

# STAFF REPORT



ITEM NO. 16

CITY OF OCEANSIDE

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DATE: March 19, 2008

TO: Honorable Mayor and City Councilmembers

FROM: Water Utilities Department

SUBJECT: **AUTHORIZATION TO AWARD A CONTRACT IN THE AMOUNT OF \$2,367,000 FOR THE LA SALINA WASTEWATER TREATMENT PLANT UPGRADES - PHASE 1 PROJECT; APPROVAL OF A PROFESSIONAL SERVICES AGREEMENT FOR CONSTRUCTION MANAGEMENT AND INSPECTION SERVICES; AND APPROVAL OF A BUDGET APPROPRIATION IN THE AMOUNT OF \$450,000**

## SYNOPSIS

Staff and the Utilities Commission recommend that the City Council award a contract in the amount of \$2,367,000 to Orion Construction, Incorporated, of Vista for the La Salina Wastewater Treatment Plant Upgrades - Phase 1 Project; approve a professional services agreement in an amount not to exceed \$355,530 with Infrastructure Engineering Corporation of Oceanside for construction management and inspection services, authorize the City Manager to execute the agreements upon receipt of all supporting documents; and approve a budget appropriation in the amount of \$450,000 from the Wastewater Expansion Fund to complete the funding for the project.

## BACKGROUND

The La Salina Wastewater Treatment Plant (La Salina) was originally constructed and placed into operation in 1949 (Exhibit A). There have been periodic expansions to keep up with increasing flows and various on-site rehabilitation projects. Currently the La Salina treatment facility is permitted for 5.5 million gallons a day (MGD) (secondary treatment) and has a Class B sludge disposal license for land application which currently averages 4,000 wet tons a year.

## ANALYSIS

The La Salina Wastewater Treatment Plant requires upgrades in several areas to maintain proper operation, to meet regulatory requirements, and to protect the health and safety of the operations staff and the citizens of Oceanside. The areas requiring upgrades include the primary clarifiers, the South Aeration Basin/Secondary Clarifier, the dissolved air floatation thickener and the anaerobic digesters.

The capacity of the existing plant is adequate; however several structural and mechanical issues need to be addressed for the plant. The existing steel dome roofing system for the primary digester has not been replaced and requires immediate replacement. The steel dome cover for the secondary digester was replaced in 1992. In addition, a gas diffuser mixing system was installed for the secondary digester but is not functioning. This project will completely replace the gas mixing system with a mechanical mixing system.

On November 14, 2007, the City Council approved the plans and specifications and authorized the City Engineer to call for bids for the construction of the project.

On January 15, 2008, seven bids were received and opened for the La Salina Upgrades - Phase I project. The apparent low bidder is Orion Construction, Incorporated, of Vista, with a bid in the amount of \$2,367,000 (Exhibit B). Staff has reviewed the bid submitted by Orion Construction and find that its bid bond and references are in accordance with City standards. The engineer's estimate to construct the project was \$2,300,000.

To properly manage these projects during construction, the services of a construction management and inspection support team are required. On December 12, 2007, 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 January 10, 2008, two proposals and two letters declining participation in the request for proposal solicitation were received by the Water Utilities Department. In accordance with the City's procedure, a panel was selected to evaluate the proposals. The panel unanimously recommended that Infrastructure Engineering Corporation be selected to provide the construction management and inspection services.

Infrastructure Engineering's construction management and inspection duties will be to ensure that the project is constructed according to the plans and specifications. Additional duties to be performed include day-to-day monitoring and inspection of the work; 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.

### **FISCAL IMPACT**

There is approximately \$2,329,258 in FY 2006-2007 carry forward funds available for the La Salina Plant Upgrades project (722.865665.5701). The total amount for construction and construction management is \$2,722,530. Staff is requesting an appropriation from the Wastewater Expansion Fund (726.1011) of \$450,000 to the La Salina Plant Upgrades project (722.865665.5701) to fund the project.

**INSURANCE REQUIREMENTS**

The City's standard insurance requirements will be met.

**COMMISSION OR COMMITTEE REPORT**

The Utilities Commission approved staff's recommendation during its regularly scheduled meeting on February 19, 2008.

**CITY ATTORNEY'S ANALYSIS**

Pursuant to the Public contract Code, the contract for the La Salina Wastewater Treatment Plant Upgrades must be awarded to the lowest responsible bidder. A "responsible bidder" is a bidder who has demonstrated the attributes of trustworthiness as well as quality, fitness, capacity and experience to satisfactorily perform a public works contract. The City Council also has discretion to reject all bids and readvertise.

The proposed professional services agreement with Infrastructure Engineering Corporation has been reviewed by the City Attorney and approved as to form.

**RECOMMENDATIONS**

Staff and the Utilities Commission recommend that the City Council award a contract in the amount of \$2,367,000 to Orion Construction, Incorporated, of Vista for the La Salina Wastewater Treatment Plant Upgrades - Phase 1 Project; approve a professional services agreement in an amount not to exceed \$355,530 with Infrastructure Engineering Corporation of Oceanside for construction management and inspection services, authorize the City Manager to execute the agreements upon receipt of all supporting documents; and approve a budget appropriation in the amount of \$450,000 from the Wastewater Expansion Fund to complete the funding for the project.

PREPARED BY:

\_\_\_\_\_  
Greg Blakely  
Administrative 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

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- Exhibit A: Site Map
- Exhibit B: Bid Results
- Exhibit C - RFP Mailing List



BID TABULATION

PROJECT NO: 722865665 PROJECT NAME: La Salina Upgrades - Phase I PROJECT MANAGER: Greg Blakely BID DATE & TIME: January 15, 2008 2:00 p.m.		ENGINEER'S ESTIMATE: \$ 2.3 Mil
BIDDER:	ADDRESS:	BID AMOUNT:
1. Wier Construction Corporation	2255 Barham Drive, Escondido, CA 92029	\$2,963,712.00
2. SCW Contracting	2525 N. Old Hwy 395, Fallbrook, CA 92028	2,693,400.00
3. DenBoer Engineering and Construction, Inc.	72-152 Northshore Street, Ste. G, Thousand Palms 92276	3,442,200.00
4. Stanek Constructors, Inc.	2434 Auto Park Way, Ste. 102, Escondido, CA 92029	3,310,000.00
5. Falcon General Engineering, Inc.	572 Collynn St., Vista, CA 92083	2,884,010.00
6. Orion Construction, Inc.	1232 Keystone Way, Vista CA 92081	2,367,000.00
7. Metro Builders & Engineers Group, Ltd.	2610 Avon Street, Ste. A, Newport Beach, CA 92663	3,338,982.00
8.		
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10.		
11.		
12.		

**LA SALINA WASTEWATER TREATMENT PLANT – PHASE 1 UPGRADES PROJECT (722-86-5665)  
Construction Management RFP Mailing List**

Company	Address	City	State	Zip	First Name	Last Name	Title	Phone	Fax
Brown and Caldwell	9665 Chesapeake Drive, Suite 201	San Diego	CA	92123	Nancy E.	Gardiner		858-514-8822	
Montgomery Watson	9444 Farnham, Suite 300	San Diego	CA	92123	Jeff	Thornbury	Marketing Director	858-751-1200	
GEI Consultants	2141 Palomar Airport Road, Suite 160	Carlsbad	CA	92011-14	Dave	Stephens		760-929-9136	
RBF Consulting	9755 Clairemont Mesa Blvd., Suite 100	San Diego	CA	92124	John	Harris		858-614-5025	
Harris & Associates	750 B Street, Suite 1800	San Diego	CA	92101	Byron	Tobey, Jr.		619-236-1778	
Infrastructure Engineering Corporation	717 Pier View Way	Oceanside	CA	92054	Preston	Lewis		760-529-0729	
Cornerstone Engineering, Inc.	620 Mission Avenue	Oceanside	CA	92054	Mike	Boraks		760-722-3495	
PBS&J	2303 Nicklaus Drive	Oceanside	CA	92056	Skip	Griffin			
Water 3 Engineering, Inc.	702 Civic Center Drive	Oceanside	CA	92054	Don	Bunts		760-737-6195	
Carollo Engineers	4167 Avenida De La Plata, Suite 114	Oceanside	CA	92056	Dennis	Wood			
Tetra Tech ASL, Inc.	2141 El Camino Real, Suite J	Oceanside	CA	92054	Howard/Steve	Arnold/Tedesco		760-754-0550	
Boyle	4167 Avenida de La Plata, Suite 114	Oceanside	CA	92056	Jeff/Anders	Marchion/Egense		760-726-0783	858-292-7432

**CONSTRUCTION MANAGEMENT AND INSPECTION SERVICES FOR THE  
LA SALINA WASTEWATER TREATMENT PLANT UPGRADES - PHASE I -  
722.865665**

**CITY OF OCEANSIDE**

**PROFESSIONAL SERVICES AGREEMENT**

THIS AGREEMENT is made and entered into this \_\_\_ day of \_\_\_\_\_, 2008, 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.** CONSULTANT desires to provide professional engineering services for construction management and inspection services for the La Salina Wastewater Treatment Plant - Phase I Upgrades project per the CONSULTANT's proposal dated January 10, 2008, attached hereto and incorporated herein as Exhibit A. The work is more particularly described as follows:
- 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:

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- 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 Greg Blakely.
- 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 Upon completion of construction, prepare, approve and sign a set of As-Built record drawings.
- 1.1.5 Provide office and field assistance to the City during the 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 comment on detailed construction drawings, shop and erection drawings submitted by the contractor, subcontractors and suppliers for compliance with the construction contract documents.
  - c. Review and comment on laboratory, shop and mill test reports on materials and equipment.
  - d. Review and make recommendations on all construction contract change orders and requests for clarification from the contractor.
  - e. Prepare engineering cost estimates.

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- f. Prepare needed reports and notices.
- g. Provide periodic visits to the site to monitor construction.
- h. Attend meetings with the Water Utilities Director or his designees.
- i. Provide all geotechnical and surveying services as necessary to complete the work.

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.
- 1.2.7 Provide coordination of all inquiries from prospective bidders during the bidding period.

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

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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 CONSULTANT under similar conditions.
- 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 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.

- 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

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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 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

<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.

7.2.1 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.

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- 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).

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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 conduct, negligent acts, errors, 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 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 tortuous 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.

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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 intended, 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 \$355,530.

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.

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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, and based upon the following partial payment schedule:

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

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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:**

Lonnie Thibodeaux  
Water Utilities Director  
300 North Coast Highway  
Oceanside, CA 92054

**TO CONSULTANT:**

Infrastructure Engineering Corporation  
Preston Lewis, President  
14271 Danielson Street  
Poway, CA 92064

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.

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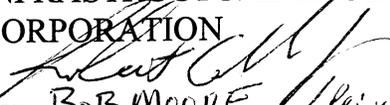
21.0 **SIGNATURES.** The individuals executing this Agreement represent and warrant that they have the right, power, legal capacity and authority to enter into and to execute this Agreement on behalf of the respective legal entities of the CONSULTANT and the CITY.

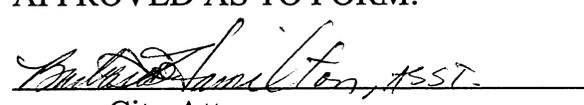
**IN WITNESS WHEREOF** the parties hereto for themselves, their heirs, executors, administrators, successors and assigns do hereby agree to the full performance of the covenants herein contained and have caused this Professional Services Agreement to be executed by setting hereunto their signatures:

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INFRASTRUCTURE ENGINEERING  
CORPORATION

CITY OF OCEANSIDE

By:  By:   
Name/Title BOB MOORE / PRINCIPAL CONST. MANAGER Name/Title Peter A. Weiss, City Manager

By:  APPROVED AS TO FORM:  
Name/Title PRESTON LEWIS   
01-0617154 City Attorney  
Employer ID No.

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

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

State of California

County of SAN DIEGO

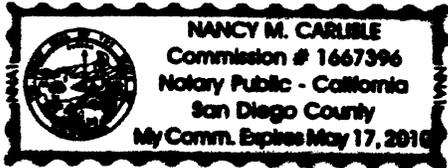
} ss.

On JAN. 22, 2008, before me, NANCY M. CARLISLE, NOTARY PUBLIC

personally appeared PRESTON H. LEWIS

personally known to me

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.



Place Notary Seal Above

WITNESS my hand and official seal.

Nancy M. Carlisle  
Signature of Notary Public

**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: \_\_\_\_\_

**RIGHT THUMBPRINT OF SIGNER**

Top of thumb here

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

Signer's Name: \_\_\_\_\_

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

**RIGHT THUMBPRINT OF SIGNER**

Top of thumb here

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

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

State of California

County of SAN DIEGO

} ss.

On JAN. 22, 2008

Date

before me, NANCY M. CARLISLE, NOTARY PUBLIC

Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared

ROBERT E. MOORE

Name(s) of Signer(s)

personally known to me

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.



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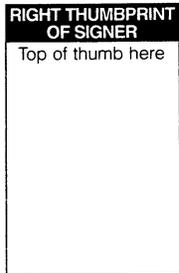
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Signer Is Representing: \_\_\_\_\_

Signer's Name: \_\_\_\_\_

- Individual
- Corporate Officer — Title(s): \_\_\_\_\_
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- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: \_\_\_\_\_



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

January 10, 2008

Mr. Greg Blakely  
Administration Manager  
City of Oceanside, Water Utilities  
300 North Coast Highway  
Oceanside, CA 92054

**Re: Proposal for Construction Management and Inspection Services  
La Salina Wastewater Treatment Plant-Phase 1 Upgrades  
Project (722-86-5665)**

Dear Mr. Blakely:

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 Phase 1 Improvement project at the La Salina Wastewater Treatment Plant.

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

- IEC is proposing **Mr. Ken O'Connor**, a highly qualified licensed Professional Engineer to provide all aspects of services as required in the RFP, plans and specifications. With multiple project experience of nearly identical improvements, having all certifications required for special inspections including NACE (coatings) and welding inspection experience, IEC can produce a one man operation providing all necessary CM and Inspection services which will be a cost savings to the City.
- 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 as is part of our firm culture.
- Along with constant communication with the City, Contractor and utility agencies, IEC proposes using a **web based project management system** so up-to-date project information is at the City staff's fingertips including detailed daily reports, photos, submittals, RFI's, PCO's, Change Orders and all project logs. IEC has learned on previous projects that this tool ensures the entire project team is completely aware of the project status which can substantially remove unnecessary changes or delays. This will be offered to the City at no additional cost to the CM Contract.



Our team is completely dedicated to this project for the entire duration. IEC understands the importance of keeping the consistency of the team members from project inception through completion. This approach will ensure that we maintain full control of the project at all times throughout construction. Mr. O'Connor, P.E. is thoroughly familiar with how the City wants their projects built and operated. We have assembled the best team possible to meet any project challenges.

We believe the key to the success of this project is the knowledge, experience and commitment that all of our team members possess. The IEC team brings to the City all of these attributes, along with unparalleled enthusiasm. We will commit whatever resources necessary to assure the City will achieve the expected successful completion of this project.

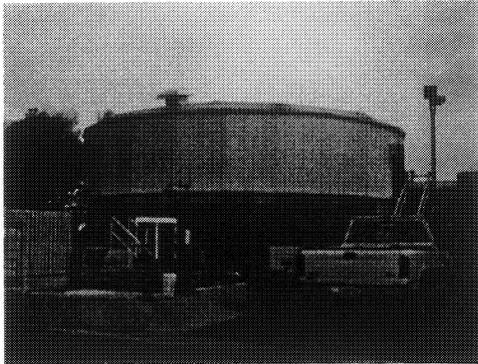
IEC is perfectly suited to complete this project and are excited about the opportunity to continue serving the City. Our commitment is to be an advocate of the City and to work diligently on your behalf. We will provide the City of Oceanside the peace of mind that this project will be constructed with your interests first. Thank you for your consideration.

Sincerely,

Preston Lewis, P.E.  
President

Bob Moore  
Principal-in-Charge

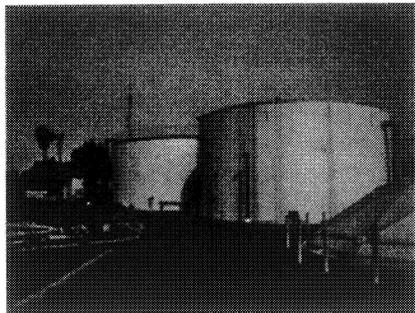
## Project Approach/Scope of Work



DAF New Flat Aluminum Roof to be Installed

Our Experience Staff Bring a Highly Qualified Understanding of the City's Needs

The Construction Management team of IEC has a successful history of managing and inspecting construction projects similar to all aspects of the City of Oceanside's La Salina Plant Improvement Phase 1 project. The proposed IEC staff member for this Contract has Construction Management and Inspection experience with the City of Oceanside's Water/Wastewater Utility Department specializing in complex water and wastewater facilities. Our accomplishments are achieved through careful planning and execution of our Construction Management plan. By adhering to traditional Construction Management practices we can control costs and schedule while ensuring that a quality, well documented project is delivered. All of our staff members have extensive local experience and are familiar with the City of Oceanside CM procedures, the Water, Sewer, Reclaimed Water Design and Construction Manual, and "Greenbook" specifications. Our staff has been properly trained per OSHA safety requirements and NPDES/SWPPP implementation, inspection and sampling.



Existing Primary and Secondary Digesters

### Understanding the Specific Project Issues

The construction of the first phase of the La Salina Treatment Plant Improvements will be a challenging and complicated project. IEC thoroughly understands all aspects of this project and is prepared to undertake the Construction Management and Inspection phase services to deliver a highly successful project. The major project elements or specific issues are listed below with approach practices followed in this section of the proposal.

- Keeping the Plant in Operation, Carefully Adhering to the Sequence of Work Requirements
- Project CM/Inspection Team Consistency/Expertise
- Specialty Inspection/Electrical – Start Up & Testing
- Project Safety
- NPDES Permit SWPPP Enforcement
- Permit and License Requirements
- Construction Improvement Quality Assurance
- CM Team Understanding City of Oceanside Procedures and Specification Conformance
- Extensive CM/Inspection Photo and Written Documentation
- Project Progress Meetings
- Prevailing Wage Requirement Confirmation
- Construction Management Plan, Contract Administration: Submittals, RFI's, Payment Applications, CCO's



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The IEC Construction Management team is completely familiar with all the key issues that will be encountered during the project. This understanding will enable us to proactively manage these issues to ensure a well coordinated Construction Management project. Below is a discussion of issues and how we propose to address them:

**Issue: Project CM/Inspection Team Consistency/Expertise**

IEC wants to ensure the City that the proposed team included in this proposal is 100% dedicated and available to work throughout the duration of this project. IEC understands the importance of team consistency and will not replace any staff without consent from the City. In addition, IEC has selected an accomplished CM team. The Construction Manager, Resident Engineer and Inspection services will be performed by Mr. Ken O'Connor, P.E. who has a proven track record of managing complex projects which require coordinating multiple disciplines.

**Issue: Specialty Inspection/Electrical – Start Up & Testing**

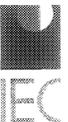
One common issue which occurs in projects of this complexity is satisfactory inspection for electrical construction and assurance that the construction follows the Process & Instrumentation Diagram (P&IDs). In order to ensure this portion of the work is performed so that the construction adheres to the specifications, the IEC team has added Rockwell Construction Services, Inc. Rockwell will add another dimension of quality to the IEC team to make sure that the Facility is ready to start-up and function as the Contract Documents intended.

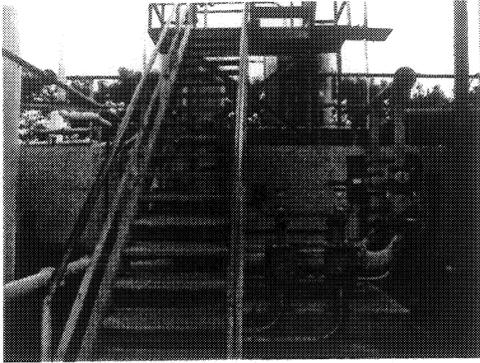
**Issue: Project Safety**

As documented in the Project Specifications project safety is the sole responsibility of the General Contractor. IEC will confirm the Contractor has all required safety data including the OSHA excavation permits, Injury and Illness Prevention plan, confined space entry plans, and any other documents required by law. IEC will require written proof of the required Contractor safety meetings on a weekly basis. Any situation observed by our field staff which appears to put any person in potential danger will be immediately brought to the attention of the Project Superintendent. IEC will ensure operations will cease until the situation is corrected.

**Issue: NPDES Permit Requirements, Compliance with Storm Water Pollution Prevention Plan**

As indicated in the Contract Documents, the Contractor is responsible to obtain the required NPDES permits along with development and implementation of the Storm Water Pollution Prevention Plan. However, it has been IEC's experience that the success or failure of any erosion control, BMP's and storm water pollution prevention program is the level of inspection or enforcement that is provided during construction. All IEC field staff has been trained and is experienced with inspection of local large scale construction projects that require extensive storm water and erosion control protection measures. Our team members have a thorough and complete understanding of the requirements and are prepared to work with the Contractor, City, and regulatory agencies to make this part of the project a success.





Existing Stairway and Platform to be Removed and Replaced

#### Issue: Permit and License Requirements

Prior to the start of construction of the project, IEC will ensure the Contractor has the following approved permits submitted as required in the Contract Documents:

- State of California Contractor License
- City of Oceanside Business License
- Safety Permit from the California Division of Industrial Safety
- NPDES Dewatering Permit
- RWQCB General Permit
- Approved SWPPP
- Confined Space
- City Haul Route Permit
- Traffic Control Plan Permit
- Overtime Inspection Permit (If Needed)

#### Issue: Construction Improvement Quality Assurance

As documented on the resumes included in this proposal, IEC believes our team has nearly identical experience as required for this project. Beginning with thorough knowledge of the plans and specifications, our inspectors will always be not only inspecting the current operations but always “looking ahead” for potential problems so they may be addressed prior to the possibility of delaying the Contractor in any way. All materials delivered to the site will be immediately inspected for conformance of the approved project submittals and City specifications. If the materials do not meet the project requirements, each item will be marked as rejected. The Contractor will then be required to remove the material from the site.

IEC will be onsite full time during any construction improvements. No improvements will be backfilled prior to inspection. Any facilities backfilled or coated prior to inspection will be rejected until the Contractor uncovers for proper inspection. Prior to acceptance of the facilities and prior to final surface improvements all required testing will be performed and accepted by the IEC Construction Manager.

All of IEC's staff are proactive and know the importance of constant communication with the Owner, Designer and Contractor. If a problem should arise, the IEC Construction Manager will immediately address the issue. Once the problem has been thoroughly investigated, Mr. O'Connor, P.E. will provide the City Project Manager and other City Staff with a number of possible solutions to correct the issue. A swift decision can then be made and the Contractor notified of any possible revisions.

#### Issue: CM Team Understanding of City of Oceanside Procedures and Specification Conformance

The importance of adhering to the Contract Documents throughout all stages of the project is critical to the project's success. This starts at the onset of the project when all project schedules and submittals are being processed. Once all parties understand that the Contract Documents and associated permits will be strictly adhered to, this eliminates the possibility for miscommunication and unnecessary change orders.



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Issue: Project Photo and Written Documentation / Web Based Project Management

Proper project documentation is imperative on all IEC projects. Our Construction Manager will prepare daily a complete report indicating all of the construction activities performed, each day, documentation including; quantities of materials installed, Contractors equipment used, labor hours by type worked, and conversations logged.

In addition IEC is proposing a web based project management program. This will insure that the project team members have access to project information at all times.

Issue: Submittal and RFI Processing

The most successful project quality control starts with proper submittals. IEC will be diligent in initial review of submittals to ensure the required components are included. The submittals and RFIs will be sent to the Design Engineer for review. Information will be available with time/date stamps to the allowed project team members. IEC will require prompt review times from the Project Team members and will do a quick review prior to returning to the Contractor. IEC will verify that the products approved for this project comply with the project plans, specifications and City requirements. Our staff is exceptionally knowledgeable in Oceanside Standard requirements and will assure the approved submittals reflect accordingly. Our expedited review times will allow the project to stay on schedule without delays. As with all of the IEC managed projects, the Contractor will be given a Construction Management Manual. This manual will list all project required submittals and required submitted dates from the Notice to Proceed.

Issue: Prevailing Wage Requirements

As with all projects managed by IEC, IEC will require all certified payroll for each Contractor working onsite be submitted each month with the monthly pay request. We then carefully match the payroll information to our daily reports ensuring that workers on the project were paid the correct hours and wages per the classification of their trade. If a discrepancy is discovered, the General Contractor is notified and payment will be held for the previous month's work until the error is corrected.



Leaking Primary Digester Cover

A Clear Construction Management Approach That Minimizes the City Efforts

IEC's approach to Construction Management is divided into three phases; *Pre-Construction, Construction, and Post-Construction*. Illustrated in the flow chart at the end of this section are the primary activities during each of these phases. The flow chart, depicts the integrated services that we will provide throughout the duration of the project. By having IEC serve as the single source of responsibility acting as an extension of City staff, the Construction Management activities will be well coordinated and proceed expeditiously.

At the core of our approach is *communication*. Our Construction Manager will serve as an agent and a team member of the City Staff. We will maintain regular and frequent communication with the City, nearby



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community, Contractor, and other parties throughout the duration of the project. Our Construction Manager, Mr. Ken O'Connor, P.E. will conduct regularly scheduled progress meetings; maintain project documentation files, submittal logs, RFI and contract modification logs, and coordinate/conduct field inspections and necessary field surveys and testing. IEC has upgraded our project CM administration with the most recent Primavera 3 Scheduling and Virtual Project Management (VPM) project correspondence tracking system. The P3 program is a beneficial tool for proper scheduling and cost tracking.

The following provides an overview of our activities and approach during each phase of the project.

#### Pre-Construction Phase:

Constructability review of the project plans and specifications has already been performed by the Project Team. Prior to construction the team will be completely familiar with all project plans and specifications. IEC has reviewed the plans and specifications, and all City requirements and specifications and has notified the city of any minor discrepancies with the plans and specifications. Once IEC has been awarded the CM Contract for this project, further constructability reviews will be performed, if any concerns or value engineering details are discovered during our review, these issues will be discussed with the City for possible Contract Addendums prior to the project bid opening.

IEC will prepare an initial P3-CPM schedule for the City. Our schedule will be closely compared to the Contractor's initial CPM schedule submitted at the pre-construction conference to assure that all contract items are listed, all milestones are met and the project will be completed within the allotted Contract duration. The awarded Contractor submitted schedule of values will also be reviewed for compliance to the Contract Specifications, assuring the project costs are not front end loaded, but rather spread out in compliance with the approved CPM schedule.

To assist the City, if requested, IEC will closely review all bids to ensure they comply with all requirements specified including DBE subcontractor percentage requirements, mathematical errors, bonding capabilities, similar project requirements, etc. IEC will then provide a recommendation to the City of the most qualified bid after analysis. IEC will also assist with developing a plan for assembling, delivering, and executing the Contract Documents.

At the heart of the pre-construction phase is the preparation of the Construction Management Procedures Manual. The manual describes management and administration procedures, such as City and State requirements, procedures, all submittal requirements with a checklist schedule, project forms to be used provided on disk, inspection and testing requirements, permits, pay procedures, etc. The manual also outlines the lines of communications and how all parties involved in the project will interact. The manual provides the Contractor with guidelines to follow to simplify submittal and coordination efforts.

Our approach during the pre-construction phase is to clearly establish the responsibilities, lines of communications, and procedures to the Contractor. We will reinforce to the Contractor that the project will be administered in strict accordance

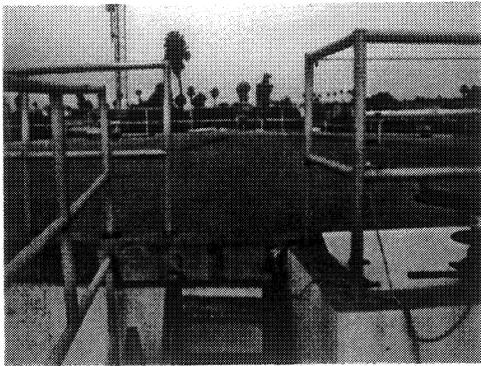


with the contract, plans and specifications. The pre-construction conference will be used to establish a *firm but fair* policy that will be used throughout the project.

Prior to the start of construction and in addition to the Contractor's video requirement IEC will walk and video tape the entire project alignment with a representative of the awarded Contractor. The video tape will include audio noting all existing improvements. Special note will be made of damaged improvements.

#### Construction Phase:

During the construction phase of the project, our Construction Manager will maintain our *firm but fair* policy in dealing with the Contractor. Our approach is to be diligent in controlling the work through enforcing good workmanship and ensuring conformance of materials and equipment to the Contract Documents. We will assist the Contractor by alerting him to special project requirements such as City standards, testing and coordination with outside agencies. IEC will provide any known information that may be of benefit to the Contractor. Contractor submittals, RFIs, will be dealt with



Secondary Roof Digester

*expeditiously in order to help facilitate the Contractor's work efforts.* Inspections and tests will be made promptly. Regularly scheduled progress, safety and third party coordination meetings will be held to identify/resolve issues, coordinate, and update project status. Claims for additional work will be reviewed against the Contract Documents for validity, accuracy, and method of computing. Valid claims for additional work will be brought to the City with a recommendation. Invalid claims will be rejected. Key to avoiding unnecessary claims and schedule delays is our timely response to Contractor submittals and inquiries. Strict adherence to the Contract Documents will also help to avoid disputes and schedule delays. Along with daily construction activity reports provided by the IEC field inspector, our staff will provide the City with photo project documentation, potential claims, safety concerns, coordination, detailed force account activities, adjacent property issues, manpower reports, and possible delay reports. As with all of IEC's CM projects, we will provide the City with an electronic and bonded Monthly Progress Report with all construction progress updates including schedule compliance, submittal, RFI and contract modification logs. Photos of the monthly project with descriptions will be provided along with the projected following months activities. Along with hard copy files, all of IEC project documentation is scanned and electronic discs provided to our clients each month with complete updated project files.

The Contractor's monthly CPM schedules will be closely reviewed by our Construction Manager, assuring all project items and dates are accurate and in compliance with the Contract Documents including submittal review times, long lead/lag items etc. These reviews will be performed as submitted with each monthly submitted progress payments. If discrepancies are discovered, the Contractor will be immediately notified to re-submit an accurate CPM schedule. If the schedule is not accepted by the Construction Manager on a monthly basis or a failure of approved certified payrolls and as-built drawings, a delay in the progress payment may occur.



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Upon the Contractor's submitted monthly progress payment, the IEC Construction Manager will ensure the Contractor is paid only for items installed. Unless approved by the City, no "materials on site" will be paid until installed. Budget control and cost forecasting reports will be submitted monthly to the City for review.

As with all of community surrounded construction projects, IEC takes the public relations with the surrounding businesses, residences and commuters with the highest importance. IEC will properly act as the City liaison on this project, with swift congenial communications with all residences with questions or complaints. All haul routes and approved traffic control plans will be strictly enforced. Access to all businesses will be open at all times unless previously approved for closure by the City.

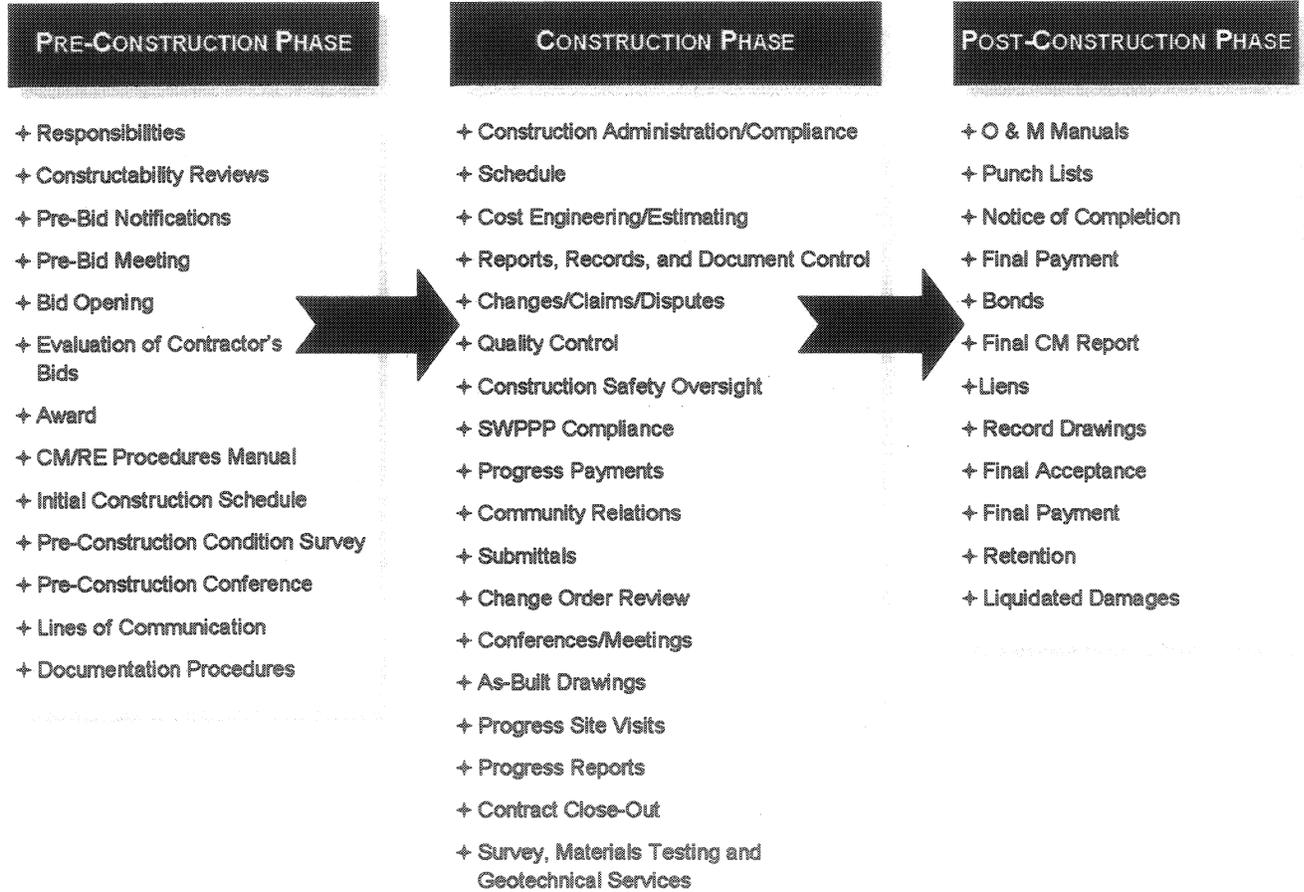
Post-Construction Phase:

Post-construction or project close-out activities include completion of final punch list items, guarantees/warranties, approval of O&M manuals, subcontractor liens, retention, and final acceptance/certificate of completion. Orderly transfer of key records and documents, resolution of outstanding issues, final payment preparation and processing along with final acceptance of as-built contract specifications and drawings. All of the close-out items are important to address fully to ensure that the City has a final project that is free from any encumbrances. Upon completion of the project, IEC will provide the City with both hard and electronic copies of all project documentation.

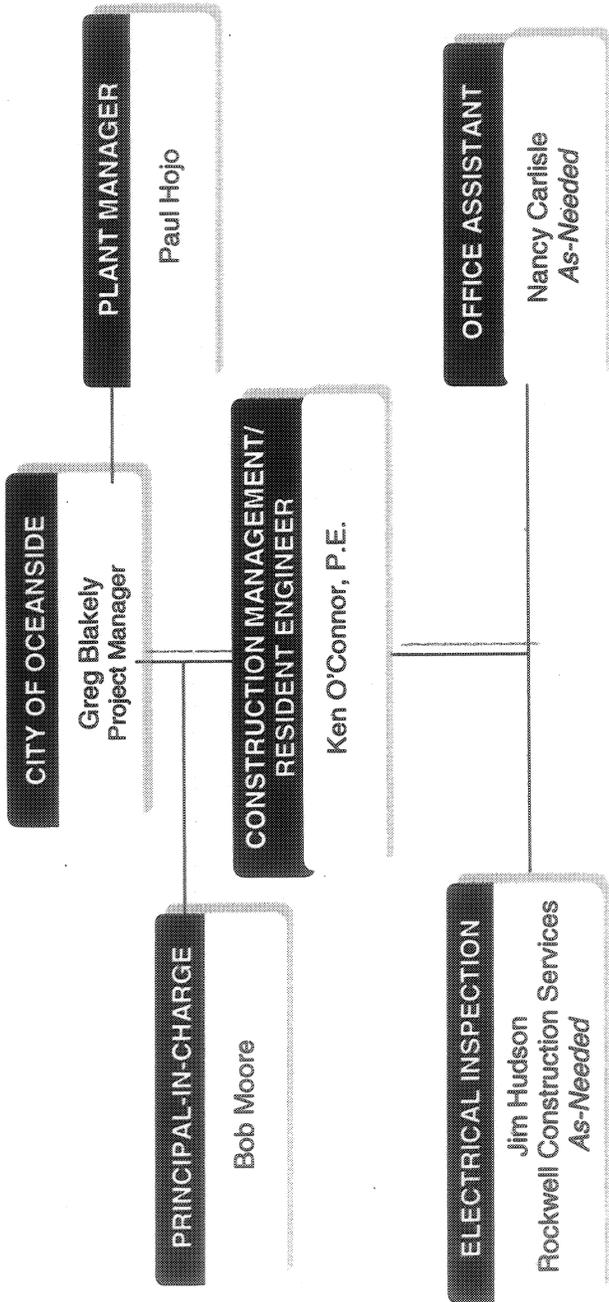


CM Procedure Flow Chart:

## CONSTRUCTION MANAGEMENT PLAN



# PROJECT TEAM CHART



# Fee Schedule

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Our proposed fee is based on the RFP that estimated a total construction duration of eighteen months and a CM/Inspection budget of 20 months. Due to the required sequencing of the project, the procurement of the materials for the DAF improvements is estimated at 65 days. These improvements must be completed prior to the secondary and Primary Digester activities. IEC and sub consultants 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 \$355,530.00 This fee is all inclusive of vehicle, mileage, computer, testing equipment, web based project management system and all other necessary equipment and materials to perform the required tasks. A breakdown of the fees is as follows:

### Preconstruction Activities

CPM Review, Submittal/ RFI Processing, Required Plant Inspections etc.:

**Mr. Ken O'Connor, P.E.**

Construction Manager/Special Inspector

2 months @ 2 hours per day, 80 hrs @ \$118.00 per **\$9,440.00**

### Construction Contract of 18 Months

Construction Management/Resident Engineering/Inspection/Special NACE

Corrosion and Welding Inspection/Sub Consultant Coordination/Project Closeout

**Mr. Ken O'Connor, P.E.**

Construction Manager/Resident Engineer/Inspector/Special Inspector

360 Working Days @ 8 hours per day, 2880 hrs @ \$118.00 per **\$339,840.00**

### "As-Needed" Electrical/Instrumentation Start Up and Testing

Rockwell Construction Inspection Services Inc.

**Mr. Jim Hudson**, as needed not to exceed 50 hrs @ \$125.00 per **\$6250.00**

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**Total Maximum Fee** **\$355,530.00**

