

**PROFESSIONAL CONSULTANT SERVICES AGREEMENT
INSPECTION OF 78-INCH AND 120-INCH OCEAN OUTFALL PIPELINES
SOLE SOURCE NO. 2717**

This PROFESSIONAL CONSULTANT SERVICES AGREEMENT (hereinafter referred to as “Agreement”) is made and entered into as of the date fully executed below, by and between Orange County Sanitation District (hereinafter referred to as “OC San”) and SGS US West Coast, LLC. (hereinafter referred to as “Consultant”), and collectively referred to herein as the “Parties.”

RECITALS

WHEREAS, OC San desires to obtain inspection of 78-inch and 120-inch ocean outfall pipelines as described in Exhibit “A” attached hereto and incorporated herein by this reference (“Services”); and

WHEREAS, Consultant is qualified to provide the Services by virtue of experience, training, and expertise; and

WHEREAS, OC San desires to engage Consultant to render the Services as provided herein; and

WHEREAS, OC San selected Consultant to provide the Services in accordance with Ordinance No. OC SAN-56; and

WHEREAS, on April 5, 2023, OC San’s Operations Committee, by minute order, authorized execution of this Agreement.

NOW, THEREFORE, in consideration of the above recitals and the mutual promises and benefits specified below, the Parties agree as follows:

1. General.

1.1 This Agreement and all exhibits hereto are made by OC San and the Consultant.

1.2 The following exhibits, in order of precedence, are incorporated by reference and made part of this Agreement.

Exhibit “A” – Scope of Work

Exhibit “B” – Proposal

Exhibit “C” – Determined Insurance Requirement Form

Exhibit “D” – Contractor Safety Standards

Exhibit “E” – Human Resources Policies

1.3 In the event of any conflict or inconsistency between the provisions of this Agreement and any of the provisions of the exhibits hereto, the provisions in the Agreement shall control and thereafter the provisions in the document highest in precedence shall be controlling.

1.4 Except as expressly provided otherwise, OC San accepts no liability for any expenses, losses, or actions incurred or undertaken by Consultant as a result of work performed in anticipation of purchases of the Services by OC San.

1.5 Work Hours: The work required under the Agreement may include normal business

hours, evenings, and weekends.

- 1.6 Work Hours: All work or meetings with OC San staff shall be scheduled Monday through Thursday, between the hours of 7:00 a.m. and 4:00 p.m. OC San will not pay for travel time.
- 1.7 Days: Shall mean calendar days, unless otherwise noted.
- 1.8 OC San holidays (non-working days) are as follows: New Year's Day, Martin Luther King, Jr. Day, Presidents' Day, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving Day, Day after Thanksgiving, Christmas Eve, and Christmas Day.
- 1.9 The provisions of this Agreement may be amended or waived only by an amendment executed by authorized representatives of both Parties.
- 1.10 The various headings in this Agreement are inserted for convenience only and shall not affect the meaning or interpretation of this Agreement or any paragraph or provision hereof.

2. Scope of Work.

- 2.1 Consultant shall provide the Services identified in Exhibit "A" in a competent, professional, and satisfactory manner in accordance with generally accepted industry and professional standards, including fiduciary standards, ethical practices, and standards of care and competence for its trade/profession.
- 2.2 Modifications to Scope of Work. OC San shall have the right to modify the Scope of Work at any time. All modifications must be made by an amendment signed by both Parties.
- 2.3 Familiarity with Work. By executing this Agreement, Consultant warrants that: (a) it has investigated the work to be performed; and (b) it understands the facilities, difficulties, and restrictions of the work under this Agreement. Should Consultant discover any latent or unknown condition materially differing from those inherent in the work or as represented by OC San, it shall immediately inform OC San of this and shall not proceed, except at Consultant's risk, until written instructions are received from OC San.

3. Agreement Term.

- 3.1 The Services shall be completed within ninety (90) calendar days from the effective date of the Notice to Proceed.
- 3.2 Extensions. The term of this Agreement may be extended only by an amendment signed by both Parties.

4. Compensation.

- 4.1 As compensation for the Services provided under this Agreement, OC San shall pay Consultant a total amount not to exceed One Hundred Twenty Thousand Eight-Hundred Dollars (\$120,800.00).
- 4.2 Consultant shall provide OC San with all required premiums and/or overtime work at no charge beyond the amount specified above.

5. Payments and Invoicing.

- 5.1 OC San shall pay itemized invoice submitted for work completed in accordance with Exhibit "A" and consistent with Exhibit "B" thirty (30) days from receipt of the invoice and after approval by OC San's Project Manager or designee. OC San shall be the determining party, in its reasonable discretion, as to whether the Services have been satisfactorily completed.
- 5.2 Consultant shall submit its invoices to OC San Accounts Payable by electronic mail to APStaff@OCSan.gov. In the subject line include "INVOICE" and the Purchase Order Number.

6. California Department of Industrial Relations Registration and Record of Wages.

- 6.1 To the extent Consultant's employees and/or its subconsultants perform work related to this Agreement for which Prevailing Wage Determinations have been issued by the California Department of Industrial Relations (DIR) as more specifically defined under Labor Code section 1720 et seq., prevailing wages are required to be paid for applicable work under this Agreement. It is Consultant's responsibility to interpret and implement any prevailing wage requirements and Consultant agrees to pay any penalty or civil damages resulting from a violation of the prevailing wage laws.
- 6.2 Consultant and its subconsultants shall comply with the registration requirements of Labor Code section 1725.5. Pursuant to Labor Code section 1771.4(a)(1), the work is subject to compliance monitoring and enforcement by the California Department of Industrial Relations (DIR).
- 6.3 Pursuant to Labor Code section 1773.2, a copy of the prevailing rate of per diem wages is available upon request at OC San's principal office. The prevailing rate of per diem wages may also be found at the DIR website for prevailing wage determinations at <http://www.dir.ca.gov/DLSR/PWD>.
- 6.4 Consultant and its subconsultants shall comply with the job site notices posting requirements established by the Labor Commissioner per Title 8, California Code of Regulations section 16461(e). Pursuant to Labor Code sections 1773.2 and 1771.4(a)(2), Consultant shall post a copy of the prevailing rate of per diem wages at the job site.
- 6.5 Consultant and its subconsultants shall maintain accurate payroll records and shall comply with all the provisions of Labor Code section 1776. Consultant and its subconsultants shall submit payroll records to the Labor Commissioner pursuant to Labor Code section 1771.4(a)(3). Pursuant to Labor Code section 1776, the Consultant and its subconsultants shall furnish a copy of all certified payroll records to OC San and/or the general public upon request, provided the public request is made through OC San, the Division of Apprenticeship Standards, or the Division of Labor Standards Enforcement of the Department of Industrial Relations. Pursuant to Labor Code section 1776(h), penalties for non-compliance with a request for payroll records may be deducted from progress payments.
- 6.5.1 As a condition to receiving payments, Consultant agrees to present to OC San, along with any request for payment, all applicable and necessary certified payrolls and other required documents for the period covering such payment request. Pursuant to Title 8, California Code of Regulations section 16463, OC San shall withhold any portion of a payment, up to and including the entire

payment amount, until certified payroll forms and any other required documents are properly submitted. In the event certified payroll forms do not comply with the requirements of Labor Code section 1776, OC San may continue to withhold sufficient funds to cover estimated wages and penalties under the Agreement.

6.6 The Consultant and its subconsultants shall comply with Labor Code section 1774 and section 1775. Pursuant to Labor Code section 1775, the Consultant and any of its subconsultants shall forfeit to OC San a penalty of not more than two hundred dollars (\$200) for each calendar day, or portion thereof, for each worker paid less than the prevailing rates as determined by the DIR for the work or craft in which the worker is employed for any work.

6.6.1 In addition to the penalty and pursuant to Labor Code section 1775, the difference between the prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing wage rate shall be paid to each worker by the Consultant or its subconsultant.

6.7 Consultant and its subconsultants shall comply with Labor Code sections 1810 through 1815. Consultant and its subconsultants shall restrict working hours to eight (8) hours per day and forty (40) hours per week, except that work performed in excess of those limits shall be permitted upon compensation for all excess hours worked at not less than one and one-half (1.5) times the basic rate of pay, as provided in Labor Code section 1815. The Consultant shall forfeit, as a penalty to OC San, twenty-five dollars (\$25) per worker per calendar day during which such worker is required or permitted to work more than eight (8) hours in any one calendar day and forty (40) hours in any one calendar week in violation of Labor Code sections 1810 through 1815.

6.8 Consultant and its subconsultants shall comply with Labor Code sections 1777.5, 1777.6, and 1777.7 concerning the employment of apprentices by Consultant or any subconsultant.

6.9 Consultant shall include, at a minimum, a copy of the following provisions in any contract it enters into with any subconsultant: Labor Code sections 1771, 1771.1, 1775, 1776, 1777.5, 1810, 1813, 1815, 1860, and 1861.

6.10 Pursuant to Labor Code sections 1860 and 3700, the Consultant and its subconsultants will be required to secure the payment of compensation to employees. Pursuant to Labor Code section 1861, Consultant, by accepting this Agreement, certifies that:

“I am 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 I will comply with such provisions before commencing the performance of the work of this contract.”

Consultant shall ensure that all its contracts with its subconsultants provide the provision above.

7. **Key Personnel.** Personnel, as provided in Exhibit “B,” are considered “key” to the work under this Agreement and will be available for the term of the Agreement. No person designated as key under this Agreement shall be removed or replaced without prior written consent of OC San. If OC San asks Consultant to remove a person designated as key under this Agreement, Consultant agrees to do so immediately regardless of the reason, or the lack of reason, for OC San’s request. Consultant shall assign only competent personnel to perform Services under this Agreement.
8. **Ownership of Documents.** All drawings, specifications, reports, records, documents, memoranda, correspondence, computations, and other materials prepared by Consultant, its employees, subconsultants, and agents in the performance of this Agreement shall be the property of OC San and shall be promptly delivered to OC San upon request of OC San’s Project Manager or designee or upon the termination of this Agreement and Consultant shall have no claim for further employment or additional compensation as a result of the exercise by OC San of its full rights of ownership of the documents and materials hereunder. Any use of such completed documents for other projects and/or use of incomplete documents without specific written authorization by the Consultant will be at OC San’s sole risk and without liability to Consultant. Consultant shall ensure that all its contracts with its subconsultants provide for assignment to OC San of any documents or materials prepared by them.
9. **Ownership of Intellectual Property.**
- 9.1 Consultant agrees that all designs, plans, reports, specifications, drawings, schematics, prototypes, models, inventions, and all other information and items made during the course of this Agreement and arising from the Services (hereinafter referred to as “New Developments”) shall be and are assigned to OC San as its sole and exclusive property.
- 9.2 Consultant agrees to promptly disclose to OC San all such New Developments. Upon OC San’s request, Consultant agrees to assist OC San, at OC San’s expense, to obtain patents or copyrights for such New Developments, including the disclosure of all pertinent information and data with respect thereto, the execution of all applications, specifications, assignments, and all other instruments and papers which OC San shall deem necessary to apply for and to assign or convey to OC San, its successors and assigns, the sole and exclusive right, title, and interest in such New Developments. Consultant agrees to obtain or has obtained written assurances from its employees and contract personnel of their agreement to the terms hereof regarding New Developments and confidential information.
- 9.3 Consultant warrants that Consultant will have good title to any New Developments and the right to assign New Developments to OC San free of any proprietary rights of any other party or any other encumbrance whatever.
- 9.4 The originals of all computations, drawings, designs, graphics, studies, reports, manuals, photographs, videotapes, data, computer files, and other documents prepared or caused to be prepared by Consultant or its subconsultants in connection with the Services hereunder shall be delivered to and shall become the exclusive property of OC San. OC San may utilize such documents, at its own risk, for OC San’s applications on other projects or extensions of this project.
10. **Right to Review Services, Facilities, and Records.**
- 10.1 OC San reserves the right to review any portion of the Services performed by

Consultant under this Agreement and Consultant agrees to cooperate to the fullest extent possible in such endeavor.

10.2 Consultant shall furnish to OC San such reports, statistical data, and other information pertaining to Consultant's Services as shall be reasonably required by OC San to carry out its rights and responsibilities under its agreements with its bondholders or noteholders and any other agreement relating to the development of the project(s) and in connection with the issuance of its official statements and other prospectuses with respect to the offering, sale, and issuance of its bonds and other obligations.

10.3 The right of OC San to review or approve drawings, specifications, procedures, instructions, reports, test results, calculations, schedules, or other data that are developed by Consultant shall not relieve Consultant of any obligation set forth herein.

11. Conflict of Interest and Reporting.

11.1 Consultant shall, at all times, avoid conflicts of interest or appearance of conflicts of interest in performance of this Agreement.

11.2 Consultant affirms that, to the best of its knowledge, there exists no actual or potential conflict between Consultant's families, business, or financial interest and the Services under this Agreement and in the event of change in either its private interests or Services under this Agreement, it shall raise with OC San any question regarding possible conflict of interest which may arise as a result of such change.

12. Damage to OC San's Property. Any of OC San's property damaged by Consultant, any subconsultant, subcontractor, or by the personnel of either will be subject to repair or replacement by Consultant at no cost to OC San.

13. Freight (F.O.B. Destination). Consultant assumes full responsibility for all transportation, transportation scheduling, packing, handling, insurance, and other services associated with delivery of all products deemed necessary under this Agreement.

14. Audit Rights. Consultant agrees that, during the term of this Agreement and for a period of three (3) years after its expiration or termination, OC San shall have access to and the right to examine any directly pertinent books, documents, and records of Consultant relating to the invoices submitted by Consultant pursuant to this Agreement.

15. Contractor Safety Standards and Human Resources Policies. OC San requires Consultant, its subconsultants, and its subcontractors to follow and ensure their employees follow all Federal, State, and local regulations as well as Contractor Safety Standards while working at OC San locations. If, during the course of the Agreement, it is discovered that Contractor Safety Standards do not comply with Federal, State, or local regulations, the Consultant is required to follow the most stringent regulatory requirement at no additional cost to OC San. Consultant, its subconsultants, and all of their employees shall adhere to all applicable Contractor Safety Standards in Exhibit "D" and the Human Resources Policies in Exhibit "E."

16. Insurance. Consultant and all its subconsultants shall purchase and maintain, throughout the term of this Agreement and any periods of warranty or extensions, insurance in amounts equal to the requirements set forth in the signed Exhibit "C" – Determined Insurance Requirement Form. Consultant shall not commence work under this Agreement until all required insurance is obtained in a form acceptable to OC San, nor shall Consultant allow

any subconsultant to commence service pursuant to a subcontract until all insurance required of the subconsultant has been obtained. Failure to obtain and maintain the required insurance coverage shall result in termination of this Agreement.

17. Indemnification and Hold Harmless Provision. Consultant shall assume all responsibility for damages to property and/or injuries to persons, including accidental death, which may arise out of or may be caused by Consultant's Services under this Agreement, or by its subconsultant(s), or by anyone directly or indirectly employed by Consultant, and whether such damage or injury shall accrue or be discovered before or after the termination of the Agreement. Except as to the active negligence of or willful misconduct of OC San, Consultant shall indemnify, protect, defend, and hold harmless OC San, its elected and appointed officials, officers, agents, and employees from and against any and all claims, liabilities, damages, or expenses of any nature, including attorneys' fees: (a) for injury to or death of any person, or damage to property, or interference with the use of property arising out of or in connection with Consultant's performance under the Agreement, and/or (b) on account of use of any copyrighted or uncopyrighted material, composition, or process; or any patented or unpatented invention, article, or appliance furnished or used under the Agreement, and/or (c) on account of any goods and services provided under this Agreement. This indemnification provision shall apply to any acts or omissions, willful misconduct, or negligent misconduct, whether active or passive, on the part of Consultant or anyone employed by or working under Consultant. Consultant agrees to provide this defense immediately upon written notice from OC San, and with well qualified, adequately insured, and experienced legal counsel acceptable to OC San. This section shall survive the expiration or early termination of the Agreement.

18. Independent Contractor.

18.1 The relationship between the Parties hereto is that of an independent contractor and nothing herein shall be construed as creating an employment or agency relationship.

18.2 During the performance of this Agreement, Consultant and its officers, employees, and agents shall act in an independent capacity and shall not act as OC San's officers, employees, or agents. OC San assumes no liability for Consultant's action and performance nor assumes responsibility for taxes, funds, payments, or other commitments, expressed or implied, by or for Consultant.

18.3 Consultant shall not be considered an agent of OC San for any purpose whatsoever nor shall Consultant have the right to, and shall not, commit OC San to any agreement, contract, or undertaking. Consultant shall not use OC San's name in its promotional material or for any advertising or publicity purposes without prior expressed written consent.

18.4 Consultant shall not be entitled to any benefits accorded to those individuals listed on OC San's payroll as regular employees including, without limitation, worker's compensation, disability insurance, vacation, or holiday or sick pay. Consultant shall be responsible for providing, at Consultant's expense, disability, worker's compensation, and other insurance as well as licenses and permits usual or necessary for conducting the Services hereunder.

18.5 Consultant shall be obligated to pay any and all applicable Federal, State, and local payroll and other taxes incurred as a result of fees hereunder. Consultant hereby indemnifies OC San for any claims, losses, costs, fees, liabilities, damages, or penalties suffered by OC San arising out of Consultant's breach of this provision.

- 18.6 Consultant shall not be eligible to join or participate in any benefit plans offered to those individuals listed on OC San's payroll as regular employees. Consultant shall remain ineligible for such benefits or participation in such benefit plans even if a court later decides that OC San misclassified Consultant for tax purposes.
19. **Subcontracting and Assignment.** Consultant shall not delegate any duties nor assign any rights under this Agreement without the prior written consent of OC San. Any such attempted delegation or assignment shall be void.
20. **No Solicitation of Employees.**
- 20.1 Consultant agrees that it shall not, during the term of this Agreement and for a period of one (1) year immediately following expiration or termination of this Agreement or any extension hereof, call on, solicit, or take away any of the employees whom Consultant became aware of as a result of Consultant's Services to OC San.
- 20.2 Consultant acknowledges that OC San's employees are critical to its business and OC San expends significant resources to hire, employ, and train employees. Should Consultant employ or otherwise engage OC San's employees during the term of this Agreement and for a period of one (1) year following expiration or termination of this Agreement, Consultant shall pay OC San fifty percent (50%) of the former employee's most recent annual salary earned at OC San to accurately reflect the reasonable value of OC San's time and costs. This payment is in addition to any other rights and remedies OC San may have at law.
21. **Confidentiality and Non-Disclosure.**
- 21.1 Consultant acknowledges that, in performing the Services hereunder, OC San may have to disclose to Consultant, orally and in writing, certain confidential information that OC San considers proprietary and has developed at great expense and effort.
- 21.2 Consultant agrees to maintain in confidence and not disclose to any person, firm, or corporation, without OC San's prior written consent, any trade secret, confidential information, knowledge, or data relating to the products, process, or operation of OC San.
- 21.3 Consultant further agrees to maintain in confidence and not to disclose to any person, firm, or corporation any data, information, technology, or material developed or obtained by Consultant during the term of this Agreement.
- 21.4 Consultant agrees as follows:
- 21.4.1 To use the confidential information only for the purposes described herein; to not reproduce the confidential information; to hold in confidence and protect the confidential information from dissemination to and use by anyone not a party to this Agreement; and to not use the confidential information to benefit itself or others.
- 21.4.2 To restrict access to the confidential information to its subconsultant or personnel of Consultant who (1) have a need to have such access and (2) have been advised of and have agreed in writing to treat such information in accordance with the terms of this Agreement.
- 21.4.3 To return all confidential information in Consultant's possession upon termination of this Agreement or upon OC San's request, whichever occurs

first.

21.4.4 To hold in confidence information and materials, if any, developed pursuant to the Services hereunder.

21.4.5 The provisions of this section shall survive termination or expiration of this Agreement and shall continue for so long as the material remains confidential.

22. Non-Liability of OC San Officers and Employees. No officer or employee of OC San shall be personally liable to Consultant, or any successor-in-interest, in the event of any default or breach by OC San or for any amount which may become due to Consultant or to its successor, or for breach of any obligation under the terms of this Agreement.

23. Third-Party Rights. Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than OC San and Consultant.

24. Applicable Laws and Regulations. Consultant shall comply with all applicable Federal, State, and local laws, rules, and regulations. Consultant also agrees to indemnify and hold OC San harmless from any and all damages and liabilities assessed against OC San as a result of Consultant's noncompliance therewith. Any provision required by law to be included herein shall be deemed included as a part of this Agreement whether or not specifically included or referenced.

25. Licenses, Permits, Ordinances, and Regulations. Consultant represents and warrants to OC San that it has obtained all licenses, permits, qualifications, and approvals of whatever nature that are legally required to provide the Services. Any and all fees required by Federal, State, County, City, and/or municipal laws, codes, and/or tariffs that pertain to the work performed under this Agreement will be paid by Consultant.

26. Regulatory Requirements. Consultant shall perform all work under this Agreement in strict conformance with applicable Federal, State, and local regulatory requirements including, but not limited to, 40 CFR 122, 123, 124, 257, 258, 260, 261, and 503, Title 22, 23, and Water Codes Division 2.

27. Environmental Compliance. Consultant shall, at its own cost and expense, comply with all Federal, State, and local environmental laws, regulations, and policies which apply to the Consultant, its subconsultants, subcontractors, and the Services, including, but not limited to, all applicable Federal, State, and local air pollution control laws and regulations.

28. Dispute Resolution.

28.1 In the event of a dispute as to the construction or interpretation of this Agreement, or any rights or obligations hereunder, the Parties shall first attempt, in good faith, to resolve the dispute by mediation. The Parties shall mutually select a mediator to facilitate the resolution of the dispute. If the Parties are unable to agree on a mediator, the mediation shall be conducted in accordance with the Commercial Mediation Rules of the American Arbitration Agreement, through the alternate dispute resolution procedures of Judicial Arbitration through Mediation Services of Orange County ("JAMS"), or any similar organization or entity conducting an alternate dispute resolution process.

28.2 In the event the Parties are unable to timely resolve the dispute through mediation, the issues in dispute shall be submitted to arbitration pursuant to Code of Civil Procedure, Part 3, Title 9, sections 1280 et seq. For such purpose, an agreed arbitrator shall be

selected, or in the absence of agreement, each party shall select an arbitrator, and those two (2) arbitrators shall select a third. Discovery may be conducted in connection with the arbitration proceeding pursuant to Code of Civil Procedure section 1283.05. The arbitrator, or three (3) arbitrators acting as a board, shall take such evidence and make such investigation as deemed appropriate and shall render a written decision on the matter in question. The arbitrator shall decide each and every dispute in accordance with the laws of the State of California. The arbitrator's decision and award shall be subject to review for errors of fact or law in the Superior Court for the County of Orange, with a right of appeal from any judgment issued therein.

29. **Pass-Through Damages.** In the event Consultant fails to remove hazardous waste within the time defined in Exhibit "A" and/or complete all Services as required in Exhibit "A" within the Contract Term OC San may be subject to delay damages incurred from regulatory agencies. The cost of these damages as validated by OC San shall be passed to the Consultant. Consultant agrees to pay such damages and further agrees that OC San may offset the amount of these damages from any monies due or that may become due Consultant under this Contract. Consultant also agrees that to the extent the amount of these damages exceeds any monies due to the Consultant under this Contract, Consultant shall pay all such amounts to OC San upon demand.
30. **Warranty.** Should the Services performed by the Consultant be inadequate due to defective workmanship, the Consultant will re-perform such Work, provided the defective workmanship appears during the warranty period of three (3) months from completion of the Services. The re-performance of defective Work will be done at Consultant's cost.

THIS IS THE ONLY WARRANTY APPLICABLE TO THE SERVICES PERFORMED UNDER THE ORDER AND REPLACES ANY AND ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR LATENT DEFECTS, AND ANY OTHER OBLIGATION OR LIABILITY, WHETHER IN CONTRACT, AT LAW OR IN EQUITY.

Consultant's re-performance of defective Work is OC San's exclusive remedy for any failure of the Consultant to comply with its warranty obligations under these Terms.

31. **Remedies.** In addition to other remedies available in law or equity, if the Consultant fails to make delivery of the goods or Services or repudiates its obligations under this Agreement, or if OC San rejects the goods or Services or revokes acceptance of the goods or Services, OC San may (a) cancel the Agreement; (b) recover whatever amount of the purchase price OC San has paid, and/or (c) "cover" by purchasing, or contracting to purchase, substitute goods or services for those due from Consultant. In the event OC San elects to "cover" as described in (c), OC San shall be entitled to recover from Consultant as damages the difference between the cost of the substitute goods or services and the Agreement price, without any incidental or consequential damages.
32. **Force Majeure.** Neither party shall be liable for delays caused by accident, flood, acts of God, fire, labor trouble, war, acts of government, or any other cause beyond its control, but the affected party shall use reasonable efforts to minimize the extent of the delay. Work affected by a force majeure condition may be rescheduled by mutual consent of the Parties.
33. **Termination.**
33.1 OC San reserves the right to terminate this Agreement for its convenience, with or without cause, in whole or in part, at any time, by written notice from OC San. Upon

receipt of a termination notice, Consultant shall immediately discontinue all work under this Agreement (unless the notice directs otherwise). OC San shall thereafter, within thirty (30) days, pay Consultant for work performed (cost and fee) through the date of termination. Consultant expressly waives any claim to receive anticipated profits to be earned during the uncompleted portion of this Agreement. Such notice of termination shall terminate this Agreement and release OC San from any further fee, cost, or claim hereunder by Consultant other than for work performed through the date of termination.

33.2 OC San reserves the right to terminate this Agreement immediately upon OC San's determination that Consultant is not complying with the Scope of Work requirements, if the level of service is inadequate, or for any other default of this Agreement.

33.3 OC San may also immediately terminate this Agreement for default, in whole or in part, by written notice to Consultant:

- if Consultant becomes insolvent or files a petition under the Bankruptcy Act; or
- if Consultant sells its business; or
- if Consultant breaches any of the terms of this Agreement; or
- if the total amount of compensation exceeds the amount authorized under this Agreement.

33.4 All OC San's property in the possession or control of Consultant shall be returned by Consultant to OC San on demand or at the expiration or termination of this Agreement, whichever occurs first.

34. **Attorney's Fees.** If any action at law or in equity or if any proceeding in the form of an Alternative Dispute Resolution (ADR) is necessary to enforce or interpret the terms of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees, costs, and necessary disbursements in addition to any other relief to which the prevailing party may be entitled.

35. **Waiver.** The waiver by either party of any breach or violation of, or default under, any provision of this Agreement, shall not be deemed a continuing waiver by such party of any other provision or of any subsequent breach or violation of this Agreement or default thereunder. Any breach by Consultant to which OC San does not object shall not operate as a waiver of OC San's rights to seek remedies available to it for any subsequent breach.

36. **Severability.** If any section, subsection, or provision of this Agreement, or any agreement or instrument contemplated hereby, or the application of such section, subsection, or provision is held invalid, the remainder of this Agreement or instrument in the application of such section, subsection, or provision to persons or circumstances other than those to which it is held invalid, shall not be affected thereby, unless the effect of such invalidity shall be to substantially frustrate the expectations of the Parties.

37. **Survival.** The provisions of this Agreement dealing with payment, warranty, indemnity, and forum for enforcement shall survive expiration or early termination of this Agreement.

38. **Governing Law.** This Agreement shall be governed by and interpreted under the laws of the State of California and the Parties submit to jurisdiction in the County of Orange in the event any action is brought in connection with this Agreement or the performance thereof.

39. Notices.

39.1 All notices under this Agreement must be in writing. Written notice shall be delivered by personal service, by electronic telecommunication, or sent by registered or certified mail, postage prepaid, return receipt requested, or by any other overnight delivery service which delivers to the noticed destination and provides proof of delivery to the sender. Rejection or other refusal to accept or the inability to deliver because of changed address for which no notice was given as provided hereunder shall be deemed to be receipt of the notice, demand, or request sent. All notices shall be effective when first received at the following addresses:

OC San: Darius Ghazi
Senior Buyer
Orange County Sanitation District
10844 Ellis Avenue
Fountain Valley, CA 92708
dghazi@ocsan.gov

Consultant: Scott Nordholm, PE
Marine Construction Manager
SGS US West Coast, LLC.
1725 W. Pier D Street
Long Beach, CA 90802
Scott.nordholm@sgsdiving.com

39.2 Each party shall provide the other party written notice of any change in address as soon as practicable.

- 40. Read and Understood.** By signing this Agreement, Consultant represents that it has read and understood the terms and conditions of the Agreement.
- 41. Authority to Execute.** The persons executing this Agreement on behalf of the Parties warrant that they are duly authorized to execute this Agreement and that by executing this Agreement, the Parties are formally bound.
- 42. Entire Agreement.** This Agreement constitutes the entire agreement of the Parties and supersedes all prior written or oral communications and all contemporaneous oral agreements, understandings, and negotiations between the Parties with respect to the subject matter hereof.

[Intentionally left blank. Signatures follow on the next page.]

IN WITNESS WHEREOF, intending to be legally bound, the Parties hereto have caused this Agreement to be signed by their duly authorized representatives.

ORANGE COUNTY SANITATION DISTRICT

Dated: _____

By: _____
Marshall Goodman
Chair, Operations Committee

Dated: _____

By: _____
Kelly A. Lore
Clerk of the Board

Dated: _____

By: _____
Ruth Zintzun
Purchasing & Contracts Manager

SGS US WEST COAST, LLC.

Dated: _____

By: _____

Print Name and Title of Officer

WC

Exhibit “A”

SCOPE OF WORK

**SCOPE OF WORK
INSPECTION OF 78-INCH AND 120-INCH OCEAN OUTFALL PIPELINES
SOLE SOURCE No. 2717**

EXECUTIVE SUMMARY / OVERVIEW

The Orange County Sanitation District (OC SAN) operates the third largest wastewater agency west of the Mississippi River. Since 1954, we have safely collected, treated, and disposed of and/or reclaimed wastewater generated by 2.6 million people living and working in central and northwestern Orange County, California.

Each day we treat approximately 185 million gallons of wastewater, enough water to fill Anaheim stadium over two and a quarter times. A portion of water comes from homes (e.g., sinks, toilets, showers, laundry, and dishwashers). A portion comes from businesses (e.g., retail stores, restaurants, manufacturers, hotels, offices), and the rest comes from other industries or water agencies.

A professional staff of more than 600 employees manages the OC SAN activities. Our facilities include 396 miles of sewer pipes throughout the county and two treatment plants – one in Fountain Valley, CA and the other in Huntington Beach, CA – where wastewater is treated according to strict state and federal standards.

Our employees are on duty protecting the OC people's health and environment by ensuring the sewer system operates efficiently 24 hours a day, seven days a week, and 365 days a year. We are very proud of our job and pride in providing our customers with quality service.

1 Purpose

The purpose of the work is to conduct an underwater, external ROV video inspection of Orange County Sanitation District's (OC SAN's) 120-inch diameter and 78-inch diameter outfall pipelines used for diffusing its treated wastewater into the Pacific Ocean to fulfill the NPDES permit and California State Land Commission requirements.

OC San's NPDES permit requires the inspection of its outfalls and diffuser systems as referenced in the following section of the permit:

B. Outfall and Diffuser System Inspection

The Discharger shall externally inspect each ocean outfall (i.e., 120" and 78" outfalls) every 2.5 years to ensure that the outfall structures are in serviceable condition and that they can continue to be operated safely. Inspections shall include general observations including any collection of debris within the diversion structure surge chamber, and photographic/videographic records of the external outfall pipes and adjacent ballasting system. The inspections may be conducted by remotely operated vehicle, diver, or manned submarine. Within 60 days of the completion of the outfall and diffuser system inspection, a summary report of the inspection findings, including videographic and/or photographic images shall be submitted to the Santa Ana Water Board and USEPA.

The California State Lands Commission and Orange County Sanitation District entered into a Lease Agreement for the continued use and maintenance of the existing 120-inch diameter ocean outfall.

Below are the requirements for this agreement:

- Inspection should coincide with the NPDES permit requirement as noted above.
- OC SAN shall conduct an external inspection of the 120" Ocean Outfall using diver/ROV video or high resolution side-scan sonar.
- OC SAN shall conduct the external inspection of the 120" Ocean Outfall at least once every two and one-half (2.5) years so that every inspection coincides with the 2.5-year inspection requirements of the NPDES Permit.
- Additionally, OC SAN shall conduct external inspections when warranted by extraordinary circumstances, such as an accident or significant seismic event.
- The inspection schedule may be modified by mutual agreement among the parties hereto.
- OC SAN shall promptly submit copies of the results of all external inspections, including reports, analyses, and recommendations, to the California State Lands Commission.

2 Description of the 120-inch and 78-inch Outfalls

General Plans and Profile drawings of the outfall pipelines are provided in Appendices A and B.

2.1 Description of the 120-inch Outfall

Overall System

The 120-inch ocean outfall pipeline was placed in operation in 1971 and has a main barrel length of 21,400 feet, plus a diffuser length of 6,000 feet, for a total length of 27,400 feet. The diffuser section has four different pipe diameters ranging from 120 to 72 inches at its termination.

This outfall has a total of 47 underwater manholes, an egress structure, a 5,940-foot diffuser section with 500 effluent ports located on opposite sides of the pipe and at 24-foot intervals, as well as an end structure equipped with a flap gate located at a depth of 200 feet.

Individual Elements

Main Barrel: From a beginning point at the Beach Box with the stationing of 0+00, the main barrel, sized at 120 inches in diameter, is laid on a bearing of approximately S31W and proceeds to Station 213+80; a distance of 21,380 feet, where it connects to an egress structure. The pipe is composed of unlined reinforced concrete pipe (RCP) and has a wall thickness of 11 inches. Pipe segments are 24 feet in length and are joined with a double gasket bell and spigot joint. The main barrel is ballasted with quarry stone throughout its length (see Appendix C), and is protected with sheet piling out to Station 20+00. The diffuser barrel is also composed of unlined, reinforced concrete pipe and comprises four pipe diameter sections: 120-inch, 108-inch, 90-inch, and 72-inch.

Egress Structure: The main barrel connects to an egress structure with a length of 20 feet and is a precast rectangular concrete box with a bell and spigot joint made as part of the structure. The structure's purpose is to provide an access point for outfall inspection and to support the ingress/egress of a mini-submarine and/or remotely operated underwater vehicle (ROV). The egress structure contains a removable lid to permit a large access area.

Diffusers: The diffuser contains 500 bell mouth ports of a particular geometry located on opposite sides of the pipe and at 24-foot intervals. The diffuser ports in the 120-inch and 108-inch pipe sections are positioned 12 inches above the centerline spring-line, and ports in the 90-inch and 72-inch sections are positioned 6 inches above centerline spring-line. Port location provides clearance from ballast that was specified to be placed up to the pipe centerline spring-line.

End Structure: The outfall has a flap gate end structure to force the diffuser to function as a pressure manifold. For proper operation, the flap is held closed against the provided seal to restrict leakage and is held in place by thrust restraints. The flap gate structure is attached to the last two adjoining diffuser pipe sections with thrust rods to prevent pressure separation of the sections.

Manholes: Along the outfall and diffuser are 47 manholes at a nominal spacing of 600 feet on the main barrel and variable spacing on the diffuser pipe in order to permit access to the outfall pipe.

Thrust Restraints: The outfall system contains six pairs of thrust restraint rods (12 Monel ties). One set is located at the mating of the egress structure and the first 120-inch diffuser pipe section, one set at each of the three diffuser reducer pipe sections, and one set at each of the final two diffuser pipe sections connected to the end structure. The purpose of the restraints is to restrict the movement of the pipe barrel or structure to hydraulic thrust forces.

Ballast: The marine portion of the outfall system is protected from the movement caused by shoaling wave forces, ocean currents, and seismic activity using ballast rocks of selected weights and graduations.

2.2 Description of the 78-inch Outfall

Overall System

The 78-inch ocean outfall pipeline, placed into operation in 1954, has a main barrel length of 7,000 feet. In 1962, a 1,000 foot length diffuser was added for a total length of 8,000 feet. Starting in 1971, when the 120-inch outfall was placed into operation, the 78-inch ocean outfall pipeline has only been used during emergencies.

This outfall has 14 underwater manholes, a wye structure from which the outfall changes direction and from where the diffuser section begins. The 970-foot-long diffuser section has 123 effluent ports, 6.25 inches in diameter, arranged in a staggered fashion, and eight additional rectangular ports. The approximate maximum depth at the flap gate is 65 feet.

Individual Elements

Main Barrel: At the time of construction of the marine portion of the outfall, the beach box did not exist; thus, the land portion of the outfall was connected directly to the marine part, extended to deeper water, and laid on an approximate bearing of S34°W. The pipe is composed of unlined RCP and has a wall thickness of

approximately 8 inches. Pipe segments are 24 feet long and joined with a single gasket bell and spigot joint. The main barrel is ballasted with quarry stone throughout its length.

The diffuser barrel is composed of unlined RCP and is of one continuous diameter. The pipe sections are 24 feet in length.

Wye Structure: Initially, the main barrel ended with the last section of pipe having eight large rectangular ports approximately 12 inches by 24 inches (four on each side) and the end blocked with quarry stone. In 1962, a wye structure was added to the end of the outfall to permit the construction of a 1,000-foot diffuser section. After the placement of the wye structure, the discharged flow continued through the main barrel while the diffuser section was under construction. Once the diffuser was completed, a bulkhead was placed in the wye structure, thus, directing discharged flow through the new diffuser. The eight rectangular ports were closed off with Monel plates.

Diffusers: The diffusers contain 123 bell mouth ports located on the spring-line and have a diameter of 6.25 inches.

End Structure: The outfall terminates with an operational flap gate. The gate is positioned using a free-hanging hinge held in position by gravity. Weight blocks positioned on the gate are used to maintain a proper seal. The diffuser was commissioned with four weight blocks in place on the gate, with the remaining eight blocks stacked alongside the gate. Two 8.5-inch ports exist on the gate. The gate is designed to stay shut against the rubber fender seal during regular operation and would open slightly at higher flows depending on the quantity of weight blocks in place.

Manholes: The marine portion of the outfall incorporates 14 manholes with 500 feet spacing. Three of the manholes are not readily accessible and are buried within the sheet pile section.

Ballast: The marine portion of the outfall system is protected from the movement caused by shoaling wave forces, ocean currents, and seismic activity using ballast rocks of selected weights and graduations.

3 Project/Work Elements

3.1 Inspection Work

The OC SAN Ocean Outfalls Inspection work shall include the following:

- 3.1.1 Providing all the necessary equipment (submersible, submarine, remotely operated vehicle (ROV), support vessel, cameras, video cameras, etc.), personnel (divers, boat captain, technicians, rescue dive team, etc.), resources, and materials to conduct the ROV inspection described in this scope of work.
- 3.1.2 Development of the inspection Safety Plan

- a) The safety plan shall comply with CAL-OSHA and USCG standards for Commercial Diving Operations
- b) The safety plan shall be reviewed and approved by OC SAN Project Manager and Risk Management staff in advance of the conduct of work, and the final safety plan should be submitted before the start of the work. The safety plan shall consider the following:
 - Injury and Illness Prevention Program (IIPP)
 - Job Hazard Analysis (JHA)
 - Diver safety and rescue plan
 - Topside personal safety
 - Factors and elements of a diving operation contribute to either a safe or a non-safe dive.
 - Wash down
- 3.1.3 Provide photographs and video footage documenting the overall condition of individual outfall elements, per sections 3.2 and 3.3 below.
- 3.1.4 Document any unusual observations or perceived problem areas in and around the outfalls.
- 3.1.5 Emergency medical response
- 3.1.6 Attendance of a Kickoff Meeting with OC SAN staff that will establish proper deadlines and review the Consultant's plan of work
- 3.1.7 Attendance of a Progress Report Meeting with OC SAN staff to discuss the work that has been done thus far.
- 3.1.8 Submit a draft report to OC SAN and make any assigned changes

3.2 Inspection Report

The OC SAN Ocean Outfalls Inspection Report must have the following format:

- Title page with equipment description, location, and inspection dates
- Table of Contents page – including a list of tables, figures, and appendices with their associated page numbers
- Executive Summary page with a summary of the findings, recommendations, and maintenance work recommended based on the findings
- Results of the Inspection of the 78" and 120" Ocean Outfall sections (as discussed in Section 1) with a detailed discussion of the observations made and maintenance work recommended
- Appendices with properly labeled pictures describing each outfall's structures and the surrounding marine life (as well as any unusual observations) at and around the:
 - Pipe joints
 - Manholes along the outfall
 - Portholes along the diffuser
 - Ballast material condition and sediments surrounding the entire length of the outfall

- End structure
- Other structures (wye, egress structure, etc.)
- Any unusual observations in and around the outfall
- Any additional work that may have been performed as part of the outfall inspection work needs documentation and must be included in the report

3.3 Quality of the Photographs and Videos

The color photographs and the color videos must be taken from a close enough distance, in focus, and be of enough resolution and taken with sufficient illumination to show all the details of the structure it intends to depict.

Also, any cropped portions of photographs must have enough resolution and sufficient illumination to show all the details of the structure it intends to depict. The video footage must be steady, smooth, and with relatively slow movements to observe all details.

Any voice recordings shall be clear, complete, and distinct. Poor quality audio and video (includes skipping, unintelligible reporting, inappropriate language, or idle chatter) are not acceptable and may result in rejection or further editing.

The Consultant must photograph representative portions of the outfalls, the nearby ocean bottom, and the biological species encountered along the outfalls. The Consultant must video and assess the conditions of the entire length of the outfalls (from the point of emergence to the end of the diffusers). It also needs to include the flap gates, outfall sides and top, diffuser ports, ballast, manholes, joints, egress and wye structure, bedding and sea floor along each side of the outfalls.

A complete set of raw footage of video tapes from the outfalls inspection must be submitted, and an edited summary video highlighting any areas of interest or concern.

The Consultant must identify the videos and photographs with dates and locations. Date and time codes on the videos and photos are not acceptable. As determined by OC SAN, poor-quality videos or pictures will be rejected. Video and photograph logs must be maintained to identify the locations.

The video footage and photographs must include the following:

- Close-up and medium to wide-range shots, depending on the visibility, of each diffuser port at both outfalls
- Close-up of the flap gate, each bell joint, and egress structures
- Dispersion of effluent from port to ocean environment at the 120-inch and 78-inch outfalls
- Fish species swimming around the 120-inch and 78-inch outfall pipes, diffusers, and end sections
- Attached and bottom organisms along both outfalls
- Vessel, instrumentation, and equipment used

The Consultant must inspect and document the following features at the outfalls with videos and pictures:

- Deterioration and corrosion of metal components
- Plugged ports
- Ballast condition and elevation on both sides, including the diffuser sections
- Flap gate condition
- Areas with scouring and/or covered by sediments
- Any observed damage to the outfalls' structures or leakages

3.4 Detail of Drawings or Graphics

The drawings and graphics depicting the observed state of the ocean outfalls or sections of a specific structure must be clear and identify relevant information. Each drawing and graphic must be labeled appropriately.

4 Resources Available

OC SAN can provide information about the location of each outfall structure and a copy of the latest inspection reports to be used as a reference (see Appendices D and E for Sample Report Submittals).

5 Project Schedule

The work must be scheduled so that all inspection and maintenance work will be performed during ideal periods of ocean water clarity. Work must be coordinated with the potential for storms and other events that may reduce the visibility required to perform this project.

Barring unpredictable weather conditions or water clarity issues, all work must be completed in no longer than (90) calendar days from the Notice to Proceed (NTP). The work must be completed as scheduled in Table 2.

Table 2 – Work Schedule	
Timeline	Deadline
	Calendar Days From Notice to Proceed
Kickoff Meeting	7
Inspection Field Work	30
Draft Report to OC SAN	60
OC SAN Sends Comments Back	75
Approved Final Report	90

6 Project Management

Kick-off Meeting: The kick-off meeting with OC SAN staff will be held to establish appropriate contacts, review the Consultant's plan to implement this work, inform the Consultant of any particular areas of interest OC SAN wants to include in the work plan, and confirm the deadlines of each work element in the project schedule. The meeting will be held at the OC SAN offices or virtually through Microsoft Teams. OC SAN may require other meetings and conference calls to adjust the plan, depending on circumstances, that the Consultant must attend.

7 Suggested Additional Work & Approval

During the inspection field work of the outfall pipelines (as scheduled in Table 2), if an observation requires additional work beyond what was discussed and agreed upon during the Kick-Off meeting, the Consultant shall contact the Project Manager regarding the recommended work. All further work/changes to the SOW shall be made through a written change order.

8 Consultant Requirements

The Consultant is responsible for all equipment, personnel, resources, materials, instruments, and supplies necessary to complete the work described in this scope of work and all associated costs. The Consultant is also responsible for subcontracting any support work outside of its expertise required for this work. All costs associated with the above Consultant responsibilities are considered part of the work.

9 Deliverables

The Consultant must provide OC SAN with the following steps:

- With the Draft Report, an electronic file prepared in Microsoft Word (.docx) must be sent to the OC SAN Project Manager for the review before the deadline (Table 2). The Draft Report must have the format specified in Section 3. Also, the Consultant must provide all the records (e.g., video films) and any other information collected for the Consultant's services related to this work. The video films must be clearly labeled and accompanied by the Consultant notes.
- The Consultant must participate in meetings with OC SAN staff if and when it is deemed necessary by OC SAN, especially during the comment period. OC SAN staff will comment directly on the Draft Report using Track Changes or any other method.
- After receiving comments from the OC SAN Project Manager and making the corresponding corrections and changes to the Draft Report, the Consultant must submit the Final Report in Microsoft Word (.docx) format to the OC SAN Project Manager to proofread.
- Once the OC SAN project manager approves the Final Report, the Consultant will make any remaining changes and provide eight (8) hard copies and an electronic file of the corrected Final Report in PDF format to the OC SAN Project Manager before the deadline noted in Table 2. Also, the Consultant shall supply the edited video summaries on a flash drive accompanying the Final Report.

10 Staff Assistance

The Consultant will be assigned a single point of contact on this project. Any meetings and/or correspondence related to this project shall be scheduled and approved by the Project Manager.