ITEM NO. 15

# STAFF REPORT

# CITY OF OCEANSIDE

DATE: November 18, 2009

TO: Honorable Mayor and City Councilmembers

FROM: Water Utilities Department

SUBJECT: **AUTHORIZATION TO AWARD A CONTRACT FOR THE CONSTRUCTION OF THE WELL HEAD FACILITIES FOR WELLS 10 AND 11 PROJECT AND APPROVAL OF A PROFESSIONAL SERVICES AGREEMENT FOR CONSTRUCTION MANAGEMENT AND INSPECTION SERVICES DURING CONSTRUCTION**

## SYNOPSIS

Staff and the Utilities Commission recommend that the City Council authorize the award of a contract in the amount of $1,529,471 to American Industrial Services of Escondido for the construction of the Well Head Facilities for Wells 10 and 11 project located adjacent to Fire Station 7; approve a professional services agreement with Infrastructure Engineering Corporation of Oceanside in the amount of $373,465 for construction management and inspection services during construction; and authorize the City Manager to execute the agreements upon receipt of all supporting documents.

## BACKGROUND

The Mission Basin Groundwater Purification Facility, located at 215 Fireside Drive, was originally constructed and put into operation in 1994. The original facility produced 2.2 million gallons per day (mgd) of potable water from brackish groundwater by use of a reverse osmosis treatment process. A subsequent expansion project was to bring the capacity of the plant up to 6.37 mgd. This expansion, accepted by Council in February 2003, consisted of three additional production wells, nine monitoring wells, a high and low pump station an additional reverse osmosis train and other infrastructure-related work. All work was satisfactorily completed with the exception of the production wells, which when drilled did not produce sufficient quantities for production.

In October 1998, City Council authorized a joint participation agreement between the City of Oceanside, San Diego County Water Authority (SDCWA) and the Metropolitan Water District (MWD) for participation in the Groundwater Recovery Program (GRP). As part of the GRP study, SDCWA has drilled 11 exploratory wells to map the Basin for possible future use. As part of the drilling project, Oceanside had the SDCWA analyze

up to five sites with an emphasis on three that can replace the poorly performing well sites 6, 7 and 8. Three of the sites are within a mile of the Mission Basin Groundwater Facility with one being on the plant site. Well site 9 at the plant site has been drilled by the SDCWA and during the test pumping produced up to 2,220 gallons per minute. The other two sites, well sites 10 and 11, adjacent to Fire Station 7 have been drilled by the SDCWA.

On December 10, 2008, the City Council approved the plans and specification for the construction of the Well Head Facilities for Wells 10 and 11 project and authorized the City Engineer to call for bids.

## ANALYSIS

On September 15, 2009, eight bids were received and opened for the Well Head Facilities for Wells 10 and 11 project (Exhibit A). The apparent low bidder was Pascal and Ludwig Constructors with a bid of $1,347,293. Shortly after the bids were received and within the requirements outlined in the Bid Documents, Pascal and Ludwig Constructors requested to withdraw their bid (Exhibit B). Staff reviewed the request and circumstances thereof and approved the withdrawal. The next lowest bidder is American Industrial Services of Escondido with a bid of $1,529,471. Staff has reviewed the bid submitted by American Industrial Services, and finds that the bid bond and references are in accordance with City standards. The engineer's estimate to construct the project was $2,000,200.

To properly manage this project during construction, the services of a professional construction management and inspection support team are required. On February 18, 2009, staff solicited proposals from twelve engineering firms (Exhibit C) to provide construction management and inspection services during construction of this project. The firms were selected from a list compiled by the City of Oceanside's Engineering Division using the City's selection procedures for professional services. Included in the solicitation were all Oceanside firms that provide these services.

On March 13, 2009, three proposals were received by the Water Utilities Department. In accordance with the City's procedure, a panel consisting of City project managers was selected to evaluate the proposals (Exhibit D). The panel recommended that Infrastructure Engineering Corporation of Oceanside be selected to provide the construction management and inspection services.

Infrastructure Engineering Corporation construction management and inspection duties will be to ensure that the project is constructed according to the plans and specifications, on time and under budget. Additional duties to be performed include day-to-day monitoring and inspection of the work; geotechnical engineering and inspection services; surveying; special inspections as required; preparation of daily, weekly and monthly reports; processing of proposed change orders; processing submittals and requests for information; maintenance of logs for all correspondence, submittals, requests for information and change orders; attending weekly and monthly progress meetings; and generating and submitting detailed as-built construction drawings (Exhibit E).

## FISCAL IMPACT

The Mission Basin Desalter Facility Expansion fund (908742600712.5703) has a balance of $2,760,468 of which $300,000 is FY 2008-09 carry forward. The American Industrial Services bid is $1,529,471 and Infrastructure Engineering Corporation's Construction Management and Inspection proposal is $373,465 which brings the total cost for construction and construction management and inspection to $1,902,936. Therefore, adequate funds are available for the project.

## CITY ATTORNEY'S ANALYSIS

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

## INSURANCE REQUIREMENTS

The City's standard insurance requirements will be met.

## COMMISSION OR COMMITTEE REPORT

The Utilities Commission was unable to review staff's recommendation at its regularly scheduled meeting on October 20, 2009, due to a lack of quorum.

## RECOMMENDATIONS

Staff and the Utilities Commission recommend that the City Council authorize the award of a contract in the amount of $1,529,471 to American Industrial Services of Escondido for the construction of the Well Head Facilities for Wells 10 and 11 project located adjacent to Fire Station 7; authorize the City Manager to execute the agreement upon receipt of all supporting documents; approve a professional services agreement with Infrastructure Engineering Corporation of Oceanside in the amount of $373,465 for construction management and inspection services during construction; and authorize the City Manager to execute the agreement.

PREPARED BY:

Greg Blakely
Administration Manager

SUBMITTED BY:

Peter A. Weiss
City Manager

REVIEWED BY:

Michelle Skaggs Lawrence, Deputy City Manager

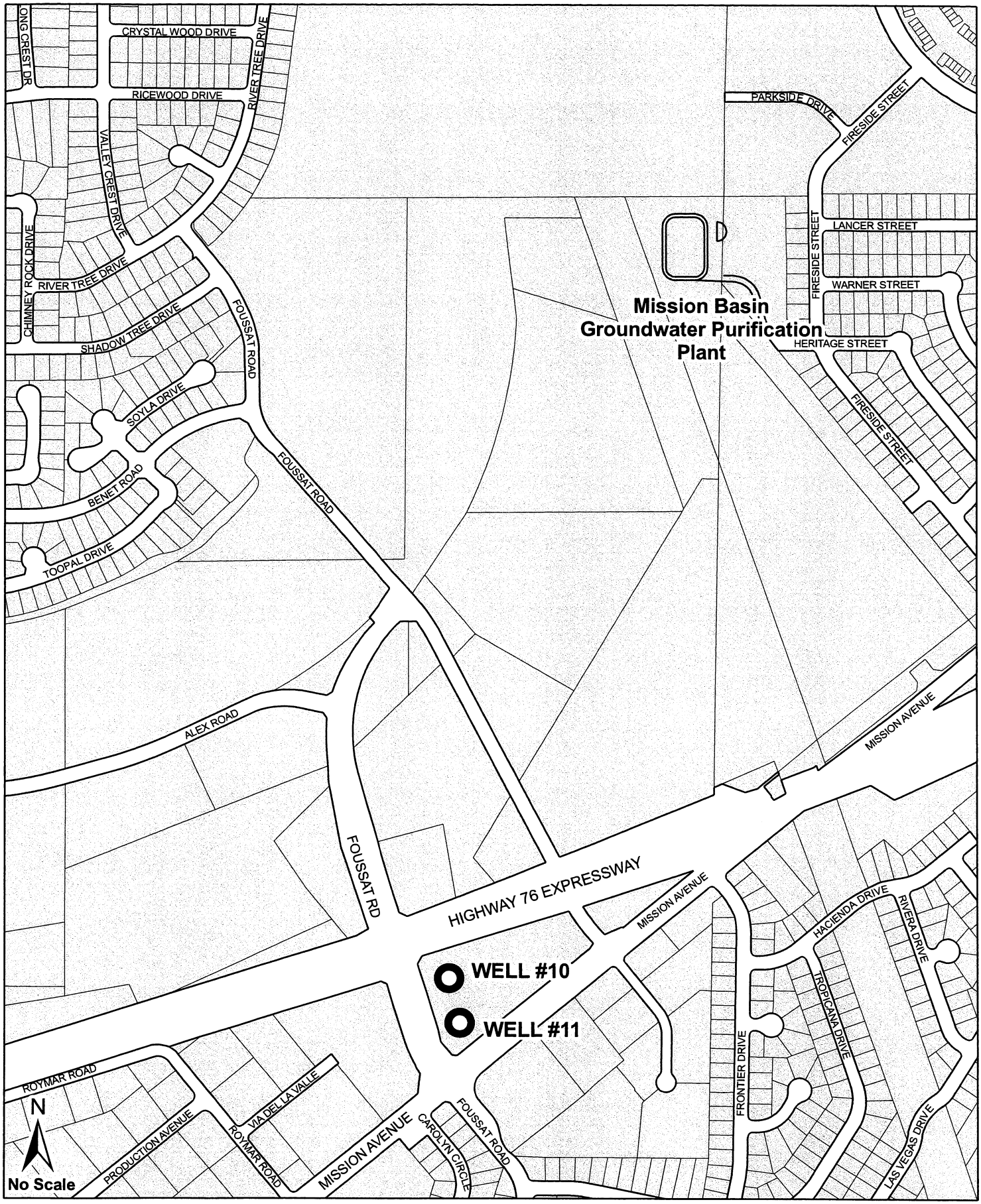
Lonnie Thibodeaux, Water Utilities Director

Teri Ferro, Financial Services Director

Exhibit A: Site Map
Exhibit B: Bid Results
Exhibit C: Request for Proposal Mailing List
Exhibit D: Consultant's Rating Form
Exhibit E: Professional Services Agreement

Exhibit A

# Well Head Facilities for Wells 10 and 11



# BID TABULATION

| | | |
|---|---|---|
| PROJECT NO.: | 715.857425 | ENGINEER'S ESTIMATE |
| PROJECT NAME: | Well Head Facilities for Wells 10 & 11 | $2,000,000.00 |
| PROJECT MANAGER | Jason Dafforn | |
| BID DATE: | September 15, 2009, 2:00 p.m. | |

| | BIDDER: | ADDRESS: | BID AMOUNT: |
|---|---|---|---|
| | ~~1. Montes Pacific Eng~~ | ~~Oxnard~~ | — |
| 1. | ~~2.~~ American Industrial Services | Escondido | $ 1,529,471.00 |
| 2. | ~~3.~~ Don Hubbard Contracting Co. | San Marcos | $ 1,951,375.00 |
| 3. | ~~4.~~ Pascal & Ludwig Constructors | Ontario | $ 1,347,293.00 |
| 4. | ~~5.~~ Orion Construction Corp. | Vista | $ 1,577,300.00 |
| 5. | ~~6.~~ Genesis Construction | Hemet | $ 1,593,000.00 |
| 6. | ~~7.~~ F.T. Ziebarth Co. | Fullerton | $ 1,625,744.00 |
| 7. | ~~8.~~ MMC, Inc. | La Palma | $ 1,547,000.00 |
| 8. | ~~9.~~ Shaw Equipment Rentals, Inc. | San Marcos | $ 1,652,875.00 |
| | 10. | | |
| | 11. | | |
| | 12 | | |
| | 13. | | |

Exhibit B

# Well Head Facilities for Wells 10 11 - CM and Inspection Services RFP Mailing List

| Consultants.Name | | | | | Contact | |
|---|---|---|---|---|---|---|
| | | | | | | |
| Dudek & Associates, Inc. | 605 Third Street | Encinitas | CA | 92024 | Jeffrey C. | Heden |
| Harris & Associates | 750 B Street, Ste. 1800 | San Diego | CA | 92101 | Monika | Bowden |
| Psomas | 4455 Murphy Canyon Road Suite 200 | San Diego | CA | 92123 | Peter | Poutney |
| Simon Wong Engineering | 9968 Hibert Street, Ste 202 | San Diego | CA | 92131 | Hank | Gentile |
| Infratructure Engineering Corporation | 301 Mission Avenue, Suite 202 | Oceanside | CA | 92054 | Preston | Lewis |
| Cornerstone Engineering, Inc. | 620 Mission Avenue | Oceanside | CA | 92054 | Mike | Boraks |
| PBS&J | 2303 Nicklaus Drive | Oceanside | CA | 92056 | Skip | Griffin |
| Water 3 Engineering, Inc. | 1843 Campesino Pl | Oceanside | CA | 92054 | Don | Bunts |
| Carollo Engineers | 4167 Avenida De La Plata, Suite 114 | Oceanside | CA | 92056 | Bob | Vilker |
| Tetra Tech ASL, Inc. | 2141 El Camino Real, Suite J | Oceanside | CA | 92054 | Howard/Steve | Arnold/Tedesco |
| Boyle/AECOM | 4059 Oceanside Blvd., Suite M | Oceanside | CA | 92056 | Dave | Arthurs |
| J.T. Kruer & Company | P.O. Box 232 | Oceanside | CA | 92049 | Chuck | Knight |

Exhibit C

## CONSULTANT PROPOSAL - RATING FORM

NAME OF FIRM: A) AECOM; B) DUDEK; C) IEC

DATE: 4/14/2009

PROJECT: Well Head Facilities for Wells 10 & 11

PROJECT NO.: 715-857425

| ITEM | POINTS | CONSULTANT'S RATING A | B | C | D | E |
|---|---|---|---|---|---|---|
| I. QUALIFICATIONS OF FIRM AND MEMBERS: | | | | | | |
| A. Specialized expertise of members | 15 | 12 | 13 | 14 | | |
| B. Adequacy of staff and resources. | 15 | 15 | 15 | 15 | | |
| II. PERFORMANCE OF WORK SIMILAR IN CHARACTER: | | | | | | |
| A. Comparable work (local area preferred). | 10 | 9 | 10 | 8 | | |
| B. Proposal submitted by Oceanside firm. | 6 | 6 | 0 | 6 | | |
| C. Proposal included an Oceanside firm as part of a consulting team. | 4 | 4 | 0 | 2 | | |
| D. Additional points based on abilities, qualifications, and commitment of Oceanside firm. | 5 | 1 | 0 | 5 | | |
| III. ABILITY TO PROVIDE SERVICES: | | | | | | |
| A. Ability to complete job on time. | 10 | 10 | 8 | 10 | | |
| IV. QUALITY OF PROPOSAL: | | | | | | |
| A. Satisfactorily address all objectives. | 10 | 9 | 7 | 10 | | |
| B. Provide additional amplifying information. | 5 | 3 | 4 | 5 | | |
| C. Presentation, clarity, neatness. | 5 | 2 | 4 | 5 | | |
| V. WORK PERFORMANCE FOR THE CITY: | | | | | | |
| A. No work in past 12 months. | 10 | 10 | | | | |
| B. Work in past 12 months - deductions based on Contract amount. | | | 2 | 2 | | |
| VI. PRICE: | | | | | | |
| A. Overall cost. | 10 | 8 | 7 | 9 | | |
| TOTALS: | 105 | 89 | 70 | 91 | 0 | 0 |

RANKING:

1 IEC

2 AECOM

3 DUDEK

4

5

RATED BY:

Name/Title: Jason Dafforn, Project Manager

Name/Title:

Name/Title:

Name/Title:

Date:

Exhibit D

**CONSTRUCTION MANAGEMENT AND INSPECTION SERVICES FOR WELL HEAD FACILITIES FOR WELLS 10 & 11 [715-85-7425]**

**CITY OF OCEANSIDE**

**PROFESSIONAL SERVICES AGREEMENT**

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 INFRASTRUCTURE ENGINEERING CORPORATION, hereinafter designated as "CONSULTANT".

**RECITALS**

A. CITY desires to obtain professional engineering services from an independent contractor for the above named project.

B. CONSULTANT has submitted a proposal to provide engineering services for the CITY in accordance with the terms set forth in this Agreement.

C. CITY desires to contract with CONSULTANT as an independent contractor and CONSULTANT desires to provide services to CITY as an independent contractor.

D. CONSULTANT has demonstrated its competence and professional qualifications necessary for the satisfactory performance of the services designated herein by virtue of its experience, training, education and expertise.

**NOW, THEREFORE, THE PARTIES MUTUALLY AGREE AS FOLLOWS:**

1.0 **SCOPE OF WORK.** The project is more particularly described as follows: The CONSULTANT will provide construction management, inspection, survey and materials testing services for the Well Head Facilities for Wells 10 & 11 project as described in the CONSULTANT's proposal dated March 13, 2009, revised on September 1, 2009, and attached hereto and incorporated herein as Exhibit "A". The project and scope of work is more particularly described below.

1.1 **PROFESSIONAL SERVICES PROVIDED BY CONSULTANT.** The professional services to be performed by CONSULTANT shall consist of but not be limited to the following:

1.1.1 Work closely with the Water Utilities Director in performing work in accordance with this Agreement in order to receive clarification as to the result which the CITY expects to be accomplished by CONSULTANT. The Water Utilities

Director, under the authority of the City Manager, shall be the CITY'S authorized representative in the interpretation and enforcement of all work performed in connection with this Agreement. The Water Utilities Director may delegate authority in connection with this Agreement to the Water Utilities Director's designees. For the purposes of directing the CONSULTANT'S performance in accordance with this Agreement, the Water Utilities Director delegates authority to Jason Dafforn.

1.1.2 In compliance with Government Code section 7550, the CONSULTANT shall include a separate section in the proposal prepared pursuant to this Agreement, which contains a list of all the subcontractors and dollar amounts of all contracts and subcontracts required for the preparation of work described in this Agreement.

1.1.3 Visit and carefully examine the location of the project as often as necessary to become acquainted with all conditions which are visible or could reasonably be discovered, and which might have an impact upon the construction of the project.

1.1.4 Provide field assistance to the City during construction periods upon request by Water Utilities Director to include the services listed below:

a. Provide consultation and advice to the City during construction of the project.

b. Review and make recommendations on all construction contract change orders and requests for clarification from the contractor.

c. Prepare engineering cost estimates.

d. Prepare needed reports and notices.

e. Provide all geotechnical and testing services required along with surveying for the project.

f. Provide periodic visits to the site to monitor construction.

g. Provide all special inspections as outlined in the Proposal.

h. Attend meetings with the Water Utilities Director or his designees.

1.1.5 Upon completion of construction, prepare, approve and sign a set of As-Built record drawings.

1.2 **SERVICES PROVIDED BY CITY.** The CITY shall perform the following services:

1.2.1 Provide access to all public improvement plans and records and furnish one copy of drawings and reports requested.

1.2.2 Obtain all necessary permits from other regulatory agencies and other Departments. CONSULTANT shall participate in the completion of such forms but CITY will submit these and pay for any applicable fees.

1.2.3 Upon request, verify the location of existing CITY owned utilities.

1.2.4 Provide all legal advertising mailings and postings required.

1.2.5 Duplicate all final plans and specifications.

1.2.6 Provide overall project management.

2.0 **TIMING REQUIREMENTS**

2.1 Time is of the essence in the performance of work under this Agreement and the following timing requirements shall be strictly adhered to unless otherwise modified in writing as set forth in Section 2.2. Failure by CONSULTANT to strictly adhere to these timing requirements may result in termination of this Agreement by the CITY and the assessment of damages against the CONSULTANT for delays.

2.2 CONSULTANT shall submit all requests for extensions of time for performance in writing to the Water Utilities Director no later than ten (10) calendar days after the start of the condition which purportedly caused the delay, and not later than the date on which performance is due. The Water Utilities Director shall review all such requests and may grant reasonable time extensions for unforeseeable delays which are beyond CONSULTANT'S control.

2.3 For all time periods not specifically set forth herein, the CONSULTANT shall respond in the most expedient and appropriate manner under the circumstances, by either telephone, fax hand delivery or mail.

3.0 **DESIGN CRITERIA AND STANDARDS.** All work shall be performed in accordance with applicable CITY, state and federal codes and criteria. In the performance of its professional services, CONSULTANT shall use the degree of care and skill ordinarily exercised by consultants under similar conditions.

All plans shall be ink drawn on standard mylar sheets available from the CITY at no cost to CONSULTANT. Contract specifications shall conform to the CITY'S specification procedures and the format of the CITY'S standard form Contract Documents for Public Works Construction.

4.0 **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 Water Utilities Director. 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 Water Utilities Director. CONSULTANT shall be sole 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.

5.0 **CITY BUSINESS LICENSE.** Prior to the commencement of any work under this agreement, the CONSULTANT shall obtain and present a copy of an Oceanside City Business License to the Water Utilities Director.

6.0 **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 these Award Documents. The certification shall be in accordance with Subsections 7.3 through 7.8 of this Agreement.

7.0 **LIABILITY INSURANCE.**

7.1 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.

7.2.1 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 | $ 2,000,000 |

| | |
|---|---|
| Automobile Liability Insurance | $ 1,000,000 |

*General aggregate per year, or part thereof, with respect to losses or other acts or omissions of CONSULTANT under this Agreement.

7.2.2 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 purchases 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.

7.3 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 an additional insured

shall be primary insurance and other insurance maintained by the CITY, its officers, agents and employees shall be excess only and not contributing with insurance provided pursuant to this Section.

7.4 All insurance companies affording coverage to the CONSULTANT pursuant to this Agreement shall be insurance organizations authorized 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.

7.5 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.

7.6 CONSULTANT shall provide evidence of compliance with the insurance requirements listed above by providing a Certificate of Insurance and applicable endorsements, in a form satisfactory to the City Attorney, concurrently with the submittal of this Agreement.

7.7 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.

7.8 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.

8.0 **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).

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

9.0 **CONSULTANT'S INDEMNIFICATION OF CITY.** CONSULTANT shall indemnify and hold harmless the CITY and its officers, agents and employees

against all claims or lawsuits for damages to persons or property arising out of the negligent acts, errors, 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, expert fees, attorneys' 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 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.

10.0 **ERRORS AND OMISSIONS.** In the event that the Water Utilities Director determines that the CONSULTANT'S negligence, misconduct, errors or omissions in the performance of work under this Agreement has resulted in expense to CITY greater than would have resulted if there were no such negligence, errors or omissions in the plans or contract specifications, CONSULTANT shall reimburse CITY for the additional expenses incurred by the CITY, including engineering, construction and/or restoration expense. Nothing herein is intended to limit CITY'S rights under Sections 7, 8 or 9.

11.0 **NO CONFLICT OF INTEREST.** The CONSULTANT shall not be financially interested in any other CITY contract for this project. For the limited purposes of interpreting this section, the CONSULTANT shall be deemed a "City officer or employee", and this Section shall be interpreted in accordance with Government Code section 1090. In the event that the CONSULTANT becomes financially interested in any other CITY contract for this project, that other contract shall be void. The CONSULTANT shall indemnify and hold harmless the CITY, under Section 9 above, for any claims for damages resulting from the CONSULTANT'S violation of this Section.

12.0 **OWNERSHIP OF DOCUMENTS.** All plans and specifications, including details, computations and other documents, prepared or provided by the CONSULTANT under this Agreement shall be the property of the CITY. The CITY agrees to hold the CONSULTANT free and harmless from any claim arising from any use, other than the purpose intende3d, of the plans and specifications and

all preliminary sketches, schematics, preliminary plans, architectural perspective renderings, working drawings, including details, computation and other documents, prepared or provided by the CONSULTANT. CONSULTANT may retain a copy of all material produced under this Agreement for the purpose of documenting their participation in this project.

13.0 **COMPENSATION.**

13.1 For work performed by CONSULTANT in accordance with this Agreement, CITY shall pay CONSULTANT in accordance with the schedule of billing rates set forth in Exhibit "A", attached hereto and incorporated herein by reference. No rate changes shall be made during the term of this Agreement without prior written approval of the Water Utilities Director. CONSULTANT'S compensation for all work performed in accordance with this Agreement shall not exceed the total contract price of $373,465.

No work shall be performed by CONSULTANT in excess of the total contract price without prior written approval of the Water Utilities Director. CONSULTANT shall obtain approval by the Water Utilities Director prior to performing any work which results in incidental expenses to CITY as set forth in Section 13.2.2.

13.2 CONSULTANT shall maintain accounting records including the following information:

13.2.1 Names and titles of employees or agents, types of work performed and times and dates of all work performed in connection with this Agreement which is billed on an hourly basis.

13.2.2 All incidental expenses including reproductions, computer printing, postage, mileage and subsistence.

13.3 CONSULTANT'S accounting records shall be made available to the Water Utilities Director for verification of billings, within a reasonable time of the Water Utilities Director's request for inspection.

13.4 CONSULTANT shall submit monthly invoices to CITY. CITY shall make partial payments to CONSULTANT not to exceed the total contract price within thirty (30) days of receipt of invoice, subject to the approval of the Water Utilities Director.

14.0 **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, in accordance with Section 13. 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.

15.0 **ASSIGNMENT AND DELEGATION.** This Agreement and any portion thereof shall not be assigned or transferred, nor shall any of the CONSULTANT'S duties be delegated, without the express written consent of the CITY. Any attempt to assign or delegate this Agreement without the express written consent of the CITY shall be void and of no force or effect. A consent by the CITY to one assignment shall not be deemed to be a consent to any subsequent assignment.

This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

16.0 **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.

17.0 **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.

18.0 **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.

19.0 **DISPUTE RESOLUTION.**

a. Any controversy or claim arising out of or relating to this Agreement, or concerning the breach or interpretation thereof, shall be first submitted to mediation, the cost of which shall be borne equally by the parties.

b. No suit shall be brought on this contract unless all statutory claims filing requirements have been met.

20. **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:** | **TO CONSULTANT:** |
|---|---|
| Lonnie Thibodeaux<br>Water Utilities Director<br>300 North Coast Highway<br>Oceanside, CA 92054 | Preston Lewis<br>Infrastructure Engineering Corporation<br>717 Pier View Way<br>Oceanside, CA 92054 |

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

Communications shall be deemed to have been given and received on the first to occur:

a. Actual receipt at the offices of the party to whom the communication is to be sent, as designated above, or

b. Three (3) working days following the deposit in the United States mail of registered or certified mail, postage prepaid, return receipt requested, addressed to the offices of the party to whom the communication is to be sent, as designated above.

21.0 **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 indicated below:

INFRASTRUCTURE ENGINEERING CORPORATION

By: PRESTON LEWIS, PRESIDENT
Name/Title

Date: 9/9/09

By: Robert S Webb CFO
Name/Title

Date: 9/9/09

01-0617154
Employer ID No.

CITY OF OCEANSIDE

By: _____
Peter A. Weiss, City Manager

Date: _____

APPROVED AS TO FORM:

Barbara Hamilton, ASST.
City Attorney

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

# CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California
County of SAN DIEGO }

On SEPT. 9, 2009 (Date) before me, NANCY M. CARLISLE, NOTARY PUBLIC (Here Insert Name and Title of the Officer)

personally appeared PRESTON H. LEWIS (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.

NANCY M. CARLISLE
Commission # 1667396
Notary Public - California
San Diego County
My Comm. Expires May 17, 2010

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 Nancy M. Carlisle (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: _____

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

Signer's Name: _____
☐ Individual
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Attorney in Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: _____
Signer Is Representing: _____

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

©2007 National Notary Association • 9350 De Soto Ave., P.O. Box 2402 • Chatsworth, CA 91313-2402 • www.NationalNotary.org Item #5907 Reorder: Call Toll-Free 1-800-876-6827

# CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California
County of SAN DIEGO }

On SEPT. 9, 2009 (Date) before me, NANCY M. CARLISLE NOTARY PUBLIC (Here Insert Name and Title of the Officer)

personally appeared ROBERT S. WEBER (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.

NANCY M. CARLISLE
Commission # 1667396
Notary Public - California
San Diego County
My Comm. Expires May 17, 2010

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 Nancy M. Carlisle (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: _____

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

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

Signer Is Representing: _____

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

©2007 National Notary Association • 9350 De Soto Ave., P.O. Box 2402 • Chatsworth, CA 91313-2402 • www.NationalNotary.org Item #5907 Reorder: Call Toll-Free 1-800-876-6827

Exhibit A

Infrastructure Engineering Corporation

March 13, 2009

Mr. Jason Dafforn
Project Manager
City of Oceanside, Water Utilities
300 North Coast Highway
Oceanside, CA 92054

**Re: Proposal for Construction Management and Inspection Services**
**Well Head Facilities for Wells 10 and 11 Project (715-85-7425)**

Dear Mr. Dafforn:

Infrastructure Engineering Corporation (IEC) is pleased to provide this proposal for construction management, inspection, survey and materials testing services to assist the City with the Well Head Facilities for Wells 10 and 11.

***We offer the City the following:***

- IEC will provide a highly qualified licensed Professional Engineer to lead the Construction Management (CM) project team which will include sub consultants for Electrical/Instrumentation and Start Up, Geotechnical/Materials Testing and Construction Staking services. Our Project team has successfully worked together on many projects including projects for the City of Oceanside over the years.

- An experienced team of professionals who truly understand the complexities of this project. There will be **"no learning curve,"** we are thoroughly familiar with City specifications, procedures, and personnel. We deliver an outstanding product the City expects on every project. Our team members have thoroughly studied the project plans and specifications and are completely familiar with all aspects of the project. Our overriding approach and philosophy is to engage and work shoulder-to-shoulder with City staff throughout this project.

Since our CM Department has performed many construction management and inspection services (CM/IS) projects with the City, we understand your operations and are providing a unique approach to the City. IEC is providing two options to perform the work depending on the outcome of the bidding process. We feel this gives the City more flexibility in providing a more streamlined approach if required or a more hands-on senior personnel performing all of the construction management and inspection services. With our approach, the City can choose the preferred CM team depending on the qualifications of the selected contractor. IEC pledges no substitutions on either team and IEC is committed to the City's satisfaction. This commitment is the key to success and our team members all value the City's goals. IEC will commit whatever resources are necessary to assure the City will achieve the expected successful completion of this project. With this approach and commitment, IEC will be providing the City the flexibility to manage the construction phase of the project in the most cost effective manner for the City.

Our commitment is to be an advocate for the City and to work diligently on your behalf. We will provide the City of Oceanside the peace of mind that this project will be constructed with your interests first. Thank you for your consideration.

Sincerely,

Tom Frank, P.E.
Principal,
Construction Management Services.

***PROJECT TEAM NO. 2 ESTIMATED FEE:***

Our proposed fee is based on the RFP that estimated a total contract duration of twenty (20) months. Three (3) months pre-construction, sixteen (16) months construction and one (1) month post construction of service anticipated. IEC and subconsultants will bill only actual hours worked per working day on a time and material basis.

IEC requests a total of not to exceed **fee of $373,465**. This fee is all inclusive of vehicle, mileage, computer, testing equipment; web based project management system (if requested) and all other necessary equipment and materials to perform the required tasks. A breakdown of the fee is as follows:

- ***Preconstruction Activities Estimated 3-Months***
  Scheduling, Subconsultant Coordination, Bid and Post Bid Assistance, Plan, Specification and Constructability Review's, Documentation Filing Set-Up and Coordination, Schedule and Prepare Agenda, Invites, Chair and Prepare Minutes for the Pre-construction Meeting and any other required pre-construction activities:

  As-Needed Construction Manager
  40 hours @ $125.00 per hour **$5,000**

- ***Construction Management / Inspection Services 16-Months***
  Construction Management/Resident Engineering/Inspection/Special Inspection/Subconsultant Coordination

  As-Needed Construction Manager
  2704 hours @ $125.00 per hour **$338,000**

- ***Project Closeout 1-Month***
  Finalize Punch list Confirmation, Coordinate Staff Training, Ensure Spare Part Receivables, Confirm and Submit As-Builts, Assist the City with all Warranty, Substantial Completion Notification and Filing of Project Acceptance:

  As-Needed Construction Manager
  25 hours @ $125.00 per hour **$3,125**

**SUBCONSULTANTS:**

- ***"As Needed" Electrical/Instrumentation Start-Up and Testing***
  **Rockwell Construction Inspection Services Inc.**
  Mr. Jim Hudson, 60 hrs @ $125.00 per **$7,500**

- ***"As Needed" Geotechnical and Materials Testing Services***
  **Kleinfelder Inc.** **$15,000**

  Project Manager, Mr. Ron Thompson

- ***"As Specified" Construction Staking Services***
  **Right-Of-way Engineering Services inc.** **$4,840**
  Project Manager; Michael Schlumpberger

**Total Maximum Fee** **$373,465**