ITEM NO. 6

STAFF REPORT

CITY OF OCEANSIDE

DATE: November 30, 2011

TO: Honorable Mayor and City Councilmembers

FROM: Water Utilities Department

SUBJECT: **PROFESSIONAL SERVICES AGREEMENT IN AN AMOUNT NOT TO EXCEED $51,947 WITH SANCON ENGINEERING OF HUNTINGTON BEACH TO APPLY COATING TO A SECONDARY CLARIFER AT THE SAN LUIS REY WASTEWATER TREATMENT PLANT**

SYNOPSIS

Staff recommends that the City Council approve a professional services agreement in an amount not to exceed $51,947 with Sancon Engineering of Huntington Beach, to apply coating to a secondary clarifier at the San Luis Rey Wastewater Treatment Plant, and authorize the City Manager to execute the agreement.

BACKGROUND

The Water Utilities Department has a continuing program of maintenance that identifies equipment that needs to be replaced or rehabilitated. The coating on the secondary clarifier at the San Luis Rey Wastewater Treatment Plant is 10 years old. During an inspection of the equipment, staff found extensive corrosion in the framework and determined that a protective coating needs to be applied to repair the damage.

ANALYSIS

Water Utilities staff obtained three bids for this work. In accordance with the City's procedure for the bidding process, staff evaluated the bids. After a thorough review of the bid amounts, staff unanimously recommended that Sancon Engineering be selected to apply the coating to the clarifier. The bids were as follows:

Supplier	Bid Amount
Sancon Engineering	$51,947
Zebron	$57,850
Jamison Engineering	$63,275

Staff estimates that the coating of the secondary clarifier will take approximately two to three weeks.

FISCAL IMPACT

The FY 11-12 current available budget for infrastructure repair and maintenance in the San Luis Rey Plant Improvements project (909951000722.5703.10600) is $226,711 so there are funds to perform this work.

COMMISSION OR COMMITTEE REPORT

The Utilities Commission approved staff's recommendation at its regularly scheduled meeting on October 18, 2011.

CITY ATTORNEY'S ANALYSIS

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

RECOMMENDATIONS

Staff recommends that the City Council approve a professional services agreement in an amount not to exceed $51,947 with Sancon Engineering of Huntington Beach, to apply coating to a secondary clarifier at the San Luis Rey Wastewater Treatment Plant, 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

Cari Dale, Water Utilities Director

Teri Ferro, Financial Services Director

CITY OF OCEANSIDE

PROFESSIONAL SERVICES AGREEMENT

PROJECT: San Luis Rey Wastewater Treatment Plant Secondary Clarifier Coating (909951000722)

THIS AGREEMENT, dated _____, 20__ for identification purposes, is made and entered into by and between the CITY OF OCEANSIDE, a municipal corporation, hereinafter designated as "CITY", and SANCON ENGINEERING, INC., hereinafter designated as "CONTRACTOR."

NOW THEREFORE, THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. **SCOPE OF WORK.** The CONTRACTOR will provide services to apply coating to the San Luis Rey Wastewater Treatment Plant secondary clarifier. The work is more particularly described in the CONTRACTOR's bid dated August 31, 2011, attached hereto and incorporated herein as Exhibit A.

2. **INDEPENDENT CONTRACTOR.** CONTRACTOR'S relationship to the CITY shall be that of an independent contractor. CONTRACTOR shall have no authority, express or implied, to act on behalf of the CITY as an agent, or to bind the CITY to any obligation whatsoever, unless specifically authorized in writing by the CITY. CONTRACTOR shall be solely responsible for the performance of any of its employees, agents, or subcontractors under this Agreement. CONTRACTOR shall report to the CITY any and all employees, agents, and consultants performing work in connection with this project, and all shall be subject to the approval of the CITY.

3. **WORKERS' COMPENSATION.** Pursuant to Labor Code section 1861, the CONTRACTOR hereby certifies that the CONTRACTOR 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 CONTRACTOR will comply with such provisions, and provide certification of such compliance as a part of this Agreement.

4. **LIABILITY INSURANCE.**

4.1. CONTRACTOR shall, throughout the duration of this Agreement maintain comprehensive general liability and property damage insurance, or commercial general liability insurance, covering all operations of CONTRACTOR, its agents and employees, performed in connection with this Agreement including but not limited to premises and automobile.

4.2 CONTRACTOR shall maintain liability insurance in the following minimum limits:

Comprehensive General Liability Insurance (bodily injury and property damage)	
Combined Single Limit Per Occurrence	$ 1,000,000
General Aggregate	$ 2,000,000*
Commercial General Liability Insurance (bodily injury and property damage)	
General limit per occurrence	$ 1,000,000
General limit project specific aggregate	$ 2,000,000
Automobile Liability Insurance	$ 1,000,000

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

4.3 If coverage is provided through a Commercial General Liability Insurance policy, a minimum of 50% of each of the aggregate limits shall remain available at all times. If over 50% of any aggregate limit has been paid or reserved, the CITY may require additional coverage to be purchased by the CONTRACTOR to restore the required limits. The CONTRACTOR shall also notify the CITY promptly of all losses or claims over $25,000 resulting from work performed under this contract, or any loss or claim against the CONTRACTOR resulting from any of the CONTRACTOR'S work.

4.4 All insurance companies affording coverage to the CONTRACTOR for the purposes of this Section shall add the City of Oceanside as "additional insured" under the designated insurance policy for all work performed under this agreement. Insurance coverage provided to the City as additional insured shall be primary insurance and other insurance maintained by the City of Oceanside, its officers, agents, and employees shall be excess only and not contributing with insurance provided pursuant to this Section.

4.5 All insurance companies affording coverage to the CONTRACTOR pursuant to this agreement shall be insurance organizations admitted by the Insurance Commissioner of the State of California to transact business of insurance in the state or be rated as A-X or higher by A.M. Best.

4.6 CONTRACTOR shall provide thirty (30) days written notice to the CITY should any policy required by this Agreement be cancelled before the expiration date. For

the purposes of this notice requirement, any material change in the policy prior to the expiration shall be considered a cancellation.

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

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

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

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

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

6. **CONTRACTOR'S INDEMNIFICATION OF CITY.** To the greatest extent allowed by law, CONTRACTOR shall indemnify and hold harmless the CITY and its officers, agents and employees against all claims for damages to persons or property arising out of the negligent acts, errors or omissions or wrongful acts or conduct of the CONTRACTOR, 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. CONTRACTOR'S indemnification shall include any and all costs, expenses, attorneys' fees, expert fees and liability assessed against or incurred by the CITY, its officers, agents, or employees in defending against such claims or lawsuits, whether the same proceed to judgment or not. Further, CONTRACTOR at its own expense shall, upon written request by the CITY, defend any such suit or action brought against the CITY, its officers, agents, or employees resulting or arising from the conduct, tortious acts or omissions of the CONTRACTOR.

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

7. **COMPENSATION.** CONTRACTOR'S compensation for all work performed in accordance with this Agreement, shall not exceed the total contract price of $51,946.64.

   No work shall be performed by CONTRACTOR in excess of the total contract price without prior written approval of the CITY. CONTRACTOR shall obtain approval by the CITY prior to performing any work that results in incidental expenses to CITY.

8. **TIMING REQUIREMENTS.** Time is of the essence in the performance of work under this Agreement and the timing requirements shall be strictly adhered to unless otherwise modified in writing. All work shall be completed in every detail to the satisfaction of the CITY within twenty-one (21) working days.

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

10. **INTERPRETATION OF THE AGREEMENT.** The interpretation, validity and enforcement of the Agreement shall be governed by and construed under the laws of the State of California. The Agreement does not limit any other rights or remedies available to CITY.

    The CONTRACTOR shall be responsible for complying with all local, state, and federal laws whether or not said laws are expressly stated or referred to herein.

    Should any provision herein be found or deemed to be invalid, the Agreement shall be construed as not containing such provision, and all other provisions, which are otherwise lawful, shall remain in full force and effect, and to this end the provisions of this Agreement are severable.

11. **AGREEMENT MODIFICATION.** This Agreement may not be modified orally or in any manner other than by an agreement in writing signed by the parties hereto.

12. **[INTENTIONALLY LEFT BLANK]**

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

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

SANCON ENGINEERING, INC.	CITY OF OCEANSIDE
By: _____	By: _____
Name/Title CHUCK PARSONS, GM.	City Manager
By: _____	APPROVED AS TO FORM:
Name/Title	_____
33 - 0730318	City Attorney
Employer ID No.	

NOTARY ACKNOWLEDGMENTS OF CONTRACTOR MUST BE ATTACHED.

G:\Administration\Engineering Projects\Capital Improvement Projects\Sewer Projects\SLR Minor Improvements (722-86-9510)\10-26-11 Sancon PSA SLR clarifier coating.doc

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

State of California

County of Orange

On 10/10/11 (Date) before me, Peggy Scanlon, Notary Public, (Here Insert Name and Title of the Officer)

personally appeared Chuck Parsons (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.

P. SCANLON
Commission # 1939762
Notary Public - California
Orange County
My Comm. Expires Jul 2, 2015

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: (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: _____

☐ Corporate Officer — Title(s): _____

☐ Individual

☐ 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: _____

☐ Corporate Officer — Title(s): _____

☐ Individual

☐ Partner — ☐ Limited ☐ General

☐ Attorney in Fact

☐ Trustee

☐ Guardian or Conservator

☐ Other: _____

Signer Is Representing: _____

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

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Item #5907

Exhibit A

SANCON ENGINEERING, INC.

GENERAL ENGINEERING CONTRACTOR
STATE CONTRACTORS LICENSE #731797

Tel: (714) 891-2323
Fax: (714) 891-2524

BID # B11485

Date: August 31, 2011

To: City of Oceanside
Attention: Mark Patnode
Phone: **(760) 435-5903** **Fax:** (760) 435-5840 **Email**: mpatnode@ci.oceanside.ca.us
Project: **WWTP Clarifier Rake Arm Coating**
Owner / Agency: City of Oceanside

Scope of work: Coating exposed steel surfaces of (1) 80' diameter clarifier's rake arm assembly including center column per the following:

This bid includes the following:

- Scaffolding
- Surface preparation by dry blasting (no dust containment or tenting will be provided)
- Application of Tnemec series 69 Epoxy @ 15 mils total dft

Assumptions:

- All structures shall be clean & dry
- Overspray and dust containment will not be required
- Regular working hours M – F 7AM to 5PM
- No other crafts will interfere with our work
- This quotation shall become part of any future Contract, Agreement or Purchase order

This bid excludes the following:

- Removal or movement of mechanical items
- 3rd party testing or testing of any kind other than thickness
- Repair, replacement or welding of any steel parts
- Stand by rate / additional work not listed above @ $ 146.00 / Man hour
- Handling testing or removal of lead based paints

Price: $ 51,280.00 (lump sum)

<u>*Prices may be subject to change before bid upon confirmation from suppliers.</u>

Please call me if you have any questions at 714-891-2323.

PRICE IS BASED ON ONE MOBILIZATION. ADDITIONAL MOBILIZATIONS BILLED AT: $1,950.00 EACH. BOND, IF REQUIRED, WOULD ADD 1.3% TO TOTAL BID PRICE. PRICE IS BASED ON RETENTION BEING WITHELD A MAXIMUM OF 90 DAYS AFTER COMPLETION OF OUR WORK. PRICE IS FIRM FOR A PERIOD OF THIRTY DAYS FROM RECEIPT. PAYMENT TERMS NET 30 DAYS OR PER CONTRACT.

Respectfully Submitted,

Chuck Parsons
Sancon Engineering, INC.

Accepted By:_____

Date: _____

PO:_____

5841 Engineer Drive
Huntington Beach, CA 92649