-Visual Inspection	Hrs	2	City Bldg
49	Built Up Roofing-Membrane Test Cuts-Visual Inspection	Hrs	8	Owner
50	Aluminum Storefronts-Air/Water Infiltration Tests	Hrs	12	Owner
51	Skylights-Air/Water Infiltration Tests & Structural Load Test	Hrs	16	Owner
52	Anti-Graffiti Coating-Multiple Field Tests	Hrs	12	Owner

