

STAFF REPORT*CITY OF OCEANSIDE*

DATE: December 3, 2014

TO: Honorable Mayor and City Councilmembers

FROM: Water Utilities Department

SUBJECT: **APPROVAL OF A PROFESSIONAL SERVICES AGREEMENT FOR AS-NEEDED ELECTRICAL INSTRUMENTATION AND CONTROL SERVICES FOR CAPITAL IMPROVEMENT PROJECTS**

SYNOPSIS

Staff and the Utilities Commission recommend that the City Council approve a Professional Services Agreement with Rockwell Construction Services, LLC, of Valley Center in an amount not to exceed \$75,000 for as-needed Capital Improvement Projects electrical instrumentation and control services; and authorize the City Manager to execute the agreement.

BACKGROUND

Fiscal Year 2014-15 is a particularly busy year for the Water Utilities Department Capital Improvement Program (CIP), with over \$33 million in water projects, and over \$22 million in sewer projects. To complete all of these projects, City and Contract staff has assumed more construction management and inspection responsibilities. To supplement the proper inspection of capital projects, special inspection and testing services are required.

Contracting out specialty functions such as surveying, material sampling and testing, structural inspection, and electrical inspections to name a few, is a cost-effective way to supplement in-house and contract project management services with licensed and certified inspectors, allowing staff to focus on completing the Department's ambitious CIP project schedule.

ANALYSIS

Because of the specialized nature of the services required to support Project Managers, it is necessary to outsource some functions, which would be cost prohibitive to maintain in-house. Various firms were contacted and evaluated for electrical engineering services. Rockwell Construction Services was selected based on their technical skills, capabilities, experience, knowledge of the City's existing facilities, pricing and competence within the industry. Rockwell Construction Services specializes in electrical, instrumentation and controls and provides construction management and inspection in these areas as well.

FISCAL IMPACT

The total of this contract is \$75,000. The cost will be split between the Water fund account 750771712.5326 and the Sewer fund account 800812722.5326. There is currently \$821,000 budget available in the Water fund account and \$626,000 budget available in the Sewer Fund account. Therefore, there are sufficient funds for the contracts.

Water Sales and Water Meter Charges for service in the Water Fixed Asset Replacement accounts are the funding sources for the Water projects. Sewer Service and Sewer Flow Fees are the funding sources for the Sewer projects.

INSURANCE REQUIREMENTS

The City's standard insurance requirements will be met.

COMMISSION OR COMMITTEE REPORT

The Utilities Commission approved staff's recommendation at its regularly scheduled meeting on October 21, 2014.

CITY ATTORNEY'S ANALYSIS

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

RECOMMENDATIONS

Staff and the Utilities Commission recommend that the City Council approve a Professional Services Agreement with Rockwell Construction Services, LLC, of Valley Center in an amount not to exceed \$75,000 for as-needed Capital Improvement Projects electrical instrumentation and control services; and authorize the City Manager to execute the agreement.

PREPARED BY:



Jason Dafforn
Interim Water Utilities Director

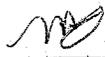
SUBMITTED BY:



Steven R. Jepsen
City Manager

REVIEWED BY:

Michelle Skaggs Lawrence, Assistant City Manager



James R. Riley, Financial Services Director



CITY OF OCEANSIDE

PROFESSIONAL SERVICES AGREEMENT

PROJECT: AS-NEEDED PROFESSIONAL SERVICES – [750771712 & 800812822]

THIS AGREEMENT, dated _____, 2014 for identification purposes, is made and entered into by and between the CITY OF OCEANSIDE, a municipal corporation, hereinafter designated as "CITY", and ROCKWELL CONSTRUCTION SERVICES, LLC, hereinafter designated as "CONSULTANT."

NOW THEREFORE, THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. **SCOPE OF WORK.** The CONSULTANT desires to provide as-needed professional services as more particularly described in the CONSULTANT'S proposal dated September 19, 2014, attached hereto and incorporated herein as Exhibit A.
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. 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.

**As-Needed Professional Services –
[750771712 & 800812822]**

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 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.

**As-Needed Professional Services –
[750771712 & 800812822]**

- 4.6 CONSULTANT shall provide thirty (30) days written notice to the CITY should any policy required by this Agreement 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, at minimum, a Certificate of Insurance and applicable endorsements, 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.** To the greatest extent allowed by law, 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

**As-Needed Professional Services –
[750771712 & 800812822]**

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 \$75,000.

No work shall be performed by CONSULTANT in excess of the total contract price without prior written approval of the CITY. CONSULTANT shall obtain approval by the CITY prior to performing any work that 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 CITY by June 30, 2015.

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.

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.

**As-Needed Professional Services –
[750771712 & 800812822]**

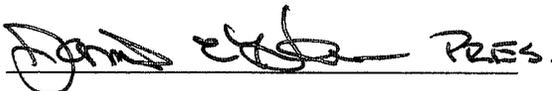
- 12. **TERMINATION OF AGREEMENT.** Either party may terminate this Agreement by providing thirty (30) days written notice to the other party. If any portion of the work is terminated or abandoned by the CITY, then the CITY shall pay CONSULTANT for any work completed up to and including the date of termination or abandonment of this Agreement. The CITY shall be required to compensate CONSULTANT only for work performed in accordance with the Agreement up to and including the date of termination.

- 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 forth below.

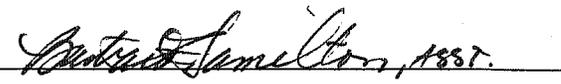
ROCKWELL CONSTRUCTION SERVICES

CITY OF OCEANSIDE

By:  PRES.
Name/Title
JAMES E HUDSON

By: _____
Steven R. Jepsen, City Manager

By:  VP
Name/Title
ROCKWELL W. SWANSON

APPROVED AS TO FORM:

City Attorney

Employer ID No.

NOTARY ACKNOWLEDGMENTS OF CONSULTANT MUST BE ATTACHED.

SEE ATTACHED FOR NOTAR
CALIFORNIA NOTARY
ACKNOWLEDGEMENT

CALIFORNIA ALL-PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

State of California

County of SAN DIEGO

On OCTOBER 14, 2014 before me, BIANCA ROSE HAYNES, NOTARY PUBLIC,
(Here insert name and title of the officer)

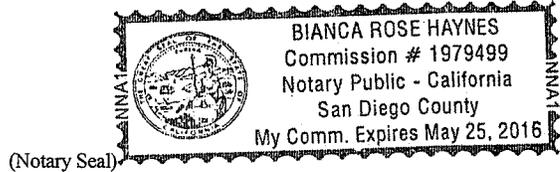
personally appeared ROCKWELL W. SWANSON AND JAMES E. HUDSON

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.

Bianca Rose Haynes
Signature of Notary Public



ADDITIONAL OPTIONAL INFORMATION

DESCRIPTION OF THE ATTACHED DOCUMENT

(Title or description of attached document)

(Title or description of attached document continued)

Number of Pages _____ Document Date _____

(Additional information)

CAPACITY CLAIMED BY THE SIGNER

- Individual (s)
 Corporate Officer

(Title)

- Partner(s)
 Attorney-in-Fact
 Trustee(s)
 Other _____

INSTRUCTIONS FOR COMPLETING THIS FORM

Any acknowledgment completed in California must contain verbiage exactly as appears above in the notary section or a separate acknowledgment form must be properly completed and attached to that document. The only exception is if a document is to be recorded outside of California. In such instances, any alternative acknowledgment verbiage as may be printed on such a document so long as the verbiage does not require the notary to do something that is illegal for a notary in California (i.e. certifying the authorized capacity of the signer). Please check the document carefully for proper notarial wording and attach this form if required.

- State and County information must be the State and County where the document signer(s) personally appeared before the notary public for acknowledgment.
- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. ~~he~~/~~she~~/~~they~~, ~~is~~ ~~are~~) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
- Signature of the notary public must match the signature on file with the office of the county clerk.
 - Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
 - Indicate title or type of attached document, number of pages and date.
 - Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).

Securely attach this document to the signed document



September 19, 2014

Jason Daffom
Water Utilities Division Manager
City of Oceanside Water Utilities Department

Subject: Proposal to Provide As Needed Professional Services

Dear Mr. Daffom

Rockwell Construction Services (RCS) is pleased to offer a proposal to provide Professional Services on an As Needed basis to the City of Oceanside. Please refer to the attached Qualifications Summary for further information regarding our offered services.

A Rate Schedule has also been included. All labor rates charged on this agreement will be by the hour and per the attached schedule.

It is understood that the amount of the initial As Needed agreement will be \$75,000.00. We understand that our services will be dictated and paid for through individual Task Orders. We further understand that the combined total of all Task Orders cannot be more than \$75,000.00 without prior approval.

Thank you for this opportunity to provide our services to the City. We appreciate it!

RATE SCHEDULE

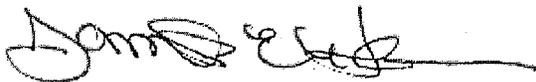
<u>TASK</u>	<u>HOURLY RATE</u>
Standard Professional Services (Office and Field Activities)	\$125

1. Overnight per diem expenses are \$150 per night.¹
2. Any site visit that is over a 100 mi (round trip) from San Marcos, CA will be billed based on a 2 hour minimum.¹
3. Drive/travel time not included in the 2 hour minimum above, will be billed at an hourly rate of \$62.50.¹

¹ Items such as per diem and travel, including drive/travel time, would only apply for services provided at a location over 100 miles (round trip) from San Marcos, CA.

4. The above rates are all inclusive and include overhead.
5. Should any miscellaneous out of pocket expenses be incurred, the cost will be passed through without mark-up. Project materials will be billed at cost plus 15% mark-up. Billing will be monthly, net 30 days.

Regards,



James E. Hudson

ROCKWELL Construction Services, LLC

(760) 715-3082

jim.hudson.rcs@gmail.com



June 11, 2012

Subject: Qualifications Executive Summary for Rockwell Construction Services

Rockwell Construction Services (RCS) was created to offer Electrical, Instrumentation & Controls (I&C), Systems Integration, project review, inspection, startup and testing assistance, and general management assistance specializing in the water/wastewater industry.

The founders of the firm, Rock Swanson and Jim Hudson offer over 60 years of experience in the industry as electrical contractors. Rock Swanson, the founder, and Jim Hudson the VP/General Manager of Rockwell Electric, Inc. bring the unique perspective of an electrical contractor/system integrator to the construction management profession. With over 28 years of experience, Thomas Klein, a veteran of Rockwell Electric, Inc. as the Engineering Manager, contributes his complementary expertise in I&C and SCADA to the Rockwell Construction Services team.

Our experience as electrical contractors and consultants provides us with proficiency that benefits our clients. Through the years, we have focused on providing the highest level of services. Our attention to details and quality has always been recognized as the key to our success. These principles were established many years ago and continue to serve us well to this day.

We strive to identify and correct problems before they happen by working closely with the entire construction team, from review of the contract documents prior to bid through final Operations & Maintenance manuals and As-built drawings at the conclusion. By implementing this approach, we minimize negative impact on both the project budget and schedule.

What can RCS bring to your projects? We specialize in constructability review of plans and specifications prior to release for bid and/or after award of bid, Electrical and I&C budget preparation, project schedule review and coordination, submittal review, Electrical and I&C project inspection and quality assurance, change order evaluation, startup and testing assistance, electrical utility coordination, existing site investigation and evaluation. We also provide expertise in HMI and PLC/RTU programming, communications and networking, and SCADA.

RCS has a proven history of duly managing the Electrical and I&C components of the project as the client's liaison while producing benefits to the project schedule and substantial reduction of risk and cost. We look forward to the opportunity to further discuss the services we offer.