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2 **BILL NO. S-18-11-07**

SPECIAL ORDINANCE NO. S-1318

3 AN ORDINANCE approving PROFESSIONAL
4 ENGINEERING SERVICES FOR WATER
5 POLLUTION CONTROL PLANT METHANE
6 UTILIZATION PHASE II - RES.W.O. #76470 -
7 (\$245,800.00) between WESSLER ENGINEERING,
8 INC. and the City of Fort Wayne, Indiana, in connection
9 with the Board of Public Works.

10 **NOW, THEREFORE, BE IT ORDAINED BY THE COMMON**
11 **COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:**

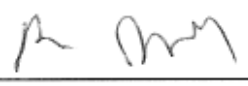
12 **SECTION 1.** That the PROFESSIONAL ENGINEERING SERVICES
13 FOR WATER POLLUTION CONTROL PLANT METHANE UTILIZATION PHASE
14 II - RES.W.O. #76470 by and between WESSLER ENGINEERING, INC. and the
15 City of Fort Wayne, Indiana, in connection with the Board of Public Works, is
16 hereby ratified, and affirmed and approved in all respects, respectfully for:

17 All labor, insurance, material, equipment, tools, power,
18 transportation, miscellaneous equipment, etc., necessary for
19 Professional Engineering Services for the Water Pollution
20 Control Plant Methane Utilization Phase II to include
improvements to the High Strength Waste receiving facilities and
Methane Flare equipment. The improvements generally include
higher storage capacities, digester feed improvements, and flare
upgrades;

21 involving a total cost of NOT TO EXCEED TWO HUNDRED FORTY-FIVE
22 THOUSAND EIGHT HUNDRED AND 00/100 DOLLARS - (\$245,800.00). A copy
23 of said Contract is on file with the Office of the City Clerk and made available for
24 public inspection, according to law.

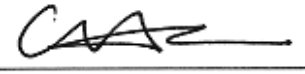
25 **SECTION 2.** That this Ordinance shall be in full force and effect from
26 and after its passage and any and all necessary approval by the Mayor.
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Council Member

APPROVED AS TO FORM AND LEGALITY



Carol Helton, City Attorney

Interoffice Memo

Date: 11/5/2018
To: Common Council Members
From: Zachary Katter, City Utilities Engineering
RE: **Water Pollution Control Plant Methane Utilization Phase II
Res. # 76470 , W.O. # 76470**

Council District # N/A – Water Pollution Control Plant

Engineer shall provide the City professional Engineering services in all phases of the Project to which the scope of services applies. These services will include serving as City's professional representative for the Project, providing professional Engineering consultation and advice, and other customary services incidental thereto. Water Pollution Control Plant Methane Utilization Phase II includes improvements to the High Strength Waste receiving facilities and Methane Flare equipment. The improvements generally include higher storage capacities, digester feed improvements, and flare upgrades. The upgrades are necessary to build our high strength waste program as our customer base builds. With these improvements, appropriate handling and offloading can be properly provided to our customers.

Implications of not being approved: Existing facilities do not have the capacity to support increased High Strength Waste flows and do not allow efficient utilization of the material. These upgrades are necessary as the Utilities customer base for this service grows. These upgrades provide adequate capacity for future growth and utilization of high strength waste.

If Prior Approval is being Requested, Justify: N/A

Selection and Approval Process:

The consultant was selected through the Competitive Sealed Proposal (CSP) process. The RFQ announcement was sent to over 100 firms and posted on the City website, and seven firms submitted a statement of qualifications. Utilities Engineering staff reviewed the qualifications of all interested firms, established a short list of consultants. A request for proposals was then developed and sent to the selected shortlisted firms. Three shortlisted firms submitted Competitive Sealed Proposals. A scoring matrix was used to score all firms based on responses to the RFQ and RFP's. RFP scoring was based on expertise, prior work experiences, qualifications, proposed scope of work and fee. Using this process, Utilities Engineering selected Wessler Engineering for this project and finds their scope and fee to be the best value for this project. The Board of Public Works approved the contract on November 6, 2018.

The cost of said project funded by SRF

Council Introduction Date: November 13, 2018

CC: BOW
Matthew Wirtz
Diane Brown
Construction Manager
Chrono
File

PROFESSIONAL SERVICES AGREEMENT

76470 High Strength Waste Storage, Mixing, and Handling Improvements Phase II

This Agreement is by and between

CITY OF FORT WAYNE ("CITY")

by and through its

Board of Public Works
City of Fort Wayne
200 E. Berry Street, Suite 240
Fort Wayne, IN 46802

and

Wessler Engineering, Inc. (ENGINEER)
6409 Constitution Drive
Fort Wayne, Indiana 46804

Who agree as follows:

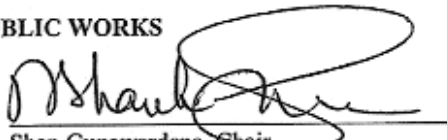
City hereby engages Engineer to perform the services set forth in Part I - Services ("Services") and Engineer agrees to perform the Services for the compensation set forth in Part III - Compensation ("Compensation"). ENGINEER shall be authorized to commence the Services upon execution of this Agreement and written authorization to proceed from City. City and Engineer agree that these signature pages, together with Parts I-IV and attachments referred to therein, constitute the entire Agreement ("Agreement") between them relating to the Project.

APPROVALS


APPROVED FOR CITY

BOARD OF PUBLIC WORKS

BY:


Shan Gunawardena, Chair

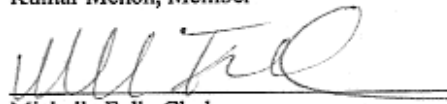
BY:


Mike Avila, Member

BY:

ABSENT
Kumar Menon, Member

ATTEST:



Michelle Fulk, Clerk

DATE:

11-6-18

APPROVED FOR ENGINEER

BY:


Brent Siebenthal, P.E., President

DATE:

10-30-2018

PART I

SCOPE OF BASIC ENGINEERING SERVICES

A. GENERAL

Engineer shall provide the City professional Engineering services in all phases of the project to which this scope of services applies. These services will include serving as City's professional representative for the Project, providing professional Engineering consultation and advice, furnishing Engineering services and other customary services incidental thereto.

B. PROJECT DESCRIPTION

This project includes designer services, bidding assistance, and designer services during construction (DSDC) for upgrades to the Water Pollution Control Plant (WPCP) High Strength Waste (HSW) receiving station. This includes the construction of new high strength waste storage facilities, construction of mixing capabilities, upgrades to current storage facilities, upgrades to the feed pumping systems, and future site planning.

Currently, the city has two 8,000 gallon storage tanks for waste to be unloaded and fed into the digesters. The new facilities shall have 40,000 – 50,000 total gallons of storage as well as mixing capabilities for various loads of incoming waste. The improved and expanded facility shall allow for more efficient unloading of waste transportation vehicles and allow for easier access for hauling vehicles. Construction of a new feeding system is also required to replace the existing waste transfer pumps that are used to feed the digesters.

Along with the improvements to the HSW facility, the digester gas flare system must also be analyzed to determine the ability of the existing flare to handle the higher gas production. In this agreement, additional design work is included to add an additional flare and gas train to the current flare system to allow for the increase in digester gas that could be produced.

Preparation of the contract documents for bidding and construction of the digester HSW receiving facility shall be in the traditional design-bid-build approach. These documents shall be prepared for one construction package by a single-prime Contractor. The documents shall require that all equipment shall be provided by the contractor; separate equipment procurements are not required. The design and the bidding documents shall be prepared to allow competitive bidding.

3.1 SCOPE OF WORK

The duty of the Engineer is to develop final construction drawings. The final construction documents shall be stamped by a Registered Professional Engineer, licensed in the state of Indiana and employed by the Engineer. The Engineer is to adhere to the requirements of the Design Standards Manual and relevant exhibits available on the City of Fort Wayne Website. The Engineer shall develop and provide the following services:

Task 1 - Project schedule and Review Meetings

- 1.1 Prepare project design schedule.
- 1.2 Attend one (1) kickoff meeting

Task 2 - Preliminary Design

Phase I (Conceptual Design and Planning)

- 2.1 Research City documents for existing mapping, utility information, as-built drawings, aerials, information management system and other pertinent data.
- 2.2 Identify major utilities and their approximate location from Utility maps.
- 2.3 Check conflicts with any other proposed projects in the immediate area.

- 2.4 Establish conceptual design basis and identify key design decisions for process control systems and equipment selection criteria for: Facility needs and location, Storage type and size, Mixing type and equipment, Pumping equipment and rates, Valves, etc.
- 2.5 Prepare and furnish one copy of a Conceptual Design Memo for review and approval. After a review meeting with the Program Manager incorporate any necessary changes.

Phase II (30% submittal)

- 2.6 Engineer shall complete the field survey to verify horizontal location of all utilities, including water service locations, as well as depths of existing sewers.
- 2.7 Prepare preliminary site drawings. Engineer shall overlay utility field survey data onto aerial ortho photography (rectified and tied into the Indiana State Plane Coordinate System) and CITY GIS base maps (right-of-way, lot information).
- 2.8 Establish the design basis for process control systems and equipment selection criteria for: Storage, Mixing, Pumping, Valves, etc.
- 2.9 Develop a functional description and control narratives for operational systems: Storage Tanks, Mixing, Pumping, HVAC, Electrical, Flow/Level Measurement, etc.
- 2.10 Provide a preliminary operational plan for all process related systems.
- 2.11 Provide a hydraulic profile that includes: Structure/pipe inverts, connections to existing systems, etc. This item should be completed if deemed necessary by the owner.
- 2.12 Create a P&ID that coordinates with functional description, control narrative, and operational plan. All systems should be identified as Automatic/Manual/Local/Remote Systems
- 2.13 Assist with providing information needed for any amendments to Owner's IDEM Air Permit associated with improvements to the digester flare. Assistance shall be given to the OWNER when filing for a new permit if required. Up to 16 hours of engineering assistance is included.
- 2.14 Furnish one copy of the Preliminary Design – Phase I Drawings in PDF and DWF format to the Program Manager for review and approval. After a review meeting with the Program Manager incorporate any necessary changes. Drawings shall include preliminary design in the following categories: Site layout, Process Mechanical, Electrical Distribution, Instrumentation and Controls, HVAC, and Structural.
- 2.15 Prepare a draft of construction sequences and constraints
- 2.16 Prepare a Preliminary Table of Contents for Contract specifications. All standard city specifications shall be identified.
- 2.17 Prepare a preliminary construction cost estimate.
- 2.18 Upon completion of all items listed above, hold a 30% design review meeting with WPCP staff. Meeting will occur at the Owner's office.
- 2.19 Keep the minutes of the 30% Review Meeting and distribute these minutes within 7 days of the Review Meeting.

Phase III (60% submittal)

- 2.20 Review of constraints, tie-ins, etc., after completion of the 30% design review.

- 2.21 Develop a site access, laydown, and construction area and update any layout changes discussed in the 30% design review.
- 2.22 Refine any building/footprints to align with actual equip to be installed.
- 2.23 Preliminary Design Phase II Drawings. Incorporate all design improvements presented in Phase I. The Drawings will generally include: (estimated)
 - Sheets
 - Title Sheet
 - General Notes, Index and Legend
 - Site Layout
 - Structural
 - Electrical Distribution
 - Instrumentation and Controls – P&ID
 - Process Mechanical
 - Plumbing
 - HVAC
 - Special Detail Sheets _____
 - TOTAL
- 2.24 Update draft specifications in MF04 format.
- 2.25 Update estimate of construction costs in MF04 format.
- 2.26 Develop Summary of Work, Sequences, and Constraints for the project.
- 2.27 Draft any commissioning, testing, and system demonstration criteria and estimate schedule to implement
- 2.28 Develop a construction sequence that limits the existing capacity of the HSW receiving facility at any time. Construction sequence shall align with the Summary of Work, Sequences, and Constraints developed in 2.23. Critical path work and timeline should be identified on the schedule.
- 2.29 Update existing cost estimate to align with any changes made during this section of work.
- 2.30 Submit draft Preliminary Design Documents to Program Manager for review and approval.
 - Preliminary Design Submittal:
 - Preliminary Design Drawings
 - Preliminary Design Specifications
- 2.31 Upon completion of all items listed above, hold a 60% design review meeting with WPCP staff. Meeting will occur at the owners office.
- 2.32 Keep the minutes of the 60% Review Meeting and distribute these minutes within 7 days of the Review Meeting.

Task 3 - Final Design (95% submittal and final stamped bidding documents submittal)

- 3.1 Prepare specifications for the improvements, including bid and proposal instructions/forms, measurement and payment specifications, division 00 specifications, special provisions and necessary details to supplement City standards.
- 3.2 Update cost estimate to include any changes reflected from 60% design.
- 3.3 Prepare 95% design drawings. Incorporate comments received during the 60% review meetings and routings.

- 3.4 Upon completion of all items listed above, hold a 95% design review meeting with WPCP staff. Meeting will occur at the Owners office.
- 3.5 Keep the minutes of the 95% Review Meeting and distribute these minutes within 7 days of the Review Meeting.
- 3.6 Complete a quality control review of the draft Contract Documents.
- 3.7 Update design drawings and specifications to include any changes requested during the 95% review meeting.
- 3.8 Submit draft Final Design Documents to Program Manager for review and approval.
 - Final Design Submittal (2 Complete Sets)
 - Final Design Drawings
 - Summary of Project Quantities w/estimated construction costs.
 - Bid form
 - Project Technical / Supplemental Specifications.
- 3.9 Upon approval of Final Design drawings and project specifications, prepare and submit one (1) set of stamped paper bond drawings, one (1) electronic version of the project specifications (Microsoft Word) and one electronic copy of project drawings in PDF and CAD format utilizing the CAD standards in Book 6 of the Fort Wayne Design Standards Manual.

Task 4 - Bidding Phase. The bidding phase services shall include the following:

- 4.1 Prepare for and lead Pre-bid Meeting.
- 4.2 Engineer shall prepare and assist Owner with issue of the addenda, as needed to interpret, clarify or expand bidding documents.
- 4.3 Engineer shall supply an updated cost estimate based on the final documents submitted for bidding purposes.
- 4.4 Conformed Contract Documents
 The Engineer will prepare a complete set of Contract Documents (drawings and specifications) incorporating revisions from all issued addenda after execution of the Owner-Contractor Agreement (Construction Contract). These "Conformed to Contract" (CTC) set of Contract Documents will contain revisions that incorporate specific changes made by addenda and accepted bid proposal. Submit one (1) electronic version of CTC project drawings in both PDF and DWG file format in the latest version and one (1) electronic copy of the CTC project specifications (Microsoft Word).

Task 5 – Construction Phase. (Design Services During Construction)

- 5.1 The City will retain another firm as the City's representative, to assume all duties and responsibilities, and to have the rights and authorities assigned to the Engineer in connection with the construction work to be performed in accordance with the Construction Contract Documents. During the construction phase, the Engineer during the design phase will be referred to as the 'Design Engineer'. The Design Engineer shall also provide professional engineering services during the construction phase. The Design Engineer shall consult with, advise, and assist the Engineer in connection with the completion of the work in the Construction Contract Documents. The Design Engineer shall also prepare operation and maintenance (O&M) manual documents and shall provide training and startup services associated with the construction phase.
- 5.2 Consult with, advise and assist the Construction Contract Manager in their role as City's representative. Engineer's communications with the City and the Contractor shall be through, or with knowledge, of the Construction Contract Manager.

- 5.3 Prepare for and participate in the Pre-Construction Conference. The preconstruction conference will be held by the Construction Contract Manager.
- 5.4 Perform site visits to assist Program Manager in resolution of design or construction problems.
- 5.5 Provide clarifications and interpretations of the Contract Documents as requested by the Construction Contract Manager. Such clarifications and interpretations will be consistent with the intent or reasonably inferable from the Contract Documents.
- 5.6 Recommend Change Orders and Work Change Directives to the Construction Contract Manager, as appropriate, and provide support documentation to the Construction Contract Manager, as appropriate, so Construction Contract Manager can prepare Change Orders and Work Change Directives.
- 5.7 Review and approve or take other appropriate action in respect to any submittals, shop drawings, samples, and other data the Contractor is required to submit, but only for conformance with the design concept of the project and compliance with the information in the Contract Documents.
- 5.8 Revise the existing WPCP O&M manual to reflect changes and additions made as part of the construction contract. The revised sections of the O&M manual prepared for the Project shall match the format of the existing O&M Manual. If new sections are required, existing WPCP O&M standards shall still be applied. Prepare the manual using Microsoft Word 2007 or greater. New drawings will be in AutoCAD 2010 or greater.
- 5.9 Prepare and deliver operator training in three sessions for operations and maintenance staff. Training shall include drawings, visual aids, and operational information for routine operation.
- 5.10 Review certificates of inspections, tests, and approvals of general construction work as required by laws and regulations and Contract Documents.
- 5.11 Prepare record drawings from Contractor's annotated set (As-Builts) of contract drawings showing changes made during construction. Furnish AutoCAD and PDF Files of the record drawings.

Task 6 – Flare Design

- 6.1 Analyze existing flare system and provide effective loading capacities of the existing system and future loadings to be seen by the WPCP.
- 6.2 Identify design basis for the Digester Gas Flare System
- 6.3 Develop a functional description and control narratives for the Digester Gas System
- 6.4 Provide a Preliminary Operational Plane for the future flare system
- 6.5 Upon completion of the 30% design phase for the HSW receiving facility, submit a separate drawing set for the preliminary design of the flare system.
- 6.6 Upon completion of the 60% design phase for the HSW receiving facility, submit a completed flare design drawing set including any updates discussed during the completion of the 30% review meeting.
- 6.7 Provide a set of bidding documents for the flare separate from the HSW receiving station documents.

D. SCHEDULE

The project will be completed per attached design schedule. This schedule is based on receiving a Notice to Proceed by December 1, 2018 and receiving prompt review and approvals from City agencies and Program Manager (2-weeks per review are included in the schedule).

<u>SCHEDULE</u>	<u>DATE</u>
Preliminary Design Phase I	January 15, 2019
Preliminary Design Phase II (30%)	March 1, 2019
Preliminary Design Phase III (60%)	April 15, 2019
Final Design Phase (95%)	June 1, 2019

E. OPTIONAL ADDITIONAL SERVICES

Upon separate written authorization by City and negotiated fees, Engineer can provide the following additional services:

CONTINGENCY TASKS (but not specifically limited to):

Contingency items are authorized by the Program Manager and shall have prior approval of fees prior to commencement.

- Attend additional meetings as needed to review and discuss the project.
- Furnish to the Program Manager all completed permit applications (including supporting documentation) ready for signatures and submittal to governing agencies. Assist the Program Manager, as requested, in obtaining regulatory and agency reviews and approvals for the project, including attending meetings with reviewing agencies.
- Soil borings and geotechnical reports, if required and contracted through Engineer
- Additional bidding services, including bidding and DSDC services for Flare System Modifications.

PART II

CITY'S RESPONSIBILITIES

City shall, at its expense, do the following in a timely manner so as not to delay the services:

A. INFORMATION REPORTS/CITY UTILITY MAPS/AERIAL MAPS/CONTOUR MAPS

Make available to Engineer reports, studies, regulatory decisions and similar information relating to the Services that Engineer may rely upon without independent verification unless specifically identified as requiring such verification.

Provide Engineer with a maximum of two (2) copies each of existing City utility maps, aerial maps and contour maps that are readily available in the Citizens Square Building.

Provide Engineer with electronic copies of ortho aerial photography, GIS base map information (AutoCAD 2007 format) on right-of-way and lot information, GIS information on existing water and sewer lines (AutoCAD 2007 format).

B. REPRESENTATIVE

Designate a representative for the project who shall have the authority to transmit instructions, receive information, interpret and define City's requirements and make decisions with respect to the Services. The City representative for this Agreement will be Zachary Katter, E.I.

C. DECISIONS

Provide all criteria and full information as to City's requirements for the Services and make timely decisions on matters relating to the Services.

D. BIDDING DOCUMENT DISTRIBUTION

The city will distribute Bidding Documents to bidders, maintain the bidders list, and distribute addenda as required.

PART III
COMPENSATION

A. COMPENSATION

Compensation for services performed in accordance with Part I – Scope of Basic Engineering Services of this Agreement will be based on hours actually spent and expenses actually incurred with a not-to-exceed Engineering fee of \$ 245,800.00 as summarized in attached Attachment 1.

Engineer's costs will be based on the hours incurred to complete the project times the hourly rates of the various personnel, per Attachment 2 – Hourly Rate Schedule. All Reimbursable costs incurred for the project will be invoiced at cost.

Payment for outside consulting and/or professional services such as Geotechnical, Utility Locates, Registered Land Surveyor for easement preparation, or Legal Services performed by a Subconsultant at actual cost to ENGINEER plus 10 percent for administrative costs. The Engineer will obtain written City approval before authorizing these services.

B. BILLING AND PAYMENT

1. Timing/Format

- a. Engineer shall invoice City monthly for Services completed at the time of billing. Such invoices shall be prepared in a form and supported by documentation as City may reasonably require, and shall include the employee name and title of all staff billing to project.
- b. City shall pay Engineer within 30 days of receipt of approved invoice.

2. Billing Records

Engineer shall maintain accounting records of its costs in accordance with generally accepted accounting practices. Access to such records will be provided during normal business hours with reasonable notice during the term of this Agreement and for 3 years after completion.

PART IV STANDARD TERMS AND CONDITIONS

1. **STANDARD OF CARE.** Services shall be performed in accordance with the standard of professional practice ordinarily exercised by the applicable profession at the time and within the locality where the services are performed. No warranty or guarantee, express or implied, are provided, including warranties or guarantees contained in any uniform commercial code.

2. **CHANGE OF SCOPE.** The scope of Services set forth in this Agreement is based on facts known at the time of execution of this Agreement, including, if applicable, information supplied by Engineer and City. Engineer will promptly notify City of any perceived changes of scope in writing and the parties shall negotiate modifications to this Agreement.

3. **SAFETY.** Engineer shall establish and maintain programs and procedures for the safety of its employees. Engineer specifically disclaims any authority or responsibility for general job site safety and safety of persons other than Engineer employees.

4. **DELAYS.** If events beyond the control of Engineer, including, but not limited to, fire, flood, explosion, riot, strike, war, process shutdown, act of God or the public enemy, and act or regulation of any government agency, result in delay to any schedule established in this Agreement, such schedule shall be extended for a period equal to the delay. In the event such delay exceeds 90 days, Engineer will be entitled to an equitable adjustment in compensation.

5. **TERMINATION/SUSPENSION.** Either party may terminate this Agreement upon 30 days written notice to the other party in the event of substantial failure by the other party to perform in accordance with its obligations under this Agreement through no fault of the terminating party. City shall pay Engineer for all Services, including profit relating thereto, rendered prior to termination, plus any expenses of termination.

Engineer or City, for purposes of convenience, may at any time by written notice terminate the services under this Agreement. In the event of such termination, Engineer shall be paid for all authorized services rendered prior to termination including reasonable profit and expenses relating thereto.

6. **REUSE OF PROJECT DELIVERABLES.** Reuse of any documents or other deliverables, including electronic media, pertaining to the Project by City for any purpose other than that for which such documents or deliverables were originally prepared, or alteration of such documents or deliverables without written verification or adaptation by Engineer for the specific purpose intended, shall be at City's sole risk.

7. **OPINIONS OF CONSTRUCTION COST.** Any opinion of construction costs prepared by Engineer is supplied for the general guidance of the City only. Since Engineer has no control over competitive bidding or market conditions, Engineer cannot guarantee the accuracy of such opinions as compared to contract bids or actual costs to City.

8. **RELATIONSHIP WITH CONTRACTORS.** Engineer shall serve as City's professional representative for the Services, and may make recommendations to City concerning actions relating to City's contractors, but Engineer specifically disclaims any authority to direct or supervise the means, methods, techniques, sequences or procedures of construction selected by City's contractors.

9. **MODIFICATION.** This Agreement, upon execution by both parties hereto, can be modified only by a written instrument signed by both parties.

10. **PROPRIETARY INFORMATION.** Information relating to the Project, unless in the public domain, shall be kept confidential by Engineer and shall not be made available to third parties without written consent of City.

11. **INSURANCE.** Engineer shall maintain in full force and effect during the performance of the Services the following insurance coverage; provided, however, that if a High Risk Insurance Attachment is attached hereto, the requirements of the High Risk Insurance Attachment shall be substituted in lieu of the following requirements:

- a) Worker's Compensation per statutory requirements
- b) General Liability \$1,000,000 minimum per occurrence/ \$1,000,000 aggregate (if the value of the projects exceeds \$10,000,000 then this shall be \$5,000,000 aggregate).
- c) Automobile Liability \$1,000,000 per occurrence
- d) Products Liability \$1,000,000 per occurrence
- e) Completed Operations Liability \$1,000,000 minimum per occurrence

The Certificate of Insurance must show the City of Fort Wayne, its Divisions and Subsidiaries as an Additional Insured and a Certificate Holder, with 30 days notification of cancellation or non-renewal. All

Certificates of Insurance should be sent to the following address:
City of Fort Wayne Purchasing Department
200 East Berry St., Suite #480
Fort Wayne, IN 46802

12. **INDEMNITIES.** To the fullest extent permitted by law, Engineer shall indemnify and save harmless the City from and against loss, liability, and damages sustained by City, its agents, employees, and representatives by reason of injury or death to persons or damage to tangible property to the extent caused directly by the negligent errors or omissions of Engineer, its agents or employees.

13. **LIMITATIONS OF LIABILITY.** Each party's liability to the other for any loss, cost, claim, liability, damage, or expense (including attorneys' fees) relating to or arising out of any negligent act or omission in its performance of obligations arising out of this Agreement, shall be limited to the amount of direct damage actually incurred. Absent gross negligence or knowing and willful misconduct which causes a loss, neither party shall be liable to the other for any indirect, special or consequential damage of any kind whatsoever.

14. **ASSIGNMENT.** The rights and obligations of this Agreement cannot be assigned by either party without written permission of the other party. This Agreement shall be binding upon and insure to the benefit of any permitted assigns.

15. **ACCESS.** City shall provide Engineer safe access to any premises necessary for Engineer to provide the Services.

16. **PREVAILING PARTY LITIGATION COSTS.** In the event any actions are brought to enforce this Agreement, the prevailing party shall be entitled to collect its litigation costs from the other party.

17. **NO WAIVER.** No waiver by either party of any default by the other party in the performance of any particular section of this Agreement shall invalidate another section of this Agreement or operate as a waiver of any future default, whether like or different in character.

18. **SEVERABILITY.** The various terms, provisions and covenants herein contained shall be deemed to be separate and severable, and the invalidity or unenforceability of any of them shall not affect or impair the validity or enforceability of the remainder.

19. **AUTHORITY.** The persons signing this Agreement warrant that they have the authority to sign as, or on behalf of, the part for whom they are signing.

20. **STATUTE OF LIMITATION.** To the fullest extent permitted by law, parties agree that, except for claims for indemnification, the time period for bringing claims regarding Engineer's performance under this Agreement shall expire one year after Project Completion.

21. **CONSENT DECREE NOTIFICATION.** Engineer shall perform, or cause others to perform, all services undertaken in connection with this Agreement in a good and workman-like manner and in conformance with the terms of the Consent Decree entered in the U.S District Court on April 1, 2008 by the United States and State of Indiana. Engineer acknowledges that it has been provided a complete copy of the Consent Decree which can be viewed at:

http://www.cityoffortwayne.org/utilities/images/stories/docs/consent_decree/Consent_Decree.pdf

22. **DOCUMENT RETENTION.** Notwithstanding any other provision of this Agreement, Engineer agrees to preserve all non-identical copies of all documents, records and other information (whether in physical or electronic form) within Engineer's possession or control and which relate, in any manner, to the performance of the services undertaken in connection with this Agreement for a period of 1 year after the completion contemplated by the Agreement (the "Retention Period"). Prior to the end of the Retention Period, or at any earlier time if requested by the City, Engineer shall provide the City with complete copies of such documents, records and other information at no cost to the City. The copies shall be provided to the City on CD or DVD media, and individual files shall be in Adobe PDF format. The individual files shall be contained in a ZIP formatted file, and the filename of the ZIP shall include the name of the project and the Engineer. No part of any file shall be encrypted or protected from copying. Such copies shall be accompanied by a verified written statement from the Engineer attesting that it has provided the City with complete copies of all documents, records and other information which relates to the services contemplated by the Agreement.

ATTACHMENT #1

SUMMARY SHEET

SCOPE OF BASIC ENGINEERING SERVICES FEE PROPOSAL

<u>Design Phase</u> – (Tasks 1 through 3) For Services outlined in Tasks 1 through 3 a not to exceed fee of:	\$ 139,800.00
<u>Bidding Phase</u> - (Task 4) For Services outlined in Task 4 a not to exceed fee of:	\$ 19,500.00
<u>Construction Phase</u> - (Task 5) For Services outlined in Task 5 a not to exceed fee of:	\$ 42,250.00
<u>Flare Design</u> - (Task 6) For Services outlined in Task 6 a not to exceed fee of:	\$ 34,250.00
<u>Contingency Allowance</u> - As authorized by PM For <u>Additional Services</u> and tasks required during the performance of the work, but not specifically described herein, a sum not to exceed of:	\$ 10,000.00
TOTAL NOT TO EXCEED FEE:	\$245,800.00

ATTACHMENT #2
EMPLOYEE HOURLY RATE SCHEDULE

<u>EMPLOYEE/SERVICE DESCRIPTION</u>	<u>RATE</u>
See attached Wessler Engineering Rate Schedule	Attached

CITY OF FORT WAYNE, INDIANA

Wessler Engineering, Inc.

(Vendor Name)

VENDOR DISCLOSURE STATEMENT RELATING TO:

1. FINANCIAL INTERESTS;
2. POTENTIAL CONFLICTS OF INTEREST;
3. CURRENT AND PENDING CONTRACTS OR PROCUREMENTS

Vendors desiring to enter into certain contracts with the City of Fort Wayne, Indiana (the "City") shall disclose their financial interests, potential conflicts of interest and current and pending contract or procurement information as set forth below.

The following disclosures by Vendors are required for all contracts with annual payments by the City in the amount of \$50,000 or more. Vendors shall disclose their financial interests, potential conflicts of interest and other contract and procurement information identified in Sections 1, 2 and 3 below as a prerequisite for consideration for a contract awarded by the City. This Disclosure Statement must be completed and submitted together with the Vendor's contract, bid, proposal or offer.

A publicly traded entity may submit its current 10K disclosure filing in satisfaction of the disclosure requirements set forth in Sections 1 and 2 below.

Section 1: Disclosure of Financial Interest in Vendor

a. If any individuals have either of the following financial interests in Vendor (or its parent), please check all that apply and provide their names and addresses (attach additional pages as necessary):

- (i) Equity ownership exceeding 5%
- (ii) Distributable income share exceeding 5%
- (iii) Not Applicable (If N/A, go to Section 2)

Name: Martin A. Wessler

Name: Dreama E. Doolittle

Address: 11303 Saint Andrews Ln, Carmel, IN 46032

Address: 14 Gettysburg, Coatesville, IN 46121

Name: Brent A. Siebenthal

Name: Robert W. Holden II

Address: 7220 Josiah Court Indianapolis, IN 46259

Address: 13211 Mattock Chase, Carmel, IN 46033

b. For each individual listed in Section 1a, show his/her type of equity ownership:

- sole proprietorship
- partnership interest
- other (explain) _____
- stock
- units (LLC)

c. For each individual listed in Section 1a. show the percentage of ownership interest in Vendor (or its parent):
ownership interest:

Name: Martin A. Wessler – 35.9%

Name: Brent A. Siebenthal – 20.5%

Name: Dreama E. Doolittle – 15.4%

Name: Robert W. Holden, II – 10.3%

Section 2: Disclosure of Potential Conflicts of Interest (not applicable for vendors who file a 10K)

For each individual listed in Section 1a. check "Yes" or "No" to indicate which, if any, of the following potential conflict of interest relationships apply. If "Yes", please describe using space under applicable subsection (attach additional pages as necessary):

a. City employment, currently or in the previous 3 years, including contractual employment for services:
Yes _____ No **X**

b. City employment of "Member of Immediate Family" (defined herein as: *Spouse, Child, Step Child, Parent or Step Parent, Father-in-law or Mother-in-law, Brother or Sister, Step Brother or Step Sister, Half Brother or Half Sister, Brother-in-law or Sister-in-law, Son-in-law or Daughter-in-law, Grandparent or Step Grandparent, Grandparent or Step Grandparent of Spouse, Grandchild*)
Including contractual employment for services in the previous 3 years:
Yes _____ No **X**

c. Relationship to Member of Immediate Family holding elective City office currently or in the previous 3 years:
Yes _____ No **X**

Section 3: DISCLOSURE OF OTHER CONTRACT AND PROCUREMENT RELATED INFORMATION

a. Does Vendor have current contracts (including leases) with the City? Yes **X** No _____

If "Yes", identify each current contract with descriptive information including purchase order or contract reference number, contract date and City contact below (attach additional pages as necessary).

On-Call Rehabilitation Services 2016-2017 – Dated 4/6/16; Eric Steinman

On-Call Water Engineering Assistance; PO# 16905226 dated 12/28/2016; Andrew Schipper

Morton Street Lift Station Improvements; WO# 76184 dated 7/6/2016; Paul Powers

SR 1 Forcemain Extension; WO# 76222 dated 10/12/2016; Wendy Reust

Digester 3 and 4 Improvements, WO#76189 dated 4/26/2017; Zach Schortgen

St. Joe Interceptor Rehabilitation Phase 1; Dated August 24, 2017; Eric Steinman

3RPORT Construction Contract Management Services; PO# 17905133-000 dated 12/28/2017; TJ Short

NW Pump Station #1 Electrical Improvements; PO# 18905024-000 Dated 2/6/2018; Jon Weirick

Morton St. Lift Station Improvements Construction Contract Management; WO#76184 dated 3/16/2018; Chris Ravenscroft

Document Updates and Engineering Assistance; PO#18905081-000 dated 5/23/18; Mark Gensic

WPCP Pond 3 Bleed Back CM/RPR; PO#18905083-000 dated 5/23/2018; Chris Ravenscroft

- b. Does Vendor have pending contracts (including leases), bids, proposals, or other pending procurement relationship with the City? Yes No

If "Yes", identify each pending matter with descriptive information including bid or project number, contract date and City contact using space below (attach additional pages as necessary).

66288 Substation #2 Switchgear Replacement, submitted proposal on 6/6/2018, no selection has been made, Steve Williams.

- c. Does vendor have any existing employees that are also employed by the City of Fort Wayne?

Yes No

If "Yes", provide the employee's name, current position held at vendor, and employment payment terms (hourly, salaried, commissioned, etc.).

Name / Position / Payment Terms:

Name / Position / Payment Terms:

Name / Position / Payment Terms:

- d. Does vendor's representative, agent, broker, dealer or distributor (if applicable) have any existing employees that are also employed by the City of Fort Wayne? **No.** For each instance, please provide the name of the representative, agent, broker, dealer or distributor; the name of the City employee, and the payment terms (hourly, salaried, commissioned, etc.).

Company / Name / Payment Terms: _____

Company / Name / Payment Terms: _____

Section 4: CERTIFICATION OF DISCLOSURES

In connection with the disclosures contained in Sections 1, 2 and 3 Vendor hereby certifies that, except as described in attached Schedule A:

- a. Vendor (or its parent) has not, within the five (5) year period preceding the date of this Disclosure Statement, been debarred, suspended, proposed for debarment declared ineligible or voluntarily excluded from any transactions by any federal, state or local unit of government;
- b. No officer or director of Vendor (or its parent) or individual listed in Section 1a. is presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any offense;
- c. Vendor (or its parent) has not, within the five (5) year period preceding the date of this Disclosure Statement, had one or more public transactions (federal, state or local) terminated for cause or default;
- d. No officer or director of Vendor (or its parent) or individual listed in Section 1a. has, within the five (5) year period preceding the date of this Disclosure Statement, been convicted, adjudged guilty, or found liable in any criminal or civil action instituted by the City, the federal or state government or any other unit of local government; and
- e. Neither Vendor, nor its parent, nor any affiliated entity of Vendor, or any of their respective officers, directors, or individuals listed in Section 1a. is barred from contracting with any unit of any federal, state or local government as a result of engaging in or being convicted of: (i) bid-rigging; (ii) bid-rotating; or (iii) any similar federal or state offense that contains the same elements as the offense of bid-rigging or bid-rotating
- f. Pursuant to IC 5-22-16.5, Vendor hereby certifies they do NOT provide \$20 million dollars or more in goods or services to the energy sector of Iran. Vendor also certifies it is not a financial institution that extends \$20 million dollars or more in credit that will provide goods or services to the energy sector of Iran or extends \$20 million dollars or more in credit to a person identified on the list as a person engaging in investment activities in Iran.

The disclosures contained Sections 1, 2 and 3 and the foregoing Certifications are submitted by

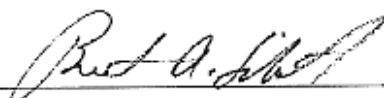
Wessler Engineering, Inc.
(Name of Vendor)

6219 South East Street, Indianapolis, IN 46227

(317) 788-4551
brents@wesslerengineering.com

The individual authorized to sign on behalf of Vendor represents that he/she: (a) is fully informed regarding the matters pertaining to Vendor and its business; (b) has adequate knowledge to make the above representations and disclosures concerning Vendor; and (c) certifies that the foregoing representations and disclosures are true and accurate to the best of his/her knowledge and belief.

Name (Printed) Brent A. Siebenthal _____ Title: President

Signature  Date: June 20, 2018

NOTE: FAILURE TO COMPLETE AND RETURN THIS FORM WITH YOUR DOCUMENTATION MAY RESULT IN YOUR CONTRACT, OFFER, BID OR PROPOSAL BEING DISQUALIFIED FROM CONSIDERATION.

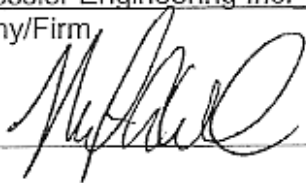
CONTRIBUTION STATEMENT BY A BUSINESS ENTITY

I, Martin A. Wessler, under the penalties of perjury, affirm and state as follows:

1. I am over the age of eighteen (18) years old.
2. I am an officer or party of the below named company/firm, a business entity within the meaning of Section 37.28 of the Fort Wayne Municipal Code of Ordinances (the "City Code").
3. As an officer or party of the below named company/firm, I am authorized to execute this *Contribution Statement by a Business Entity* on behalf of said business entity.
4. Since January 1, 2018, neither the below named company/firm, nor any of its covered principals, partners, officers, subsidiaries, or other individuals as defined in Section 37.28 has made a contribution to any City of Fort Wayne candidate or holder of public office, whether directly or indirectly by contribution to such candidate's or holder of public office's campaign committee, a City or Allen County party committee or a political action committee that regularly engages in the support of municipal elections and/or municipal parties in the City of Fort Wayne, which would prohibit the City of Fort Wayne from negotiating or entering into a contract with the below named company/firm under Section 37.28 of the City Code.
5. This *Contribution Statement by a Business Entity* is made pursuant to Section 37.28 of the City Code to support approval of a contract between the City of Fort Wayne, Indiana and the below named company/firm.

6-20-2018
Date

Wessler Engineering Inc.
Company/Firm

By: 
Printed: Martin A. Wessler

Title: CEO

BILL NO. S-18-11-07

REPORT OF COMMITTEE ON CITY UTILITIES

November 20, 2018

Russell Jehl Chair

Glynn Hines Co-Chair

All Council Members

An Ordinance approving Professional Engineering Services for Water Pollution Control Plant Methane Utilization Phase II - RES.W.O. #76470 - between Wessler Engineering, INC. and the City of Fort Wayne, Indiana, in connection with the Board of Public Works

Involving a total cost of \$245,800.00

COMMITTEE ON CITY UTILITIES HAVE HAD SAID Ordinance under consideration and beg leave to report back to the Common Council that said Ordinance

DO PASS

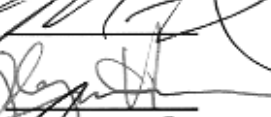
DO NOT PASS

ABSTAIN

NO REC



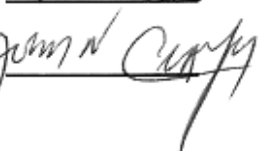












**LANA R. KEESLING
CITY CLERK**



Public Hearing Date: N/A

Read the first time in full and on motion by Councilman Jehl.

Read the second time by title and referred to the City Utilities Committee.

Read the third time in full and on motion by Councilman Jehl, placed on passage by the following vote:

<u>TOTAL VOTES</u>	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
ARP	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
BARRANDA	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
CRAWFORD	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
DIDIER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
ENSLEY	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
FREISTROFFER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
HINES	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
JEHL	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
PADDOCK	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

DATED: November 27, 2018



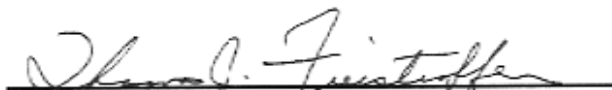
LANA R. KEESLING, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as

Special Ordinance No. S-18-11-07 on the 27th day of November, 2018



LANA R. KEESLING
CITY CLERK



PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 28th of November 2018, at the hour of 9:25 o'clock A.M. E.S.T.



LANA R. KEESLING, CITY CLERK

Approved and signed by me this 28th day of November 2018, at the hour of 2:00 O'clock PM E.S.T.



THOMAS C. HENRY, MAYOR

