



ORANGE COUNTY SANITATION DISTRICT SPECIAL NOTICE REGARDING CORONAVIRUS (COVID-19) AND ATTENDANCE AT PUBLIC MEETINGS

Governor Newsom signed Assembly Bill (AB) 361 on September 16, 2021, which, in part, addresses the conduct of public meetings in light of the continued State of Emergency order.

Effective October 1, 2021, AB 361 suspends the requirements located in California Government Code, Section 54953, Subdivision (b), Paragraph (3) specifically pertaining to the conduct of public meetings. As such, the Orange County Sanitation District (OC San) Board of Directors has determined that due to the size of OC San's Board of Directors (25), and the health and safety of the members, the Board of Directors will be participating in meetings of the Board telephonically and via Internet accessibility.

PUBLIC PARTICIPATION

Your participation is always welcome. OC San offers several ways in which to interact during meetings. You will find information as to these opportunities below.

ONLINE MEETING PARTICIPATION

You may join the meeting live via Teams on your computer or similar device or web browser by using the link below:

[Click here to join the meeting](#)

We suggest testing joining a Teams meeting on your device prior to the commencement of the meeting. For recommendations, general guidance on using Teams, and instructions on joining a Teams meeting, [please click here](#).

Please mute yourself upon entry to the meeting. Please raise your hand if you wish to speak during the public comment section of the meeting. The Clerk of the Board will call upon you by using the name you joined with.

Meeting attendees are not provided the ability to make a presentation during the meeting. Please contact the Clerk of the Board at least 48 hours prior to the meeting if you wish to present any items. Additionally, camera feeds may be controlled by the meeting moderator to avoid inappropriate content.

HOW TO PARTICIPATE IN THE MEETING BY TELEPHONE

To join the meeting from your phone: Dial (213) 279-1455
When prompted, enter the Phone Conference ID: 941 786 877#

All meeting participants may be muted during the meeting to alleviate background noise. If you are muted, please use *6 to unmute. You may also mute yourself on your device.

Please raise your hand to speak by use *5, during the public comment section of the meeting. The Clerk of the Board will call upon you by using the last 4 digits of your phone number as identification.

NOTE: All attendees will be disconnected from the meeting at the beginning of Closed Session. If you would like to return to the Open Session portion of the meeting, please login or dial-in to the Teams meeting again and wait in the Lobby for admittance.

VIEW THE MEETING ONLINE ONLY

The meeting will be available for online viewing only at:

<https://ocsd.legistar.com/Calendar.aspx>

HOW TO SUBMIT A COMMENT

You may provide verbal comment in real time during the meeting. In order to provide a verbal comment, please raise your hand as described above or alert the Clerk of the Board before or during the public comment period.

You may also submit your comments and questions in writing for consideration in advance of the meeting by using the eComment feature available online at: <https://ocsd.legistar.com/Calendar.aspx> or sending them to OCSanClerk@ocsan.gov with the subject line "PUBLIC COMMENT ITEM # (insert the item number relevant to your comment)" or "PUBLIC COMMENT NON-AGENDA ITEM".

You may also submit comments and questions for consideration during the meeting by using the eComment feature available online at: <https://ocsd.legistar.com/Calendar.aspx>. The eComment feature will be available for the duration of the meeting.

All written public comments will be provided to the legislative body and may be read into the record or compiled as part of the record.

TECHNICAL SUPPORT PRIOR TO AND DURING MEETINGS

For technical assistance before and during the meeting, please call 714-593-7431. For any other questions and/or concerns, please contact the Clerk of the Board's office at 714-593-7433. Thank you, in advance, for your patience in working with these technologies. We appreciate your interest in OC San!

March 8, 2022

NOTICE OF SPECIAL MEETING

**OPERATIONS COMMITTEE
ORANGE COUNTY SANITATION DISTRICT**

Wednesday, March 16, 2022 – 4:00 P.M.

ACCESSIBILITY FOR THE GENERAL PUBLIC

Your participation is always welcome. Specific information as to how to participate in this meeting is detailed in the Special Notice attached to this agenda. In general, OC San offers several ways in which to interact during meetings: you may join the meeting live via Teams on your computer or similar device or web browser, join the meeting live via telephone, view the meeting online, and/or submit comments for consideration before or during the meeting.

The Special Meeting of the Operations Committee of the Orange County Sanitation District will be held at the above location and in the manner indicated on Wednesday, March 16, 2022 at 4:00 p.m.



Clerk of the Board

- Serving:*
- Anaheim
 - Brea
 - Buena Park
 - Cypress
 - Fountain Valley
 - Fullerton
 - Garden Grove
 - Huntington Beach
 - Irvine
 - La Habra
 - La Palma
 - Los Alamitos
 - Newport Beach
 - Orange
 - Placentia
 - Santa Ana
 - Seal Beach
 - Stanton
 - Tustin
 - Villa Park
 - County of Orange
 - Costa Mesa Sanitary District
 - Midway City Sanitary District
 - Irvine Ranch Water District
 - Yorba Linda Water District

OPERATIONS COMMITTEE MEETING DATE	BOARD MEETING DATE
03/16/22 03/02/22 (Cancelled Due to Technical Difficulties)	03/23/22
04/06/22	04/27/22
05/04/22	05/25/22
06/01/22	06/22/22
07/06/22	07/27/22
AUGUST DARK	08/24/22
09/07/22	09/28/22
10/05/22	10/26/22
11/02/22	11/16/22 *
12/07/22	12/21/22 *
JANUARY DARK	01/25/23
02/01/23	02/22/23

*** Meeting will be held on the third Wednesday of the month**

ROLL CALL

OPERATIONS COMMITTEE Engineering and Operations & Maintenance

Meeting Date: March 16, 2022

Time: 4:00 p.m.

Adjourn: _____

COMMITTEE MEMBERS (14)

Brooke Jones (Chair)	
Ryan Gallagher (Vice-Chair)	
Stephen Faessel	
Johnathan Ryan Hernandez	
Steve Jones	
Sandra Massa-Lavitt	
Paulo Morales	
Kim Nichols	
Bob Ooten	
Jesus J. Silva	
Donald P. Wagner	
Chad Zimmerman	
John Withers (Board Chair)	
Chad Wanke (Board Vice-Chair)	

OTHERS

Brad Hogin, General Counsel	

STAFF

Jim Herberg, General Manager	
Rob Thompson, Assistant General Manager	
Lorenzo Tyner, Assistant General Manager	
Celia Chandler, Director of Human Resources	
Kathy Millea, Director of Engineering	
Riaz Moinuddin, Director of Operations & Maintenance	
Lan Wiborg, Director of Environmental Services	
Kelly Lore, Clerk of the Board	

ORANGE COUNTY SANITATION DISTRICT
BOARD OF DIRECTORS
Complete Roster

Effective 03/07/2022

AGENCY/CITIES	ACTIVE DIRECTOR	ALTERNATE DIRECTOR
Anaheim	Stephen Faessel	Gloria Ma'ae
Brea	Glenn Parker	Cecilia Hupp
Buena Park	Art Brown	Connor Traut
Cypress	Paulo Morales	Anne Hertz-Mallari
Fountain Valley	Patrick Harper	Ted Bui
Fullerton	Jesus J. Silva	Nick Dunlap
Garden Grove	Steve Jones	John O'Neill
Huntington Beach	Kim Carr	Dan Kalmick
Irvine	Anthony Kuo	Farrah N. Khan
La Habra	Rose Espinoza	Steve Simonian
La Palma	Marshall Goodman	Nitesh Patel
Los Alamitos	Ron Bates	NONE
Newport Beach	Brad Avery	Joy Brenner
Orange	Kim Nichols	Chip Monaco
Placentia	Chad Wanke	Ward Smith
Santa Ana	Johnathan Ryan Hernandez	Nelida Mendoza
Seal Beach	Sandra Massa-Lavitt	Schelly Sustarsic
Stanton	David Shawver	Carol Warren
Tustin	Ryan Gallagher	Austin Lumbard
Villa Park	Chad Zimmerman	Robert Collacott

Sanitary/Water Districts

Costa Mesa Sanitary District	Bob Ooten	Art Perry
Midway City Sanitary District	Andrew Nguyen	Mark Nguyen
Irvine Ranch Water District	John Withers	Douglas Reinhart
Yorba Linda Water District	Brooke Jones	Ted Lindsey

County Areas

Board of Supervisors	Donald P. Wagner	Doug Chaffee
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OPERATIONS COMMITTEE
Special Meeting Agenda
Wednesday, March 16, 2022 - 4:00 PM
Board Room
Administration Building
10844 Ellis Avenue
Fountain Valley, CA 92708
(714) 593-7433

AGENDA POSTING: In accordance with the requirements of California Government Code Section 54954.2, this agenda has been posted outside the main gate of the OC San's Administration Building located at 10844 Ellis Avenue, Fountain Valley, California, and on the OC San's website at www.ocsan.gov not less than 72 hours prior to the meeting date and time above. All public records relating to each agenda item, including any public records distributed less than 72 hours prior to the meeting to all, or a majority of the Board of Directors, are available for public inspection in the office of the Clerk of the Board.

AGENDA DESCRIPTION: The agenda provides a brief general description of each item of business to be considered or discussed. The recommended action does not indicate what action will be taken. The Board of Directors may take any action which is deemed appropriate.

MEETING AUDIO: An audio recording of this meeting is available within 24 hours after adjournment of the meeting at <https://ocsd.legistar.com/Calendar.aspx> or by contacting the Clerk of the Board at (714) 593-7433.

NOTICE TO DIRECTORS: To place items on the agenda for a Committee or Board Meeting, the item must be submitted in writing to the Clerk of the Board: Kelly A. Lore, MMC, (714) 593-7433 / klore@ocsan.gov at least 14 days before the meeting.

FOR ANY QUESTIONS ON THE AGENDA, BOARD MEMBERS MAY CONTACT STAFF AT:

General Manager: Jim Herberg, jherberg@ocsan.gov / (714) 593-7300
Asst. General Manager: Lorenzo Tyner, ltyner@ocsan.gov / (714) 593-7550
Asst. General Manager: Rob Thompson, rthompson@ocsan.gov / (714) 593-7310
Director of Human Resources: Celia Chandler, cchandler@ocsan.gov / (714) 593-7202
Director of Engineering: Kathy Millea, kmillea@ocsan.gov / (714) 593-7365
Director of Environmental Services: Lan Wiborg, lwiborg@ocsan.gov / (714) 593-7450
Director of Operations & Maintenance: Riaz Moinuddin, rmoinuddin@ocsan.gov / (714) 593-7269

CALL TO ORDER**PLEDGE OF ALLEGIANCE****ROLL CALL AND DECLARATION OF QUORUM:**

Clerk of the Board

PUBLIC COMMENTS:

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All written public comments will be provided to the legislative body and may be read into the record or compiled as part of the record.

REPORTS:

The Committee Chairperson and the General Manager may present verbal reports on miscellaneous matters of general interest to the Directors. These reports are for information only and require no action by the Directors.

CONSENT CALENDAR:

Consent Calendar Items are considered to be routine and will be enacted, by the Committee, after one motion, without discussion. Any items withdrawn from the Consent Calendar for separate discussion will be considered in the regular order of business.

1. APPROVAL OF MINUTES**[2022-2150](#)****RECOMMENDATION:**

Approve Minutes of the Regular Meeting of the Operations Committee held February 2, 2022.

Originator: Kelly Lore

Attachments: [Agenda Report](#)
[02-02-2022 Operations Committee Minutes](#)

2. WASTE SIDESTREAM PUMP STATION VFD REPLACEMENTS AT PLANT NO. 1, PROJECT NO. FR1-0016 [2021-1945](#)

RECOMMENDATION: Recommend to the Board of Directors to:

- A. Receive and file Bid Tabulation and Recommendation for Waste Sidestream Pump Station VFD Replacements at Plant No. 1, Project No. FR1-0016;
- B. Award a Construction Contract to Leed Electric, Inc. for Waste Sidestream Pump Station VFD Replacements at Plant No. 1, Project No. FR1-0016, for an amount not to exceed \$344,889; and
- C. Approve a contingency of \$51,733 (15%).

Originator: Kathy Millea

Attachments: [Agenda Report](#)
[FR1-0016 Contract Agreement Package](#)

3. DIGESTERS REHABILITATION AT PLANT NO. 2, PROJECT NO. P2-137 [2021-1969](#)

RECOMMENDATION: Recommend to the Board of Directors to:

- A. Approve a Professional Design Services Agreement with CDM Smith, Inc. to provide engineering services for Digesters Rehabilitation at Plant No. 2, Project No. P2-137, for an amount not to exceed \$2,700,000; and
- B. Approve a contingency of \$270,000 (10%).

Originator: Kathy Millea

Attachments: [Agenda Report](#)
[P2-137 PDSA](#)

4. SURVEYING SERVICES, PSA2022-002 [2022-2105](#)

RECOMMENDATION: Recommend to the Board of Directors to:

Approve Professional Services Agreements to provide on-call surveying services for collection system and treatment plant projects, PSA2022-002, for a three-year period effective May 1, 2022, for an amount not to exceed \$200,000 per individual agreement (\$800,000 total) with the following four firms:

- Michael Baker International, Inc.
- Stantec Consulting Services, Inc.

- Psomas
- D. Woolley & Associates, Inc.

Originator: Kathy Millea

Attachments: [Agenda Report](#)
[PSA2022-002 PSA - D Woolley \(Draft\)](#)
[PSA2022-002 PSA - Michael Baker \(Draft\)](#)
[PSA2022-002 PSA - Psomas \(Draft\)](#)
[PSA2022-002 PSA - Stantec \(Draft\)](#)

**5. COATING INSPECTION AND CORROSION TESTING SERVICES, PSA [2022-2106](#)
2022-001**

RECOMMENDATION: Recommend to the Board of Directors to:

Approve Professional Services Agreements to provide on-call Coating Inspection and other Corrosion Testing Services for Collection System and Treatment Plant projects, PSA2022-001, for a three-year period effective May 1, 2022, for an amount not to exceed \$300,000 per individual agreement (\$600,000 total) with the following two firms:

- CSI Services, Inc.
- Diversified Project Services International (DPSI)

Originator: Kathy Millea

Attachments: [Agenda Report](#)
[PSA2022-001 PSA - CSI Services \(Draft\)](#)
[PSA2022-001 PSA - DPSI \(Draft\)](#)

**6. MATERIALS TESTING, INSPECTION, AND OTHER GEOTECHNICAL [2022-2119](#)
TESTING SERVICES, PSA2022-003**

RECOMMENDATION: Recommend to the Board of Directors to:

Approve a Professional Services Agreement to provide on-call Materials Testing, Inspection, and Other Geotechnical Testing Services for Collection System and Treatment Plant Projects, PSA2022-003, for a three-year period effective May 1, 2022, for an amount not to exceed \$400,000 per individual agreement (\$1,600,000 total) with the following four firms:

- Atlas Technical Consultants LLC
- Aesco Technologies
- MTGL, Inc.
- Koury Engineering and Testing, Inc.

Originator: Kathy Millea

Attachments: [Agenda Report](#)
[PSA2022-003 PSA - AESCO \(Draft\)](#)
[PSA2022-003 PSA - Atlas \(Draft\)](#)
[PSA2022-003 PSA - Koury Engineering \(Draft\)](#)
[PSA2022-003 PSA - MTGL \(Draft\)](#)

**7. POWER HEADS REPAIRS FOR CENTRAL GENERATION ENGINES AT [2022-2143](#)
PLANT NOS. 1 AND 2**

RECOMMENDATION:

- A. Approve additional funds of \$60,300.60 to Sole Source Purchase Order 146032-OS, for Cooper Machinery Services to repair 16 spare Engine Power Heads for Engines at Central Generation for Plant Nos. 1 and 2, for a new total amount not to exceed \$132,915 plus taxes and shipping; and
- B. Approve a contingency of \$13,292 (10%).

Originator: Riaz Moinuddin

Attachments: [Agenda Report](#)

**8. REIMBURSEMENT AGREEMENT FOR ORANGE COUNTY [2022-2152](#)
SANITATION DISTRICT MANHOLE FRAME AND COVER
ADJUSTMENTS ON EUCLID STREET IN THE CITY OF ANAHEIM**

RECOMMENDATION:

Approve and authorize the General Manager to execute a Reimbursement Agreement with the City of Anaheim for an amount not to exceed \$180,000 for Orange County Sanitation District manhole frame and cover adjustments on Euclid Street in the City of Anaheim in a form approved by General Counsel.

Originator: Kathy Millea

Attachments: [Agenda Report](#)
[Draft Reimbursement Agreement](#)

NON-CONSENT:

**9. SECONDARY TREATMENT VFD REPLACEMENTS AT PLANT NO. 2, [2021-1785](#)
PROJECT NO. FE19-08**

RECOMMENDATION: Recommend to the Board of Directors to:

- A. Receive and file Bid Tabulation and Recommendation for Secondary Treatment VFD Replacements at Plant No. 2, Project No. FE19-08;

- B. Receive and file Orange County Sanitation District's Notice of Intent to Award dated January 27, 2022;
- C. Receive and file Award Protest from LEED Electric, Inc. dated February 2, 2022, concerning the award to ACS Engineering;
- D. Receive and file Orange County Sanitation District's determination letter dated February 10, 2022 to LEED Electric, Inc. responding to award protest;
- E. Award a Construction Contract to ACS Engineering for Secondary Treatment VFD Replacements at Plant No. 2, Project No. FE19-08, for an amount not to exceed \$1,433,000; and
- F. Approve a contingency of \$143,300 (10%).

Originator: Kathy Millea

Attachments: [Agenda Report](#)
[Notice of Intent to Award 01-27-2022](#)
[Award Protest from LEED Electric Inc. 02-02-2022](#)
[OC San's Determination Letter 02-10-2022](#)
[FE19-08 Contract Agreement](#)

INFORMATION ITEMS:

10. STAFFING STRATEGY TO DELIVER CAPITAL IMPROVEMENT PROGRAM [2022-2158](#)

RECOMMENDATION:

Information Item.

Originator: Kathy Millea

Attachments: [Agenda Report](#)
[Presentation - CIP Delivery Strategy](#)

DEPARTMENT HEAD REPORTS:

CLOSED SESSION:

None.

OTHER BUSINESS AND COMMUNICATIONS OR SUPPLEMENTAL AGENDA ITEMS, IF ANY:

BOARD OF DIRECTORS INITIATED ITEMS FOR A FUTURE MEETING:

At this time Directors may request staff to place an item on a future agenda.

ADJOURNMENT:

Adjourn the Committee meeting until the Regular Meeting of the Operations Committee on April 6, 2022 at 5:00 p.m.



OPERATIONS COMMITTEE

Administration Building
10844 Ellis Avenue
Fountain Valley, CA 92708
(714) 593-7433

Agenda Report

File #: 2022-2150

Agenda Date: 3/16/2022

Agenda Item No: 1.

FROM: James D. Herberg, General Manager
Originator: Kelly A. Lore, Clerk of the Board

SUBJECT:

APPROVAL OF MINUTES

GENERAL MANAGER'S RECOMMENDATION

RECOMMENDATION:

Approve Minutes of the Regular Meeting of the Operations Committee held February 2, 2022.

BACKGROUND

In accordance with the Board of Directors Rules of Procedure, an accurate record of each meeting will be provided to the Directors for subsequent approval at the following meeting.

RELEVANT STANDARDS

- Resolution No. OC SAN 21-04

ATTACHMENT

The following attachment(s) may be viewed on-line at the OC San website (www.ocsan.gov) with the complete agenda package:

- Minutes of the Operations Committee meeting held February 2, 2022



CALL TO ORDER

A regular meeting of the Operations Committee of the Orange County Sanitation District was called to order by Committee Chair Brooke Jones on Wednesday, February 2, 2022 at 5:00 p.m. in the Administration Building of the Orange County Sanitation District. Chair Jones stated that the meeting was being held telephonically and via Internet accessibility in accordance with new provisions in California Government Code Section 54953 and Resolution No. OC SAN 22-02, due to the continued State of Emergency Order. Chair Jones announced the teleconference meeting guidelines and led the flag salute.

ROLL CALL AND DECLARATION OF QUORUM:

Roll call was taken and a quorum was declared present, as follows:

- PRESENT:** Brooke Jones, Ryan Gallagher, Stephen Faessel, Johnathan Ryan Hernandez, Steve Jones, Sandra Massa-Lavitt, Paulo Morales, Robert Ooten, Jesus Silva, Chad Wanke, John Withers and Chad Zimmerman
- ABSENT:** Kim Nichols and Donald Wagner

STAFF PRESENT: Kelly Lore, Clerk of the Board, and Joshua Martinez were present in the Board Room. Jim Herberg, General Manager; Rob Thompson, Assistant General Manager; Lorenzo Tyner, Assistant General Manager; Celia Chandler, Director of Human Resources; Kathy Millea, Director of Engineering; Lan Wiborg, Director of Environmental Services; Jennifer Cabral; Brian Engeln; Tina Knapp; Jeff Mohr; Wally Ritchie; Thomas Vu; Eros Yong and Ruth Zintzun were in attendance telephonically.

OTHERS PRESENT: Brad Hogin, General Counsel, was in attendance telephonically.

PUBLIC COMMENTS:

None.

REPORTS:

Chair Jones did not provide a report.

General Manager Jim Herberg provided a brief update regarding the recruitment for a Director of Operations and Maintenance.

Director Steve Jones appeared to be away from the meeting at 5:07 p.m.

CONSENT CALENDAR:

Director Faessel pulled Items Nos. 2, 3 & 5 for clarification; these Items were heard separately.

1. APPROVAL OF MINUTES[2022-2096](#)

Originator: Kelly Lore

MOVED, SECONDED, AND DULY CARRIED TO:

Approve Minutes of the Regular Meeting of the Operations Committee held December 1, 2021.

AYES: Brooke Jones, Ryan Gallagher, Stephen Faessel, Johnathan Ryan Hernandez, Sandra Massa-Lavitt, Robert Ooten, Jesus Silva, Chad Wanke, John Withers and Chad Zimmerman

NOES: None

ABSENT: Steve Jones, Paulo Morales, Kim Nichols and Donald Wagner

ABSTENTIONS: None

4. PRIMARY SEDIMENTATION BASINS NO. 6-31 RELIABILITY IMPROVEMENTS AT PLANT NO. 1, PROJECT NO. P1-133[2021-1833](#)

Originator: Kathy Millea

MOVED, SECONDED, AND DULY CARRIED TO: Recommend to the Board of Directors to:

A. Approve a Professional Construction Services Agreement with Carollo Engineers, Inc. to provide construction support services for Primary Sedimentation Basins No. 6-31 Reliability Improvements at Plant No. 1, Project No. P1-133, for an amount not to exceed \$530,000; and

B. Approve a contingency of 53,000 (10%)

AYES: Brooke Jones, Ryan Gallagher, Stephen Faessel, Johnathan Ryan Hernandez, Sandra Massa-Lavitt, Robert Ooten, Jesus Silva, Chad Wanke, John Withers and Chad Zimmerman

NOES: None

ABSENT: Steve Jones, Paulo Morales, Kim Nichols and Donald Wagner

ABSTENTIONS: None

6. **LABORATORY BUILDING HVAC CONTROLS REPLACEMENT AT PLANT NO. 1, PROJECT NO. FR1-0014** [2021-1858](#)

Originator: Kathy Millea

MOVED, SECONDED, AND DULY CARRIED TO:

- A. Receive and file Bid Tabulation and Recommendation for Laboratory Building HVAC Controls Replacement at Plant No. 1, Project No. FR1-0014;
- B. Award a Service Contract to Retrofit Service Company, Inc. for Laboratory Building HVAC Controls Replacement at Plant No. 1, Project No. FR1-0014, Specification No. S-2021-1276BD, for an amount not to exceed \$176,847; and
- C. Approve a contingency of \$17,685 (10%).

AYES: Brooke Jones, Ryan Gallagher, Stephen Faessel, Johnathan Ryan Hernandez, Sandra Massa-Lavitt, Robert Ooten, Jesus Silva, Chad Wanke, John Withers and Chad Zimmerman

NOES: None

ABSENT: Steve Jones, Paulo Morales, Kim Nichols and Donald Wagner

ABSTENTIONS: None

7. **THICKENING AND DEWATERING BUILDING PIPE SUPPORT IMPROVEMENTS AT PLANT NO. 1, PROJECT NO. FE20-06** [2021-1968](#)

Originator: Kathy Millea

MOVED, SECONDED, AND DULY CARRIED TO: Recommend to the Board of Directors to:

- A. Receive and file Bid Tabulation and Recommendation for Thickening and Dewatering Building Pipe Support Improvements at Plant No. 1, Project No. FE20-06;
- B. Award a Construction Contract to Garney Pacific, Inc. for Thickening and Dewatering Building Pipe Support Improvements at Plant No. 1, Project No. FE20-06 for an amount not to exceed \$793,000; and
- C. Approve a contingency of \$79,300 (10%).

AYES: Brooke Jones, Ryan Gallagher, Stephen Faessel, Johnathan Ryan Hernandez, Sandra Massa-Lavitt, Robert Ooten, Jesus Silva, Chad Wanke, John Withers and Chad Zimmerman

NOES: None

ABSENT: Steve Jones, Paulo Morales, Kim Nichols and Donald Wagner

ABSTENTIONS: None

8. ENGINEERING PROGRAM CONTRACT PERFORMANCE REPORT [2022-2074](#)

Originator: Kathy Millea

MOVED, SECONDED, AND DULY CARRIED TO: Recommend to the Board of Directors to:

Receive and file the Engineering Program Contract Performance Report for the period ending December 31, 2021.

AYES: Brooke Jones, Ryan Gallagher, Stephen Faessel, Johnathan Ryan Hernandez, Sandra Massa-Lavitt, Robert Ooten, Jesus Silva, Chad Wanke, John Withers and Chad Zimmerman

NOES: None

ABSENT: Steve Jones, Paulo Morales, Kim Nichols and Donald Wagner

ABSTENTIONS: None

9. CHANGE ORDER TO WESTAIR GASES AND EQUIPMENT FOR PLANT NO. 2 LIQUID OXYGEN EMERGENCY PURCHASE ORDER NO. 107389-OB [2022-2087](#)

Originator: Rob Thompson

MOVED, SECONDED, AND DULY CARRIED TO: Recommend to the Board of Directors to:

A. Approve a Change Order to Purchase Order No. 107389-OB, with WestAir Gases and Equipment, for an additional amount of \$180,000 for Plant No. 2 liquid oxygen, for the period of February 1, 2022 through August 19, 2022, for a unit price of \$0.50 per 100CF, delivery \$180, hazmat \$20, and fuel charge \$20, for a total estimated annual amount of \$275,000; and

B. Approve a (15%) unit price contingency.

AYES: Brooke Jones, Ryan Gallagher, Stephen Faessel, Johnathan Ryan Hernandez, Sandra Massa-Lavitt, Robert Ooten, Jesus Silva, Chad Wanke, John Withers and Chad Zimmerman

NOES: None

ABSENT: Steve Jones, Paulo Morales, Kim Nichols and Donald Wagner

ABSTENTIONS: None

10. QUARTERLY ODOR COMPLAINT REPORT [2022-2086](#)

Originator: Rob Thompson

MOVED, SECONDED, AND DULY CARRIED TO:

Receive and file the Fiscal Year 2021-22 Second Quarter Odor Complaint Report.

AYES: Brooke Jones, Ryan Gallagher, Stephen Faessel, Johnathan Ryan Hernandez, Sandra Massa-Lavitt, Robert Ooten, Jesus Silva, Chad Wanke, John Withers and Chad Zimmerman

NOES: None

ABSENT: Steve Jones, Paulo Morales, Kim Nichols and Donald Wagner

ABSTENTIONS: None

**2. TRICKLING FILTER SLUDGE AND SCUM PUMPS REPLACEMENT [2021-1747](#)
AT PLANT NO. 1, PROJECT NO. FE19-03**

Originator: Kathy Millea

MOVED, SECONDED, AND DULY CARRIED TO: Recommend to the Board of Directors to:

- A. Receive and file Bid Tabulation and Recommendation for Trickling Filter Sludge and Scum Pumps Replacement at Plant No. 1, Project No. FE 19-03;
- B. Award a Construction Contract to Garney Pacific, Inc. for Trickling Filter Sludge and Scum Pumps Replacement at Plant No. 1, Project No. FE19-03, for an amount not to exceed \$778,000; and
- C. Approve a contingency of \$77,800 (10%).

AYES: Brooke Jones, Ryan Gallagher, Stephen Faessel, Johnathan Ryan Hernandez, Sandra Massa-Lavitt, Robert Ooten, Jesus Silva, Chad Wanke, John Withers and Chad Zimmerman

NOES: None

ABSENT: Steve Jones, Paulo Morales, Kim Nichols and Donald Wagner

ABSTENTIONS: None

Director Morales joined the meeting at approximately 5:12 p.m.

**3. VFD REPLACEMENTS AT SEAL BEACH PUMP STATION, PROJECT [2021-1787](#)
NO. FE19-13**

Originator: Kathy Millea

MOVED, SECONDED, AND DULY CARRIED TO:

- A. Receive and file Bid Tabulation and Recommendation for VFD Replacements at Seal Beach Pump Station, Project No. FE19-13;
- B. Award a Construction Contract to Energy Management Corporation for VFD Replacements at Seal Beach Pump Station, Project No. FE19-13, for an amount not to exceed \$138,650; and
- C. Approve a contingency of \$27,730 (20%).

AYES: Brooke Jones, Ryan Gallagher, Stephen Faessel, Johnathan Ryan Hernandez, Sandra Massa-Lavitt, Paulo Morales, Robert Ooten, Jesus Silva, Chad Wanke, John Withers and Chad Zimmerman

NOES: None

ABSENT: Steve Jones, Kim Nichols and Donald Wagner

ABSTENTIONS: None

**5. CENTRAL GENERATION PRESSURE VESSEL INTEGRITY
RELIABILITY ASSESSMENT, PROJECT NO. PS20-05**

[2021-1836](#)

Originator: Kathy Millea

MOVED, SECONDED, AND DULY CARRIED TO: Recommend to the Board of Directors to:

- A. Approve a Professional Consultant Services Agreement CS-2021-1267BD to Pond & Company for the Central Generation Pressure Vessel Integrity and Reliability Assessment, PS20-05, at Plant Nos. 1 and 2, for a total amount not to exceed \$235,133; and
- B. Approve a contingency of 23,513 (10%)

AYES: Brooke Jones, Ryan Gallagher, Stephen Faessel, Johnathan Ryan Hernandez, Sandra Massa-Lavitt, Paulo Morales, Robert Ooten, Jesus Silva, Chad Wanke, John Withers and Chad Zimmerman

NOES: None

ABSENT: Steve Jones, Kim Nichols and Donald Wagner

ABSTENTIONS: None

NON-CONSENT:

**11. PRIMARY SEDIMENTATION BASINS NO. 6-31 RELIABILITY
IMPROVEMENTS AT PLANT NO. 1, PROJECT NO. P1-133**

[2022-2076](#)

Originator: Kathy Millea

Director of Engineering Kathy Millea provided a PowerPoint presentation regarding the item which included a description of the project location, key project elements, bid results, and staff's recommendation.

MOVED, SECONDED, AND DULY CARRIED TO: Recommend to the Board of Directors to:

- A. Receive and file Bid Tabulation and Recommendation for Primary Sedimentation Basins No. 6-31 Reliability Improvements at Plant No. 1, Project No. P1-133;
- B. Award a Construction Contract to Shimmick Construction Company, Inc. for Primary Sedimentation Basins No. 6-31 Reliability Improvements at Plant No. 1, Project No. P1-133, for an amount not to exceed \$6,275,000; and
- C. Approve a contingency of \$627,500 (10%).

AYES: Brooke Jones, Ryan Gallagher, Stephen Faessel, Johnathan Ryan Hernandez, Sandra Massa-Lavitt, Paulo Morales, Robert Ooten, Jesus Silva, Chad Wanke, John Withers and Chad Zimmerman

NOES: None

ABSENT: Steve Jones, Kim Nichols and Donald Wagner

ABSTENTIONS: None

**12. ACTIVATED SLUDGE CLARIFIER REPAIRS AT PLANT NO. 2,
PROJECT NO. FR2-0018**

[2021-1784](#)

Originator: Kathy Millea

Ms. Millea provided a brief explanation of the recommendation to reject all bids.

MOVED, SECONDED, AND DULY CARRIED TO: Recommend to the Board of Directors to:

- A. Receive and file Bid Tabulation and Recommendation for Activated Sludge Clarifier Repairs at Plant No. 2, Project No. FR2-0018;
- B. Receive and file Award Protest from J.R. Filanc Construction Co., Inc. dated December 20, 2021 concerning the award to W.M. Lyles Co.;
- C. Receive and file Award Protest from Shimmick Construction Co., Inc. dated December 22, 2021 concerning the non-responsive bids submitted by all other contractors;
- D. Receive and file Orange County Sanitation District's determination letter dated January 4, 2022, issued to all bidders, recommending the rejection of all bids and re-advertising the project; and
- E. Reject all bids and direct staff to re-advertise this project for bid.

AYES: Brooke Jones, Ryan Gallagher, Stephen Faessel, Johnathan Ryan Hernandez, Sandra Massa-Lavitt, Paulo Morales, Robert Ooten, Jesus Silva, Chad Wanke, John Withers and Chad Zimmerman

NOES: None

ABSENT: Steve Jones, Kim Nichols and Donald Wagner

ABSTENTIONS: None

INFORMATION ITEMS:

13. COVID-19 SEWAGE SURVEILLANCE PROJECT UPDATE

[2022-2091](#)

Originator: Lan Wiborg

Lab and Ocean Monitoring Manager Samuel Choi provided a PowerPoint presentation regarding OC San's COVID-19 Sewage Surveillance Efforts which included a description of sewage surveillance (WBE), how it is used during COVID-19, the unknowns of the early days, OC San efforts, California and National efforts, future efforts, statewide recognition received, and acknowledgments.

ITEM RECEIVED AS AN:

Information Item.

**14. PURCHASING, CONTRACTS, AND MATERIALS MANAGEMENT
DEPARTMENT OVERVIEW**

[2022-2103](#)

Originator: Lorenzo Tyner

Purchasing and Contracts Manager Ruth Zintzun provided a PowerPoint Presentation regarding an overview of the Purchasing, Contracts, and Materials Management department which included the department mission statement, rules and regulations, purchasing approval thresholds, the procurement process and methods, exemptions, and developments.

ITEM RECEIVED AS AN:

Information Item.

DEPARTMENT HEAD REPORTS:

None.

CLOSED SESSION:

None.

**OTHER BUSINESS AND COMMUNICATIONS OR SUPPLEMENTAL AGENDA ITEMS, IF
ANY:**

None.

BOARD OF DIRECTORS INITIATED ITEMS FOR A FUTURE MEETING:

None.

ADJOURNMENT:

Chair Jones declared the meeting adjourned at 5:57 p.m. to the next Regular Operations Committee meeting to be held on Wednesday, March 2, 2022 at 5:00 p.m.

Submitted by:

Kelly A. Lore, MMC
Clerk of the Board



OPERATIONS COMMITTEE

Administration Building
10844 Ellis Avenue
Fountain Valley, CA 92708
(714) 593-7433

Agenda Report

File #: 2021-1945

Agenda Date: 3/16/2022

Agenda Item No: 2.

FROM: James D. Herberg, General Manager
Originator: Kathy Millea, Director of Engineering

SUBJECT:

WASTE SIDESTREAM PUMP STATION VFD REPLACEMENTS AT PLANT NO. 1, PROJECT NO. FR1-0016

GENERAL MANAGER'S RECOMMENDATION

RECOMMENDATION: Recommend to the Board of Directors to:

- A. Receive and file Bid Tabulation and Recommendation for Waste Sidestream Pump Station VFD Replacements at Plant No. 1, Project No. FR1-0016;
- B. Award a Construction Contract to Leed Electric, Inc. for Waste Sidestream Pump Station VFD Replacements at Plant No. 1, Project No. FR1-0016, for an amount not to exceed \$344,889; and
- C. Approve a contingency of \$51,733 (15%).

BACKGROUND

The Waste Sidestream Pump Station transfers flows from storm drains, sump pumps, and waste backwash from the Orange County Water District Groundwater Replenishment System to primary clarifiers for treatment.

The pump station consists of three 60-horsepower pumps. The output of the pumps can be varied using variable frequency drives (VFDs).

RELEVANT STANDARDS

- Comply with California Public Contract Code Section 20103.8, award construction contract to lowest responsive, responsible bidder
- Maintain a proactive asset management program

PROBLEM

The existing VFDs were installed in 1994 and are at the end of their useful service life. Replacement parts and manufacturer support services are no longer available. These VFDs are critical for the operational capacity of the pump station.

PROPOSED SOLUTION

Award the construction contract for Waste Sidestream Pump Station VFD Replacements at Plant No. 1, Project No. FR1-0016, to replace three 60-hp VFDs to maintain operation and reliability of the pump station.

A higher-than-usual contingency is requested due to a higher level of risk associated with replacement of the VFDs and feeder cables. If an unknown condition is encountered and there is insufficient contingency, contract completion could be significantly delayed exposing the Orange County Sanitation District (OC San) to extended overhead costs by the contractor.

TIMING CONCERNS

Delaying replacement of these VFDs increases the risk that the pump station will not have adequate capacity.

RAMIFICATIONS OF NOT TAKING ACTION

Not replacing these VFDs increases the risk that the pump station will not have adequate capacity and that an emergency bypass pumping system might be needed.

PRIOR COMMITTEE/BOARD ACTIONS

N/A

ADDITIONAL INFORMATION

OC San advertised for bids on December 9, 2021 and five sealed bids were received on January 25, 2022. A summary of the bid opening follows:

Engineer's Estimate	\$ 561,382
<u>Bidder</u>	<u>Amount of Bid</u>
Leed Electric, Inc.	\$ 344,889
Baker Electric	\$ 405,460
RP Controls, Inc.	\$ 433,920
ACS Engineering	\$ 443,800
Houalla Enterprises, LTD	\$ 582,438

The bids were evaluated in accordance with OC San's policies and procedures. A notice was sent to all bidders on February 9, 2022, informing them of the intent of OC San to recommend award of the Construction Contract to Leed Electric, Inc. Staff recommends awarding a Construction Contract to the lowest responsive and responsible bidder, Leed Electric, Inc., for a total amount not to exceed \$344,889.

CEQA

The project is exempt from CEQA under the Class 1 categorical exemptions set forth in California Code of Regulations Section 15301. A Notice of Exemption will be filed with the OC Clerk-Recorder after OC San Board of Directors approval of the Construction Contract.

FINANCIAL CONSIDERATIONS

This request complies with authority levels of the OC San Purchasing Ordinance. This recommendation will be funded under the Repairs and Maintenance line item for Operations and Maintenance Department (Budget Update Fiscal Year 2021-2022, Page 45), and the available funding is sufficient for this action.

ATTACHMENT

The following attachment(s) may be viewed on-line at the OC San website (www.ocsan.gov) with the complete agenda package:

- Construction Contract

RL: jw

PART A
CONTRACT AGREEMENT

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CONTRACT AGREEMENT

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CONTRACT AGREEMENT
ORANGE COUNTY SANITATION DISTRICT

PROJECT NO. FR1-0016

WASTE SIDESTREAM PUMP STATION VFD REPLACEMENTS AT PLANT NO. 1

THIS AGREEMENT is made and entered into, to be effective, this March 23, 2022, by and between LEED Electric, Inc., hereinafter referred to as "CONTRACTOR" and the Orange County Sanitation District, hereinafter referred to as "OC SAN".

WITNESSETH

That for and in consideration of the promises and agreements hereinafter made and exchanged, OC SAN and CONTRACTOR agree as follows:

SECTION – 1 GENERAL

CONTRACTOR certifies and agrees that all the terms, conditions and obligations of the Contract Documents as hereinafter defined, the location of the job site, and the conditions under which the Work is to be performed have been thoroughly reviewed, and enters into this Contract based upon CONTRACTOR's investigation of all such matters and is in no way relying upon any opinions or representations of OC SAN. It is agreed that this Contract represents the entire agreement. It is further agreed that the Contract Documents are each incorporated into this Contract by reference, with the same force and effect as if the same were set forth at length herein, and that CONTRACTOR and its Subcontractors, if any, will be and are bound by any and all of said Contract Documents insofar as they relate in any part or in any way, directly or indirectly, to the Work covered by this Contract.

A. Contract Documents Order of Precedence

"Contract Documents" refers to those documents identified in the definition of "Contract Documents" in the General Conditions – Definitions.

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PROJECT NO. FR1-0016
WASTE SIDESTREAM PUMP STATION VFD REPLACEMENTS AT PLANT NO. 1

1. In the event of a conflict between one Contract Document and any of the other Contract Documents, the provisions in the document highest in precedence shall be controlling. The order of precedence of the Contract Documents is as follows:
 - a. Supplemental Agreements – the last in time being the first in precedence
 - b. Addenda issued prior to the date for submittal of Bids – the last in time being the first in precedence
 - c. Contract Agreement
 - d. Permits and other regulatory requirements
 - e. Special Provisions
 - f. General Conditions (GC)
 - g. Notice Inviting Bids and Instruction to Bidders
 - h. Geotechnical Baseline Report (GBR), if attached as a Contract Document
 - i. Plans and Specifications – in these documents the order of precedence shall be:
 - i. Specifications (Divisions 01-17)
 - ii. Plans
 - iii. General Requirements (GR)
 - iv. Standard Drawings and Typical Details
 - j. CONTRACTOR's Bid
2. In the event of a conflict between terms within an individual Contract Document, the conflict shall be resolved by applying the following principles as appears applicable:
 - a. Figured dimensions on the Contract Documents shall govern. Dimensions not specified shall be as directed by the ENGINEER. Details not shown or specified shall be the same as similar parts that are shown or specified, or as directed. Full-size details shall take precedence over scale Drawings as to

shape and details of construction. Specifications shall govern as to material and workmanship.

- b. The Contract Documents calling for the higher quality material or workmanship shall prevail. Materials or Work described in words, which so applied, have a well-known technical or trade meaning shall be deemed to refer to such recognized standards. In the event of any discrepancy between any Drawings and the figures thereon, the figures shall be taken as correct.
- c. Scale Drawings, full-size details, and Specifications are intended to be fully complementary and to agree. Should any discrepancy between Contract Documents come to the CONTRACTOR's attention, or should an error occur in the efforts of others, which affect the Work, the CONTRACTOR shall notify the ENGINEER, in writing, at once. In the event any doubts or questions arise with respect to the true meaning of the Contract Documents, reference shall be made to the ENGINEER whose written decision shall be final. If the CONTRACTOR proceeds with the Work affected without written instructions from the ENGINEER, the CONTRACTOR shall be fully responsible for any resultant damage or defect.
- d. Anything mentioned in the Specifications and not indicated in the Plans, or indicated in the Plans and not mentioned in the Specifications, shall be of like effect as if indicated and mentioned in both. In case of discrepancy in the Plans or Specifications, the matter shall be immediately submitted to OC SAN's ENGINEER, without whose decision CONTRACTOR shall not adjust said discrepancy save only at CONTRACTOR's own risk and expense. The decision of the ENGINEER shall be final.

In all matters relating to the acceptability of material, machinery or plant equipment; classifications of material or Work; the proper execution, progress or sequence of the Work; and quantities interpretation of the Contract Documents, the decision of the ENGINEER shall be final and binding, and shall be a condition precedent to any payment under the Contract, unless otherwise ordered by the Board of Directors.

B. Definitions

Capitalized terms used in this Contract are defined in the General Conditions, Definitions. Additional terms may be defined in the Special Provisions.

SECTION – 2 MATERIALS AND LABOR

CONTRACTOR shall furnish, under the conditions expressed in the Plans and Specifications, at CONTRACTOR'S own expense, all labor and materials necessary, except such as are mentioned in the Specifications to be furnished by OC SAN, to construct and complete the Project, in good workmanlike and substantial order. If CONTRACTOR fails to pay for labor or materials when due, OC SAN may settle such claims by making demand upon the Surety to this Contract. In the event of the failure or refusal of the Surety to satisfy said claims, OC SAN may settle them directly and deduct the amount of payments from the Contract Price and any amounts due to CONTRACTOR. In the event OC SAN receives a stop payment notice from any laborer or material supplier alleging non-payment by CONTRACTOR, OC SAN shall be entitled to deduct all of its costs and expenses incurred relating thereto, including but not limited to administrative and legal fees.

SECTION – 3 PROJECT

The Project is described as:

PROJECT NO. FR1-0016

WASTE SIDESTREAM PUMP STATION VFD REPLACEMENTS AT PLANT NO. 1

SECTION – 4 PLANS AND SPECIFICATIONS

The Work to be done is shown in a set of Plans and Specifications entitled:

PROJECT NO. FR1-0016

WASTE SIDESTREAM PUMP STATION VFD REPLACEMENTS AT PLANT NO. 1

Said Plans and Specifications and any revision, amendments and addenda thereto are attached hereto and incorporated herein as part of this Contract and referred to by reference.

SECTION – 5 TIME OF COMMENCEMENT AND COMPLETION

CONTRACTOR agrees to commence the Project within 15 calendar days from the date set forth in the “Notice to Proceed” sent by OC SAN, unless otherwise specified therein and shall diligently prosecute the Work to completion within three hundred sixty-five (365) calendar days from the date of the “Notice to Proceed” issued by OC SAN, excluding delays caused or authorized by OC SAN as set forth in Sections 7, 8, and 9 hereof, and applicable provisions in the General Conditions. The time for completion includes ten (10) calendar days determined by OC SAN likely to be inclement weather when CONTRACTOR will be unable to work.

SECTION – 6 TIME IS OF THE ESSENCE

Time is of the essence of this Contract. As required by the Contract Documents, CONTRACTOR shall prepare and obtain approval of all shop drawings, details and samples, and do all other things necessary and incidental to the prosecution of CONTRACTOR’s Work in conformance with an approved construction progress schedule. CONTRACTOR shall coordinate the Work covered by this Contract with that of all other contractors, subcontractors and of OC SAN, in a manner that will facilitate the efficient completion of the entire Work and accomplish the required milestone(s), if any, by the applicable deadline(s) in accordance with Section 5 herein. OC SAN shall have the right to assert complete control of the premises on which the Work is to be performed and shall have the right to decide the time or order in which the various portions of the Work shall be installed or the priority of the work of subcontractors,

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WASTE SIDESTREAM PUMP STATION VFD REPLACEMENTS AT PLANT NO. 1

and, in general, all matters representing the timely and orderly conduct of the Work of CONTRACTOR on the premises.

SECTION – 7 EXCUSABLE DELAYS

CONTRACTOR shall only be excused for any delay in the prosecution or completion of the Project as specifically provided in General Conditions, “Extension of Time for Delay”, and the General Requirements, “By CONTRACTOR or Others – Unknown Utilities during Contract Work”. Extensions of time and extra compensation arising from such excusable delays will be determined in accordance with the General Conditions, “Extension of Time for Delay” and “Contract Price Adjustments and Payments”, and extensions of time and extra compensation as a result of incurring undisclosed utilities will be determined in accordance with General Requirements, “By CONTRACTOR or Others – Unknown Utilities during Contract Work”. OC SAN's decision will be conclusive on all parties to this Contract.

SECTION – 8 EXTRA WORK

The Contract Price as set forth in Section 11, includes compensation for all Work performed by CONTRACTOR, unless CONTRACTOR obtains a Change Order signed by a designated representative of OC SAN specifying the exact nature of the Extra Work and the amount of extra compensation to be paid all as more particularly set forth in Section 9 hereof and the General Conditions, “Request for Change (Changes at CONTRACTOR’s Request)”, “OWNER Initiated Changes”, and “Contract Price Adjustments and Payments”.

In the event a Change Order is issued by OC SAN pursuant to the Contract Documents, OC SAN shall extend the time fixed in Section 5 for completion of the Project by the number of days, if any, reasonably required for CONTRACTOR to perform the Extra Work, as determined by OC SAN’s ENGINEER. The decision of the ENGINEER shall be final.

SECTION – 9 CHANGES IN PROJECT

OC SAN may at any time, without notice to any Surety, by Change Order, make any changes in the Work within the general scope of the Contract Document, including but not limited to changes:

1. In the Specifications (including Drawings and designs);
2. In the time, method or manner of performance of the Work;
3. In OC SAN-furnished facilities, equipment, materials, services or site; or
4. Directing acceleration in the performance of the Work.

No change of period of performance or Contract Price, or any other change in the Contract Documents, shall be binding until the Contract is modified by a fully executed Change Order.

All Change Orders shall be issued in accordance with the requirements set forth in the General Conditions, “Request for Change (Changes at CONTRACTOR’s Request)” and “OWNER Initiated Changes”.

SECTION – 10 LIQUIDATED DAMAGES FOR DELAY

Liquidated Damages shall be payable in the amounts and upon the occurrence of such events or failure to meet such requirements or deadlines as provided in the Special Provisions, “Liquidated Damages and Incentives.”

SECTION – 11 CONTRACT PRICE AND METHOD OF PAYMENT

A. OC SAN agrees to pay and the CONTRACTOR agrees to accept as full consideration for the faithful performance of this Contract, subject to any additions or deductions as provided in approved Change Orders, the sum of Three Hundred Forty-Four Thousand Eight Hundred Eighty-Nine Dollars (\$344,889) as itemized on the Attached Exhibit “A”.

Upon satisfaction of the conditions precedent to payment set forth in the General Requirements, Additional General Requirements and General Conditions (including but

not limited to Sections entitled “Mobilization Payment Requirements” and “Payment Itemized Breakdown of Contract Lump Sum Prices”), there shall be paid to the CONTRACTOR an initial Net Progress Payment for mobilization. OC SAN shall issue at the commencement of the job a schedule which shows:

1. A minimum of one payment to be made to the CONTRACTOR for each successive four (4) week period as the Work progresses, and
2. The due dates for the CONTRACTOR to submit requests for payment to meet the payment schedule.

After the initial Net Progress Payment, and provided the CONTRACTOR submits the request for payment prior to the end of the day required to meet the payment schedule, the CONTRACTOR shall be paid a Net Progress Payment on the corresponding monthly payment date set forth in the schedule.

Payments shall be made on demands drawn in the manner required by law, accompanied by a certificate signed by the ENGINEER, stating that the Work for which payment is demanded has been performed in accordance with the terms of the Contract Documents, and that the amount stated in the certificate is due under the terms of the Contract. Payment applications shall also be accompanied with all documentation, records, and releases as required by the Contract, Exhibit A, Schedule of Prices, and General Conditions, “Payment for Work – General”. The Total amount of Progress Payments shall not exceed the actual value of the Work completed as certified by OC SAN’s ENGINEER. The processing of payments shall not be considered as an acceptance of any part of the Work.

- B. As used in this Section, the following defined terms shall have the following meanings:
1. **“Net Progress Payment”** means a sum equal to the Progress Payment less the Retention Amount and other qualified deductions (Liquidated Damages, stop payment notices, etc.).

2. **“Progress Payment”** means a sum equal to:
 - a. the value of the actual Work completed since the commencement of the Work as determined by OC SAN;
 - b. plus the value of material suitably stored at the worksite, treatment plant or approved storage yards subject to or under the control of OC SAN since the commencement of the Work as determined by OC SAN;
 - c. less all previous Net Progress Payments;
 - d. less all amounts of previously qualified deductions;
 - e. less all amounts previously retained as Retention Amounts.

3. **“Retention Amount”** for each Progress Payment means the percentage of each Progress Payment to be retained by OC SAN to assure satisfactory completion of the Contract. The amount to be retained from each Progress Payment shall be determined as provided in the General Conditions –“Retained Funds; Substitution of Securities.”

SECTION – 12 SUBSTITUTION OF SECURITIES IN LIEU OF RETENTION OF FUNDS

Pursuant to Public Contract Code Section 22300 et seq., the CONTRACTOR may, at its sole expense, substitute securities as provided in General Conditions – “Retained Funds; Substitution of Securities.”

SECTION – 13 COMPLETION

Final Completion and Final Acceptance shall occur at the time and in the manner specified in the General Conditions, “Final Acceptance and Final Completion”, “Final Payment” and Exhibit A - Schedule of Prices.

Upon receipt of all documentation, records, and releases as required by the Contract from the CONTRACTOR, OC SAN shall proceed with the Final Acceptance as specified in General Conditions.

CONFORMED

C-CA-102621
PROJECT NO. FR1-0016

WASTE SIDESTREAM PUMP STATION VFD REPLACEMENTS AT PLANT NO. 1

SECTION – 14 CONTRACTOR’S EMPLOYEES COMPENSATION

A. Davis-Bacon Act:

CONTRACTOR will pay and will require all Subcontractors to pay all employees on said Project a salary or wage at least equal to the prevailing rate of per diem wages as determined by the Secretary of Labor in accordance with the Davis-Bacon Act for each craft or type of worker needed to perform the Contract. The provisions of the Davis-Bacon Act shall apply only if the Contract is in excess of Two Thousand Dollars (\$2,000.00) and when twenty-five percent (25%) or more of the Contract is funded by federal assistance. If the aforesaid conditions are met, a copy of the provisions of the Davis-Bacon Act to be complied with are incorporated herein as a part of this Contract and referred to by reference.

B. General Prevailing Rate:

OC SAN has been advised by the State of California Director of Industrial Relations of its determination of the general prevailing rate of per diem wages and the general prevailing rate for legal holiday and overtime Work in the locality in which the Work is to be performed for each craft or type of Work needed to execute this Contract, and copies of the same are on file in the Office of the ENGINEER of OC SAN. The CONTRACTOR agrees that not less than said prevailing rates shall be paid to workers employed on this public works Contract as required by Labor Code Section 1774 of the State of California. Per California Labor Code 1773.2, OC SAN will have on file copies of the prevailing rate of per diem wages at its principal office and at each job site, which shall be made available to any interested party upon request.

C. Forfeiture for Violation:

CONTRACTOR shall, as a penalty to OC SAN, forfeit Two Hundred Dollars (\$200.00) for each calendar day or portion thereof for each worker paid (either by the CONTRACTOR or

any Subcontractor under it) less than the prevailing rate of per diem wages as set by the Director of Industrial Relations, in accordance with Sections 1770-1780 of the California Labor Code for the Work provided for in this Contract, all in accordance with Section 1775 of the Labor Code of the State of California.

D. Apprentices:

Sections 1777.5, 1777.6, 1777.7 of the Labor Code of the State of California, regarding the employment of apprentices are applicable to this Contract and the CONTRACTOR shall comply therewith if the prime contract involves Thirty Thousand Dollars (\$30,000.00) or more.

E. Workday:

In the performance of this Contract, not more than eight (8) hours shall constitute a day's work, and the CONTRACTOR shall not require more than eight (8) hours of labor in a day from any person employed by him hereunder except as provided in paragraph (B) above. CONTRACTOR shall conform to Article 3, Chapter 1, Part 7 (Section 1810 et seq.) of the Labor Code of the State of California and shall forfeit to OC SAN as a penalty, the sum of Twenty-five Dollars (\$25.00) for each worker employed in the execution of this Contract by CONTRACTOR or any Subcontractor for each calendar day during which any worker is required or permitted to labor more than eight (8) hours in any one calendar day and forty (40) hours in any one week in violation of said Article. CONTRACTOR shall keep an accurate record showing the name and actual hours worked each calendar day and each calendar week by each worker employed by CONTRACTOR in connection with the Project.

F. Registration; Record of Wages; Inspection:

CONTRACTOR shall comply with the registration requirements of Labor Code Section 1725.5. Pursuant to Labor Code Section 1771.4, the Work is subject to compliance monitoring by the

California Department of Industrial Relations. CONTRACTOR shall maintain accurate payroll records and shall submit payroll records to the Labor Commissioner pursuant to Labor Code Section 1771.4(a)(3). Penalties for non-compliance with the requirements of Section 1776 may be deducted from progress payments per Section 1776.

CONTRACTOR shall comply with the job site notices posting requirements established by the Labor Commissioner per Title 8, California Code of Regulations Section 16461(e).

SECTION – 15 SURETY BONDS

CONTRACTOR shall, before entering upon the performance of this Contract, furnish Bonds approved by OC SAN's General Counsel – one in the amount of one hundred percent (100%) of the Contract amount, to guarantee the faithful performance of the Work, and the other in the amount of one hundred percent (100%) of the Contract amount to guarantee payment of all claims for labor and materials furnished. As changes to the Contract occur via approved Change Orders, the CONTRACTOR shall assure that the amounts of the Bonds are adjusted to maintain 100% of the Contract Price. This Contract shall not become effective until such Bonds are supplied to and approved by OC SAN. Bonds must be issued by a Surety authorized by the State Insurance Commissioner to do business in California. The Performance Bond shall remain in full force and effect through the warranty period, as specified in Section 19 below. All Bonds required to be submitted relating to this Contract must comply with California Code of Civil Procedure Section 995.630. Each Bond shall be executed in the name of the Surety insurer under penalty of perjury, or the fact of execution of each Bond shall be duly acknowledged before an officer authorized to take and certify acknowledgments, and either one of the following conditions shall be satisfied:

- A. A copy of the transcript or record of the unrevoked appointment, power of attorney, by-laws, or other instrument, duly certified by the proper authority and attested by the seal of

the insurer entitling or authorizing the person who executed the Bond to do so for and on behalf of the insurer, is on file in the Office of the County Clerk of the County of Orange; or

B. A copy of a valid power of attorney is attached to the Bond.

SECTION – 16 INSURANCE

CONTRACTOR shall purchase and maintain, for the duration of the Contract, insurance against claims for injuries to persons, or damages to property which may arise from or in connection with the performance of the Work hereunder, and the results of that Work by CONTRACTOR, its agents, representatives, employees, or Subcontractors, in amounts equal to the requirements set forth below. CONTRACTOR shall not commence Work under this Contract until all insurance required under this Section is obtained in a form acceptable to OC SAN, nor shall CONTRACTOR allow any Subcontractor to commence Work on a subcontract until all insurance required of the Subcontractor has been obtained. CONTRACTOR shall maintain all of the foregoing insurance coverages in force through the point at which the Work under this Contract is fully completed and accepted by OC SAN pursuant to the provisions of the General Conditions, "Final Acceptance and Final Completion". Furthermore, CONTRACTOR shall maintain all of the foregoing insurance coverages in full force and effect throughout the warranty period, commencing on the date of Final Acceptance. The requirement for carrying the foregoing insurance shall not derogate from the provisions for indemnification of OC SAN by CONTRACTOR under Section 17 of this Contract. Notwithstanding nor diminishing the obligations of CONTRACTOR with respect to the foregoing, CONTRACTOR shall subscribe for and maintain in full force and effect during the life of this Contract, inclusive of all changes to the Contract Documents made in accordance with the provisions of the General Conditions, "Request for Change (Changes at CONTRACTOR's Request)" and/or "OWNER Initiated Changes", the following insurance in amounts not less than the amounts specified. OC SAN

reserves the right to amend the required limits of insurance commensurate with the CONTRACTOR's risk at any time during the course of the Project. No vehicles may enter OC SAN premises/worksite without possessing the required insurance coverage.

CONTRACTOR's insurance shall also comply with all insurance requirements prescribed by agencies from whom permits shall be obtained for the Work and any other third parties from whom third party agreements are necessary to perform the Work (collectively, the "Third Parties"), The Special Provisions may list such requirements and sample forms and requirements from such Third Parties may be included in an attachment to the General Requirements. CONTRACTOR bears the responsibility to discover and comply with all requirements of Third Parties, including meeting specific insurance requirements, that are necessary for the complete performance of the Work. To the extent there is a conflict between the Third Parties' insurance requirements and those set forth by OC SAN herein, the requirement(s) providing the more protective coverage for both OC SAN and the Third Parties shall control and be purchased and maintained by CONTRACTOR.

Where permitted by law, CONTRACTOR hereby waives all rights of recovery by subrogation because of deductible clauses, inadequacy of limits of any insurance policy, limitations or exclusions of coverage, or any other reason against OC SAN, its or their officers, agents, or employees, performing Work or rendering services on behalf of OC SAN in connection with the planning, development and construction of the Project. In all its insurance coverages (except for Professional Liability/Errors and Omissions coverages, if applicable) related to the Work, CONTRACTOR shall include clauses providing that each insurer shall waive all of its rights of recovery by subrogation against OC SAN, its or their officers, agents, or employees, performing Work or rendering services at the Project. Where permitted by law, CONTRACTOR shall require similar written express waivers and insurance clauses from each of its Subcontractors of every tier. A waiver of subrogation shall be effective as to any individual or entity, even if such

individual or entity (a) would otherwise have a duty of indemnification, contractual or otherwise, (b) did not pay the insurance premium, directly or indirectly, and (c) whether or not such individual or entity has an insurable interest in the property damaged.

A. Limits of Insurance

1. General Liability: Two Million Dollars (\$2,000,000) per occurrence and a general aggregate limit of Four Million Dollars (\$4,000,000) for bodily injury, personal injury and property damage. If aggregate limits apply separately to this contract (as evidenced by submission of ISO form CG 25 03 or CG 25 04), then the aggregate limit may be equivalent to the per occurrence limit. Coverage shall include each of the following:
 - a. Premises-Operations.
 - b. Products and Completed Operations, with limits of at least Two Million Dollars (\$2,000,000) per occurrence and a general aggregate limit of Four Million Dollars (\$4,000,000) which shall be in effect at all times during the warranty period set forth in the Warranty section herein, and as set forth in the General Conditions, "Warranty (CONTRACTOR's Guarantee)", plus any additional extension or continuation of time to said warranty period that may be required or authorized by said provisions. If aggregate limits apply separately to this contract (as evidenced by submission of ISO form CG 25 03 or CG 25 04), then the aggregate limit may be equivalent to the per occurrence limit.
 - c. Broad Form Property Damage, expressly including damage arising out of explosion, collapse, or underground damage.
 - d. Contractual Liability, expressly including the indemnity provisions assumed under this Contract.

e. Separation of Insured Clause, providing that coverage applies separately to each insured, except with respect to the limits of liability.

f. Independent CONTRACTOR's Liability.

To the extent first dollar coverage, including defense of any claim, is not available to OC SAN or any other additional insured because of any SIR, deductible, or any other form of self insurance, CONTRACTOR is obligated to assume responsibility of insurer until the deductible, SIR or other condition of insurer assuming its defense and/or indemnity has been satisfied.

CONTRACTOR shall be responsible to pay any deductible or SIR.

g. If a crane will be used, the general liability insurance will be endorsed to add Riggers Liability coverage or its equivalent to cover the usage of the crane and exposures with regard to the crane operators, riggers and others involved in using the crane.

h. If divers will be used, the general liability insurance will be endorsed to cover marine liability or its equivalent to cover the usage of divers.

2. Automobile Liability: The CONTRACTOR shall maintain a policy of automobile liability insurance on a comprehensive form covering all owned, non-owned, and hired automobiles, trucks, and other vehicles providing the following minimum limit of liability coverage: combined single limit of One Million Dollars (\$1,000,000) for bodily injury, personal injury, and property damage.

3. Umbrella Excess Liability: The minimum limits of general liability and automobile liability insurance required, as set forth above, shall be provided for either in a single policy of primary insurance or a combination of policies of primary and umbrella excess coverage. Excess liability coverage shall be issued with limits of liability

which, when combined with the primary insurance, will equal the minimum limits for general liability and automobile liability.

4. Drone Liability Insurance: If a drone will be used, drone liability insurance must be maintained by CONTRACTOR in the amount of One Million Dollars (\$1,000,000) in a form acceptable to OC SAN.
5. Workers' Compensation/Employer's Liability: CONTRACTOR shall provide such workers' compensation insurance as required by the Labor Code of the State of California, including employer's liability with a minimum limit of One Million Dollars (\$1,000,000) per accident for bodily injury or disease. If an exposure to Jones Act liability may exist, the insurance required herein shall include coverage with regard to Jones Act claims.

B. Deductibles and Self-Insured Retentions

Any self-insured retentions must be declared to and approved by OC San. At the option of OC San, either: The insured shall reduce or eliminate such self-insured retentions to a level satisfactory to OC San; or CONTRACTOR shall provide a financial guarantee satisfactory to OC San guaranteeing payment of losses and related investigations, claim administration, and defense expenses, and in no case shall a policy's deductible, if applicable, exceed Two Hundred Fifty Thousand Dollars (\$250,000).

C. Other Insurance Provisions

1. Each such policy of general liability insurance and automobile liability insurance shall be endorsed to contain, the following provisions:
 - a. OC SAN, its directors, officers, agents, consultants, and employees, and all public agencies from whom permits will be obtained, and their directors, officers, agents, and employees are hereby declared to be additional insureds under the terms of this policy, but only with respect to the operations of

CONTRACTOR at or from any of the sites of OC SAN in connection with this Contract, or acts and omissions of the additional insured in connection with its general supervision or inspection of said operations related to this Contract.

- b. Insurance afforded by the additional insured endorsement shall apply as primary insurance, and other insurance maintained by OC SAN shall be excess only and not contributing with insurance provided under this policy.

2. Cancellation and Policy Change Notice.

The CONTRACTOR is required to notify OC SAN in writing of any insurance cancellation notice it receives or other knowledge of pending or actual insurance policy cancellation within two (2) working days of receipt of such notice or acquisition of such knowledge. Additionally, the CONTRACTOR is required to notify OC SAN in writing of any change in the terms of insurance, including reduction in coverage or increase in deductible/SIR, within two (2) working days of receipt of such notice or knowledge of same.

Said notices shall be mailed to OC SAN at:

ORANGE COUNTY SANITATION DISTRICT
10844 Ellis Avenue
Fountain Valley, CA 92708
Attention: Contracts, Purchasing & Materials Management Division

3. Coverage shall not extend to any indemnity coverage for the active negligence of any additional insured in any case where an agreement to indemnify the additional insured would be invalid under California Civil Code Section 2782(b).
4. If required by a public agency from whom permit(s) will be obtained, each policy of general liability insurance and automobile liability insurance shall be endorsed to specify by name the public agency and its legislative members, officers, agents, consultants, and employees, to be additional insureds.

D. Acceptability of Insurers

Insurers must have an "A-", or better, Policyholder's Rating, and a Financial Rating of at least Class VIII, or better, in accordance with the most current A.M. Best Rating Guide. OC SAN recognizes that State Compensation Insurance Fund has withdrawn from participation in the A.M. Best Rating Guide process. Nevertheless, OC SAN will accept State Compensation Insurance Fund for the required policy of worker's compensation insurance, subject to OC SAN's option, at any time during the term of this Contract, to require a change in insurer upon twenty (20) days written notice. Further, OC SAN will require CONTRACTOR to substitute any insurer whose rating drops below the levels herein specified. Said substitution shall occur within twenty (20) days of written notice to CONTRACTOR by OC SAN or its agent.

E. Verification of Coverage

CONTRACTOR shall furnish OC SAN with original certificates and mandatory endorsements affecting coverage. Said policies and endorsements shall conform to the requirements herein stated. All certificates and endorsements are to be received and approved by OC SAN before Work commences. OC SAN reserves the right to require complete, certified copies of all required insurance policies, including endorsements, affecting the coverage required by these Specifications at any time.

F. Subcontractors

CONTRACTOR shall be responsible to establish insurance requirements for any Subcontractors hired by CONTRACTOR. The insurance shall be in amounts and types reasonably sufficient to deal with the risk of loss involving the Subcontractor's operations and work. OC SAN and any public agency issuing permits for the Project must be named as "Additional Insured" on any general liability or automobile liability policy obtained by a Subcontractor. The CONTRACTOR must obtain copies and maintain current versions of

all Subcontractors', certificate of liability and mandatory endorsements effecting coverage. Upon request, CONTRACTOR must furnish OC SAN with the above referenced required documents.

G. Required Forms and Endorsements

1. Required ACORD Form

- a. Certificate of Liability ACORD Form 25 or other equivalent certificate of insurance form

2. Required Insurance Services Office, Inc. Endorsements (when alternative forms are shown, they are listed in order of preference)

In the event any of the following forms are cancelled by Insurance Services Office, Inc. (ISO), or are updated, the ISO replacement form or equivalent must be supplied.

- a. Commercial General Liability Form CG 00 01
- b. Additional Insured Including Products-Completed Operations Form CG 20 10 **and** Form CG 20 37
All other additional insured endorsements must be submitted for approval by OC SAN, and OC SAN may reject alternatives that provide different or less coverage to OC SAN.
- c. Waiver of Transfer of Rights of Recovery Against Others to Us/
Waiver of Subrogation Form CG 24 04

3. Required State Compensation Insurance Fund Endorsements

- a. Waiver of Subrogation Submit workers' compensation waiver of subrogation endorsement provided by carrier for OC SAN approval.
- b. Cancellation Notice No endorsement is required. However, CONTRACTOR is responsible for notifying OC SAN of any pending or actual insurance policy cancellation, as described in Article C.2., Cancellation and Policy Change Notice, above.

4. Additional Required Endorsements

a. Notice of Policy Termination

Manuscript Endorsement

SECTION – 17 RISK AND INDEMNIFICATION

All Work covered by this Contract done at the site of construction or in preparing or delivering materials to the site shall be at the risk of CONTRACTOR alone. CONTRACTOR shall save, indemnify, defend, and keep OC SAN and others harmless as more specifically set forth in General Conditions, “General Indemnification”.

SECTION – 18 TERMINATION

This Contract may be terminated in whole or in part in writing by OC SAN in the event of substantial failure by the CONTRACTOR to fulfill its obligations under this Agreement, or it may be terminated by OC SAN for its convenience provided that such termination is effectuated in a manner and upon such conditions set forth more particularly in General Conditions, “Termination for Default” and/or “Termination for Convenience”, provided that no termination may be effected unless proper notice is provided to CONTRACTOR at the time and in the manner provided in said General Conditions. If termination for default or convenience is effected by OC SAN, an equitable adjustment in the price provided for in this Contract shall be made at the time and in the manner provided in the General Conditions, “Termination for Default” and “Termination for Convenience”.

SECTION – 19 WARRANTY

The CONTRACTOR agrees to perform all Work under this Contract in accordance with the Contract Documents, including OC SAN’s designs, Drawings and Specifications.

The CONTRACTOR guarantees for a period of at least one (1) year from the date of Final Acceptance of the Work, pursuant to the General Conditions, “Final Acceptance and Final Completion” that the completed Work is free from all defects due to faulty materials, equipment

or workmanship and that it shall promptly make whatever adjustments or corrections which may be necessary to cure any defects, including repairs of any damage to other parts of the system resulting from such defects. OC SAN shall promptly give notice to the CONTRACTOR of observed defects. In the event that the CONTRACTOR fails to make adjustments, repairs, corrections or other work made necessary by such defects, OC SAN may do so and charge the CONTRACTOR the cost incurred. The CONTRACTOR's warranty shall continue as to any corrected deficiency until the later of (1) the remainder of the original one-year warranty period; or (2) one year after acceptance by OC SAN of the corrected Work. The Performance Bond and the Payment Bond shall remain in full force and effect through the guarantee period.

The CONTRACTOR's obligations under this clause are in addition to the CONTRACTOR's other express or implied assurances under this Contract, including but not limited to specific manufacturer or other extended warranties specified in the Plans and Specifications, or state law and in no way diminish any other rights that OC SAN may have against the CONTRACTOR for faulty materials, equipment or Work.

SECTION – 20 ASSIGNMENT

No assignment by the CONTRACTOR of this Contract or any part hereof, or of funds to be received hereunder, will be recognized by OC SAN unless such assignment has had prior written approval and consent of OC SAN and the Surety.

SECTION – 21 RESOLUTION OF DISPUTES

OC SAN and the CONTRACTOR shall comply with the provisions of California Public Contract Code Section 20104 et. seq., regarding resolution of construction claims for any Claims which arise between the CONTRACTOR and OC SAN, as well as all applicable dispute and Claims provisions as set forth in the General Conditions and as otherwise required by law.

SECTION – 22 SAFETY & HEALTH

CONTRACTOR shall comply with all applicable safety and health requirements mandated by federal, state, city and/or public agency codes, permits, ordinances, regulations, and laws, as well as these Contract Documents, including but not limited to the General Requirements, Section entitled “Safety” and Exhibit B Contractor Safety Standards.

SECTION – 23 NOTICES

Any notice required or permitted under this Contract shall be sent by certified mail, return receipt requested, at the address set forth below. Any party whose address changes shall notify the other party in writing.

TO OC SAN: Orange County Sanitation District
10844 Ellis Avenue, Fountain Valley, California 92708-7018
Attn: Clerk of the Board

Copy to: Orange County Sanitation District
10844 Ellis Avenue, Fountain Valley, California 92708-7018
Attn: Construction Manager

Bradley R. Hogin, Esquire
Woodruff, Spradlin & Smart
555 Anton Boulevard, Suite 1200
Costa Mesa, California 92626

TO CONTRACTOR: LEED Electric, Inc.
13138 Arctic Circle
Santa Fe Springs, CA 90670

Copy to: Seyed A. Jamali Dinan, Chief Executive Officer
LEED Electric, Inc.
13138 Arctic Circle
Santa Fe Springs, CA 90670

IN WITNESS WHEREOF, the parties hereto have executed this Contract Agreement as the date first hereinabove written.

CONTRACTOR: LEED Electric, Inc.
13138 Arctic Circle
Santa Fe Springs, CA 90670

By _____ Date _____

Printed Name

Its _____

CONTRACTOR's State License No. 379096 (Expiration Date – 7/31/2023)

OC SAN: Orange County Sanitation District

By _____ Date _____

John B. Withers
Board Chairman

By _____ Date _____

Kelly A. Lore
Clerk of the Board

By _____ Date _____

Ruth Zintzun
Purchasing & Contracts Manager

EXHIBIT A
SCHEDULE OF PRICES

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SCHEDULE OF PRICES

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EXHIBIT A

SCHEDULE OF PRICES

EXA-1 BASIS OF COMPENSATION

CONTRACTOR will be paid the Contract Price according to the Schedule of Prices, and all other applicable terms and conditions of the Contract Documents.

EXA-2 PROGRESS PAYMENTS

Progress payments will be made in accordance with all applicable terms and conditions of the Contract Documents, including, but not limited to:

1. Contract Agreement – Section 11 – “Contract Price and Method of Payment;”
2. General Conditions – “Payment – General”;
3. General Conditions – “Payment – Applications for Payment”;
4. General Conditions – “Payment – Mobilization Payment Requirements;”
5. General Conditions – “Payment – Itemized Breakdown of Contract Lump Sum Prices”;
6. General Conditions – “Contract Price Adjustments and Payments”;
7. General Conditions – “Suspension of Payments”;
8. General Conditions – “OC SAN’s Right to Withhold Certain Amounts and Make Application Thereof”; and
9. General Conditions – “Final Payment.”

EXA-3 RETENTION AND ESCROW ACCOUNTS

A. Retention:

OC SAN shall retain a percentage of each progress payment to assure satisfactory completion of the Work. The amount to be retained from each progress payment shall be determined as provided in General Conditions – “Retained Funds; Substitution of Securities”. In all contracts between CONTRACTOR and its Subcontractors and/or Suppliers, the retention may not exceed the percentage specified in the Contract Documents.

B. Substitution of Securities:

CONTRACTOR may, at its sole expense, substitute securities as provided in General Conditions – “Retained Funds; Substitution of Securities.” Payment of Escrow Agent:

In lieu of substitution of securities as provided above, the CONTRACTOR may request and OC SAN shall make payment of retention earned directly to the escrow agent at the expense of the CONTRACTOR. At the expense of the CONTRACTOR, the CONTRACTOR may direct the investment of the payments into securities consistent with Government Code §16430 and the CONTRACTOR shall receive the interest earned on the investments upon the same terms provided for in this article for securities deposited by the CONTRACTOR. Upon satisfactory completion of the Contract, the CONTRACTOR shall receive from the escrow agent all securities, interest and payments received by the escrow agent from OC SAN, pursuant to the terms of this article. The CONTRACTOR shall pay to each Subcontractor, not later than twenty (20) calendar days after receipt of the payment, the respective amount of interest earned, net of costs attributed to retention withheld from each Subcontractor, on the amount of retention withheld to ensure the performance of the Subcontractor. The escrow agreement used by the escrow agent pursuant to this article shall be substantially similar to the form set forth in §22300 of the California Public Contract Code.

C. Release of Retention:

Upon Final Acceptance of the Work, the CONTRACTOR shall submit an invoice for release of retention in accordance with the terms of the Contract.

D. Additional Deductibles:

In addition to the retentions described above, OC SAN may deduct from each progress payment any or all of the following:

1. Liquidated Damages that have occurred as of the date of the application for progress payment;
2. Deductions from previous progress payments already paid, due to OC SAN's discovery of deficiencies in the Work or non-compliance with the Specifications or any other requirement of the Contract;
3. Sums expended by OC SAN in performing any of the CONTRACTOR'S obligations under the Contract that the CONTRACTOR has failed to perform, and;
4. Other sums that OC SAN is entitled to recover from the CONTRACTOR under the terms of the Contract, including without limitation insurance deductibles and assessments.

The failure of OC SAN to deduct any of the above-identified sums from a progress payment shall not constitute a waiver of OC SAN's right to such sums or to deduct them from a later progress payment.

EXA-4 STOP PAYMENT NOTICE

In addition to other amounts properly withheld under this article or under other provisions of the Contract, OC SAN shall retain from progress payments otherwise due the CONTRACTOR an amount equal to one hundred twenty-five percent (125%) of the amount claimed under any stop payment notice under Civil Code §9350 et. seq. or other lien filed against the CONTRACTOR for labor, materials, supplies, equipment, and any other thing of value claimed to have been furnished to and/or incorporated into the Work; or for any other alleged contribution thereto. In addition to the foregoing and in accordance with Civil Code §9358 OC SAN may also satisfy its duty to withhold funds for stop payment notices by refusing to release funds held in escrow pursuant to public receipt of a release of stop payment notice executed by a stop payment notice claimant, a stop payment notice release bond, an order of a court of competent jurisdiction, or other evidence satisfactory to OC SAN that the CONTRACTOR has resolved such claim by settlement.

EXA-5 PAYMENT TO SUBCONTRACTORS

Requirements

1. The CONTRACTOR shall pay all Subcontractors for and on account of Work performed by such Subcontractors, not later than seven (7) days after receipt of each progress payment as required by the California Business and Professions Code §7108.5. Such payments to Subcontractors shall be based on the measurements and estimates made pursuant to article progress payments provided herein.
2. Except as specifically provided by law, the CONTRACTOR shall pay all Subcontractors any and all retention due and owing for and on account of Work performed by such Subcontractors not later than seven (7) days after CONTRACTOR'S receipt of said retention proceeds from OC SAN as required by the California Public Contract Code §7107.

EXA-6 PAYMENT OF TAXES

Unless otherwise specifically provided in this Contract, the Contract Price includes full compensation to the CONTRACTOR for all taxes. The CONTRACTOR shall pay all federal, state, and local taxes, and duties applicable to and assessable against any Work, including but not limited to retail sales and use, transportation, export, import, business, and special taxes. The CONTRACTOR shall ascertain and pay the taxes when due. The CONTRACTOR will maintain auditable records, subject to OC SAN reviews, confirming that tax payments are current at all times.

EXA-7 FINAL PAYMENT

After Final Acceptance of the Work, as more particularly set forth in the General Conditions, "Final Acceptance and Final Completion", and after Resolution of the Board authorizing final payment and satisfaction of the requirements as more particularly set forth in General Conditions – "Final Payment", a final payment will be made as follows:

1. Prior to Final Acceptance, the CONTRACTOR shall prepare and submit an application for Final Payment to OC SAN, including:
 - a. The proposed total amount due the CONTRACTOR, segregated by items on the payment schedule, amendments, Change Orders, and other bases for payment;
 - b. Deductions for prior progress payments;
 - c. Amounts retained;
 - d. A conditional waiver and release on final payment for each Subcontractor (per Civil Code Section 8136);
 - e. A conditional waiver and release on final payment on behalf of the CONTRACTOR (per Civil Code Section 8136);
 - f. List of Claims the CONTRACTOR intends to file at that time or a statement that no Claims will be filed,
 - g. List of pending unsettled claims, stating claimed amounts, and copies of any and all complaints and/or demands for arbitration received by the CONTRACTOR; and
 - h. For each and every claim that resulted in litigation or arbitration which the CONTRACTOR has settled, a conformed copy of the Request for Dismissal with prejudice or other satisfactory evidence the arbitration is resolved.
2. The application for Final Payment shall include complete and legally effective releases or waivers of liens and stop payment notices satisfactory to OC SAN, arising out of or filed in connection with the Work. Prior progress payments shall be subject to correction in OC SAN's review of the application for Final Payment. Claims filed with the application for Final Payment must be otherwise timely under the Contract and applicable law.
3. Within a reasonable time, OC SAN will review the CONTRACTOR'S application for Final Payment. Any recommended changes or corrections will then be forwarded to the CONTRACTOR. Within ten (10) calendar days after receipt of recommended changes from OC SAN, the CONTRACTOR will make the changes, or list Claims that will be filed as a result of the

changes, and shall submit the revised application for Final Payment. Upon acceptance by OC SAN, the revised application for Final Payment will become the approved application for Final Payment.

4. If no Claims have been filed with the initial or any revised application for Final Payment, and no Claims remain unsettled within thirty-five (35) calendar days after Final Acceptance of the Work by OC SAN, and agreements are reached on all issues regarding the application for Final Payment, OC SAN, in exchange for an executed release, satisfactory in form and substance to OC SAN, will pay the entire sum found due on the approved application for Final Payment, including the amount, if any, allowed on settled Claims.
5. The release from the CONTRACTOR shall be from any and all Claims arising under the Contract, except for Claims that with the concurrence of OC SAN are specifically reserved, and shall release and waive all unreserved Claims against OC SAN and its officers, directors, employees and authorized representatives. The release shall be accompanied by a certification by the CONTRACTOR that:
 - a. It has resolved all Subcontractors, Suppliers and other Claims that are related to the settled Claims included in the Final Payment;
 - b. It has no reason to believe that any party has a valid claim against the CONTRACTOR or OC SAN which has not been communicated in writing by the CONTRACTOR to OC SAN as of the date of the certificate;
 - c. All warranties are in full force and effect, and;
 - d. The releases and the warranties shall survive Final Payment.
6. If any claims remain open, OC SAN may make Final Payment subject to resolution of those claims. OC SAN may withhold from the Final Payment an amount not to exceed one hundred fifty percent (150%) of the sum of the amounts of the open claims, and one hundred twenty-five percent (125%) of the amounts of open stop payment notices referred to in article entitled stop payment notices herein.
7. The CONTRACTOR shall provide an unconditional waiver and release on final payment from each Subcontractor and Supplier providing Work under the Contract (per Civil Code Section 8138) and an unconditional waiver and release on final payment on behalf of the CONTRACTOR (per Civil Code Section 8138) within thirty (30) days of receipt of Final Payment.

EXA-8 DISCOVERY OF DEFICIENCIES BEFORE AND AFTER FINAL PAYMENT

Notwithstanding OC SAN's acceptance of the application for Final Payment and irrespective of whether it is before or after Final Payment has been made, OC SAN shall not be precluded from subsequently showing that:

1. The true and correct amount payable for the Work is different from that previously accepted;
2. The previously accepted Work did not in fact conform to the Contract requirements, or;
3. A previous payment or portion thereof for Work was improperly made.

OC SAN also shall not be stopped from demanding and recovering damages from the CONTRACTOR, as appropriate, under any of the foregoing circumstances as permitted under the Contract or applicable law.

ATTACHMENT 1 – CERTIFICATION FOR REQUEST FOR PAYMENT

I hereby certify under penalty of perjury as follows:

That the claim for payment is in all respects true, correct; that the services mentioned herein were actually rendered and/or supplies delivered to OC SAN in accordance with the Contract.

I understand that it is a violation of both the federal and California False Claims Acts to knowingly present or cause to be presented to OC SAN a false claim for payment or approval.

A claim includes a demand or request for money. It is also a violation of the False Claims Acts to knowingly make use of a false record or statement to get a false claim paid. The term "knowingly" includes either actual knowledge of the information, deliberate ignorance of the truth or falsity of the information, or reckless disregard for the truth or falsity of the information. Proof of specific intent to defraud is not necessary under the False Claims Acts. I understand that the penalties under the Federal False Claims Act and State of California False Claims Act are non-exclusive, and are in addition to any other remedies which OC SAN may have either under contract or law.

I hereby further certify, to the best of my knowledge and belief, that:

1. The amounts requested are only for performance in accordance with the Specifications, terms, and conditions of the Contract;
2. Payments to Subcontractors and Suppliers have been made from previous payments received under the Contract, and timely payments will be made from the proceeds of the payment covered by this certification;
3. This request for progress payments does not include any amounts which the prime CONTRACTOR intends to withhold or retain from a Subcontractor or Supplier in accordance with the terms and conditions of the subcontract; and
4. This certification is not to be construed as Final Acceptance of a Subcontractor's performance.

Name

Title

Date

CONFORMED

C-EXA-062221
PROJECT NO. FR1-0016
WASTE SIDESTREAM PUMP STATION VFD REPLACEMENTS AT PLANT NO. 1

ATTACHMENT 2 – SCHEDULE OF PRICES

See next pages from the Bid Submittal Forms (LEED Electric, Inc.)

BF-14 Schedule of Prices, Pages 1-2

BF-14 SCHEDULE OF PRICES

INSTRUCTIONS

A. General

For Unit Prices, it is understood that the following quantities are approximate only and are solely for the purpose of estimating the comparison of Bids, and that the actual value of Work will be computed based upon the actual quantities in the completed Work, whether they be more or less than those shown. CONTRACTOR's compensation for the Work under the Contract Documents will be computed based upon the lump sum amount of the Contract at time of award, plus any additional or deleted costs approved by OC SAN via approved Change Orders, pursuant to the Contract Documents.

Bidder shall separately price and accurately reflect costs associated with each line item, leaving no blanks. Any and all modifications to the Bid must be initialed by an authorized representative of the Bidder in accordance with the Instructions to Bidders, Preparation of Bid.

Bidders are reminded of Instruction to Bidders, Discrepancy in Bid Items, which, in summary, provides that the total price for each item shall be based on the Unit Price listed for each item multiplied by the quantity; and the correct Total Price for each item shall be totaled to determine the Total Amount of Bid.

All applicable costs including overhead and profit shall be reflected in the respective unit costs and the TOTAL AMOUNT OF BID. The Bid price shall include all costs to complete the Work, including profit, overhead, etc., unless otherwise specified in the Contract Documents. All applicable sales taxes, state and/or federal, and any other special taxes, patent rights or royalties shall be included in the prices quoted in this Bid.

B. Basis of Award

AWARD OF THE CONTRACT WILL BE MADE ON THE BASIS OF THE LOWEST RESPONSIVE AND RESPONSIBLE BID.

Note 1: Base Bid. Includes all costs necessary to furnish all labor, materials, equipment and services for the construction of the Project per the Contract Documents.

Bid Submitted By: LEED Electric, Inc.
 (Name of Firm)

EXHIBIT A
SCHEDULE OF PRICES

BASE BID ITEMS (Refer to Note 1 in the Instructions):

Item No.	Description	Unit of Measurement	Approx Qty	Unit Price	Extended Price
1.	Mobilization: As described in, Section 01155, Measurement and Payment, and in conformance with the Contract Documents. The amount for this Bid Item shall not exceed \$30,000 of the Total Amount of Bid. All amounts included in this Bid Item greater than the allowable maximum payment of \$30,000 of the Total Amount of Bid shall be paid under the Bid Item No. 2.	Lump Sum	1		= \$30,000
2.	WSSPS VFD Replacement and all Other Work: As described in, Section 01155, Measurement and Payment, and in conformance with the Contract Documents. This line item is for all other portions of the Work set forth in the Contract Documents except for the Work performed in Bid Item 1: Work under this item shall include all labor, equipment, materials, and services necessary for all other Work not specified in Bid Item 1.	Lump Sum	1		= \$ 314,889
TOTAL AMOUNT OF BID (BASIS OF AWARD)					\$ 344,889



OPERATIONS COMMITTEE

Administration Building
10844 Ellis Avenue
Fountain Valley, CA 92708
(714) 593-7433

Agenda Report

File #: 2021-1969

Agenda Date: 3/16/2022

Agenda Item No: 3.

FROM: James D. Herberg, General Manager
Originator: Kathy Millea, Director of Engineering

SUBJECT:

DIGESTERS REHABILITATION AT PLANT NO. 2, PROJECT NO. P2-137

GENERAL MANAGER'S RECOMMENDATION

RECOMMENDATION: Recommend to the Board of Directors to:

- A. Approve a Professional Design Services Agreement with CDM Smith, Inc. to provide engineering services for Digesters Rehabilitation at Plant No. 2, Project No. P2-137, for an amount not to exceed \$2,700,000; and
- B. Approve a contingency of \$270,000 (10%).

BACKGROUND

Sludge is a byproduct of wastewater treatment that requires further processing to reduce pathogens and organic content so the remaining material can be beneficially reused in compliance with state and federal requirements.

The Orange County Sanitation District (OC San) has 18 anaerobic digesters at Plant No. 2 that were built from 1959 through 1979, and they are used to convert sludge to biosolids and biogas for reuse. Anaerobic digesters are large enclosed concrete structures with pumping, mixing, heating, and gas handling systems.

Based on OC San’s 2017 Biosolids Master Plan, OC San is implementing a program to upgrade the digestion process using a new Temperature Phased Anaerobic Digestion (TPAD) process. This includes building some new digesters, rehabilitation of some existing digesters, and demolition of some existing digesters.

The program consists of four sequential construction projects finishing in 2040. The first project, TPAD Digester Facility at Plant No. 2, Project No. P2-128, is in design with construction anticipated to start in 2025.

RELEVANT STANDARDS

- Comply with California Government Code §4526: Select the “best qualified firm” and “negotiate fair and equitable fees”

- 24/7/365 treatment plant reliability
- Safe, beneficial reuse of Biosolids

PROBLEM

The anaerobic digesters at Plant No. 2 have been in service for 40 to 60 years and need to be rehabilitated to perform reliably for more than 15 years. Specific problems include minor cracks in concrete walls and domes, exterior dome insulation failures, bridges between digesters that have minor structural deficiencies, corroded hot water piping, motor control centers that have reached the end of their useful life and need to be replaced, and elimination of fall and trip safety hazards.

PROPOSED SOLUTION

Approve a Professional Design Services Agreement for Digesters Rehabilitation at Plant No. 2, Project No. P2-137. This project will rehabilitate the digesters including repair of concrete components, dome insulation, and bridges between the digesters, as well as replacement of corroded hot water piping and obsolete motor control centers. The project will also correct minor safety items such as unused pipe supports that are tripping hazards.

TIMING CONCERNS

If this project is delayed, OC San will continue to operate with less reliable digesters and labor-intensive efforts to maintain reliability will continue to be required.

RAMIFICATIONS OF NOT TAKING ACTION

Digesters could fail and limit OC San’s ability to process sludge and maintain compliance with state and federal requirements.

PRIOR COMMITTEE/BOARD ACTIONS

N/A

ADDITIONAL INFORMATION

Consultant Selection

OC San requested and advertised for proposals for Digesters Rehabilitation at Plant No. 2, Project No. P2-137, on September 21, 2021. The following evaluation criteria were described in the Request for Proposals (RFP) and used to determine the most qualified Consultant.

<u>Criterion</u>	<u>Weighting</u>
Project Understanding & Approach	40%
Related Project Experience	30%
Project Team & Staff Qualifications	30%

Six proposals were received on November 9, 2021 and evaluated in accordance with the evaluation process set forth in OC San's Purchasing Ordinance by a pre-selected Evaluation Team consisting of the following OC San staff: Senior Engineer (Project Manager), Engineer (Project Engineer), two Engineering Supervisors, and a Maintenance Superintendent. The Evaluation Team also included one non-voting representative from the Contracts Administration Division.

The Evaluation Team scored the proposals on the established criterion as summarized below:

Proposer	Project Understanding and Approach (Max. 40 Points)	Related Project Experience (Max. 30 Points)	Project Team and Staff Qualifications (Max. 30 Points)	Total Score (Max. 100 Points)
HDR	34	23	22	79
CDM Smith	30	19	22	71
Stantec	29	22	20	71
GHD	21	20	19	60
AECOM	22	19	18	59
Atkins	18	14	17	49

Based on this scoring, three firms were shortlisted for interviews on December 7, 2021. Following the interview, the Evaluation Team scored the Consultants based on both the proposals and interviews using the evaluation criteria and weighting described above. Based on the scoring shown below, CDM Smith was selected as the most qualified Consultant.

Proposer	Project Understanding and Approach (Max. 40 Points)	Related Project Experience (Max. 30 Points)	Project Team and Staff Qualifications (Max. 30 Points)	Total Score (Max. 100 Points)
CDM Smith	30	26	26	82
HDR	29	24	22	75
Stantec	20	19	18	57

CDM Smith, the proposer with the highest score, demonstrated a clear understanding of the Scope of Work by highlighting key challenges for each project element and providing potential mitigation solutions, has a team with great experience on similar projects, and showed an understanding of the decisions that need to be made during the Preliminary Design phase to start Final Design with a well-defined scope. They suggested leveraging technology (drone usage) to expedite the Preliminary Design phase, which is key for a project such as this where timing is extremely important. The subconsultants on CDM Smith's team provide valuable experience in both OC San operations and safety standards. The technical proposal was well written and showed an understanding of OC San's expectations.

Review of Fee Proposal and Negotiations

Proposals were accompanied by sealed fee proposals. Only the fee proposal of the Evaluation Committee's highest-ranked firm, as approved by the Director of Engineering, was opened in accordance with the Purchasing Ordinance.

Staff began negotiations with CDM Smith to clarify the requirements of the Scope of Work, the assumptions used for the estimated level of effort, and the proposed approach to meet the goals and objectives for the project. Negotiations were held with multiple follow up e-mails and calls. During negotiations, the Scope of Work was reviewed in detail and certain assumptions were identified that could be quantified to better define the project. The fee decreased due to a reduction in the number of design plan sheets, clarification on the amount of structural repairs anticipated for each digester, and the direction that the electrical conduit and trays will be re-used for new conductors.

	Original Fee Proposal	Negotiated Fee Proposal
Total Hours	14,577	14,313
Total Fee	\$2,896,078	\$2,700,000

The fringe and overhead rates used by CDM Smith, which factor into the billing rate, have been validated based on its current audited rates. The contract profit rate is 5.36%, which is based on an established calculation based on OC San's standard design agreements.

Based on the above, staff has determined that the final negotiated fee is fair and reasonable for the level of effort required for this project and recommends award of the Professional Design Services Agreement to CDM Smith.

CEQA

The project is exempt from CEQA under the Class 1 categorical exemptions set forth in California Code of Regulations Section 15301. A Notice of Exemption will be filed with the OC Clerk-Recorder after OC San Board of Directors approval of the Professional Services Design Agreement.

FINANCIAL CONSIDERATIONS

This request complies with the authority levels of OC San's Purchasing Ordinance. This item has been budgeted (Budget Update, Fiscal Year 2021-2022, Appendix A, Page A-9, Digesters Rehabilitation at Plant No. 2, Project No. P2-137) and the budget is sufficient for the recommended action.

ATTACHMENT

The following attachment(s) may be viewed on-line at the OC San website (www.ocsan.gov) with the complete agenda package:

- Professional Design Services Agreement

RL: jw

PROFESSIONAL DESIGN SERVICES AGREEMENT

This PROFESSIONAL DESIGN SERVICES AGREEMENT, (hereinafter referred to as "Agreement"), is made and entered into to be effective the 23rd day of March, 2022 by and between the ORANGE COUNTY SANITATION DISTRICT, (hereinafter referred to as "OC SAN"), and CDM SMITH, INC., (hereinafter referred to as "CONSULTANT").

WITNESSETH:

WHEREAS, OC SAN desires to engage CONSULTANT for **Project No. P2-137, Digesters Rehabilitation at Plant No. 2**; and to provide professional design services for rehabilitation of Plant No. 2 digesters to provide a reliable and operational performance for the next 15 years, (Services); and

WHEREAS, CONSULTANT is qualified to provide the necessary services in connection with these requirements and has agreed to provide the necessary professional services; and

WHEREAS, OC SAN has adopted procedures for the selection of professional design services and has proceeded in accordance with said procedures to select CONSULTANT to perform the Services; and

WHEREAS, at its regular meeting on March 23, 2022, the Board of Directors, by Minute Order, accepted the recommendation of the Operations Committee pursuant to OC SAN's Ordinance No. OC SAN-56 to approve this Agreement.

NOW, THEREFORE, in consideration of the promises and mutual benefits, which will result to the parties in carrying out the terms of this Agreement, it is mutually agreed as follows:

1. SCOPE OF WORK

CONSULTANT agrees to furnish necessary professional and technical services to accomplish those project elements outlined in the Scope of Work attached hereto as Attachment "A", and by this reference made a part of this Agreement.

- A. The CONSULTANT shall be responsible for the professional quality, technical accuracy, completeness, and coordination of all design, drawings, specifications, and other services furnished by the CONSULTANT under this Agreement, including the work performed by its subconsultants (Subconsultants). Where approval by OC SAN is indicated, it is understood to be conceptual approval only and does not relieve the CONSULTANT of responsibility for complying with all laws, codes, industry standards, and liability for damages caused by errors, omissions, noncompliance with industry standards, and/or negligence on the part of the CONSULTANT or its Subconsultants.
- B. CONSULTANT is responsible for the quality of work prepared under this Agreement and shall ensure that all work is performed to the prevailing standards of engineering practice for clarity, uniformity, and completeness. CONSULTANT shall respond to all of OC SAN's questions, comments, suggestions, corrections, and recommendations (i.e., DS1, DS2, DS3, and FDS). All comments shall be incorporated into the design prior to the next submittal deadline or addressed, in writing, as to why the comment

has not been incorporated. CONSULTANT shall ensure that each submittal is 100% accurate for the level of work submitted (i.e., correct references, terms, capitalization, or equal status, spelling, punctuation, etc.)

- C. In the event that work is not performed to the satisfaction of OC SAN and does not conform to the requirements of this Agreement or any applicable industry standards, the CONSULTANT shall, without additional compensation, promptly correct or revise any errors or deficiencies in its designs, drawings, specifications, or other services within the timeframe specified by the Project Engineer/Project Manager. OC SAN may charge to CONSULTANT all costs, expenses and damages associated with any such corrections or revisions.
- D. All CAD drawings, figures, and other work shall be produced by CONSULTANTS and Subconsultants using OC SAN CAD Manual. Conversion of CAD work from any other non-standard CAD format to OC SAN format shall not be acceptable in lieu of this requirement.

Electronic files shall conform to OC SAN specifications. Any changes to these specifications by the CONSULTANT are subject to review and approval of OC SAN.

Electronic files shall be subject to an acceptance period of 30 calendar days during which OC SAN shall perform appropriate reviews and including CAD Manual compliance. CONSULTANT shall correct any discrepancies or errors detected and reported within the acceptance period at no additional cost to OC SAN.

- E. The CONSULTANT shall ensure that all plans and specifications prepared, or recommended under this Agreement allow for competitive bidding. The CONSULTANT shall design such plans or specifications so that procurement of services, labor or materials are not available from only one source, and shall not design plans and specifications around a single or specific product, piece of major equipment or machinery, a specific patented design or a proprietary process, unless required by principles of sound engineering practice and supported by a written justification that has been approved in writing by OC SAN. The CONSULTANT shall submit this written justification to OC SAN prior to beginning work on such plans and specifications. Whenever the CONSULTANT recommends a specific product or equipment for competitive procurement, such recommendation shall include at least two brand names of products that are capable of meeting the functional requirements applicable to the project.
- F. All professional services performed by the CONSULTANT, including but not limited to all drafts, data, correspondence, proposals, reports, and estimates compiled or composed by the CONSULTANT, pursuant to this Agreement, are for the sole use of OC SAN, its agents and employees. Neither the documents nor their contents shall be released to any third party without the prior written consent of OC SAN. This provision does not apply to information that (a) was publicly known, or otherwise known to the CONSULTANT, at the time that it was disclosed to the CONSULTANT by OC SAN, (b) subsequently becomes publicly known to the CONSULTANT other than through disclosure by OC SAN.

2. COMPENSATION

Total compensation shall be paid to CONSULTANT for the Services in accordance with the following provisions:

A. Total Compensation

Total compensation shall be in an amount not to exceed Two Million Seven Hundred Thousand Dollars (\$2,700,000.00). Total compensation to CONSULTANT including burdened labor (salaries plus benefits), overhead, profit, direct costs, and Subconsultant(s) fees and costs shall not exceed the sum set forth in Attachment "E" - Fee Proposal.

B. Labor

As a portion of the total compensation to be paid to CONSULTANT, OC SAN shall pay to CONSULTANT a sum equal to the burdened salaries (salaries plus benefits) actually paid by CONSULTANT charged on an hourly-rate basis to this project and paid to the personnel of CONSULTANT. Upon request of OC SAN, CONSULTANT shall provide OC SAN with certified payroll records of all employees' work that is charged to this project.

C. Overhead

As a portion of the total compensation to be paid to CONSULTANT, OC SAN shall compensate CONSULTANT and Subconsultants for overhead at the rate equal to the percentage of burdened labor as specified in Attachment "E" - Fee Proposal.

The overhead rate in this Agreement is based on the 2021 most recent financial audit report provided by CONSULTANT. The overhead rate shall be fixed for a period of one year or until the nationally declared emergency due to the COVID-19 Pandemic expires, whichever occurs first. At such time, CONSULTANT may request an adjustment of its overhead rate. If such adjustment is requested, CONSULTANT will be required to justify it and provide its most recent financial audit report provided to another public agency which documents CONSULTANT's current burdened labor rate and overhead rate.

D. Profit

Profit for CONSULTANT and Subconsultants shall be a percentage of consulting services fees (Burdened Labor and Overhead). When the consulting or subconsulting services amount is \$250,000 or less, the maximum Profit shall be 10%. Between \$250,000 and \$2,500,000, the maximum Profit shall be limited by a straight declining percentage between 10% and 5%. For consulting or subconsulting services fees with a value greater than \$2,500,000, the maximum Profit shall be 5%. Addenda shall be governed by the same maximum Profit percentage after adding consulting services fees.

As a portion of the total compensation to be paid to CONSULTANT and Subconsultants, OC SAN shall pay profit for all services rendered by CONSULTANT and Subconsultants for this project according to Attachment "E" - Fee Proposal.

E. Subconsultants

For any Subconsultant whose fees for services are greater than or equal to \$100,000 (excluding out-of-pocket costs), CONSULTANT shall pay to Subconsultant total compensation in accordance with the Subconsultant amount specified in Attachment "E" - Fee Proposal.

For any Subconsultant whose fees for services are less than \$100,000, CONSULTANT may pay to Subconsultant total compensation on an hourly-rate basis per the attached hourly rate Schedule and as specified in the Scope of Work. OC SAN shall pay to CONSULTANT the actual costs of Subconsultant fees and charges in an amount not to exceed the sum set forth in Attachment "E" - Fee Proposal.

F. Direct Costs

OC SAN shall pay to CONSULTANT and Subconsultants the actual costs of permits and associated fees, travel and licenses for an amount not to exceed the sum set forth in Attachment "E" - Fee Proposal. OC SAN shall also pay to CONSULTANT actual costs for equipment rentals, leases or purchases with prior approval of OC SAN. Upon request, CONSULTANT shall provide to OC SAN receipts and other documentary records to support CONSULTANT's request for reimbursement of these amounts, see Attachment "D" - Allowable Direct Costs. All incidental expenses shall be included in overhead pursuant to Section 2 - COMPENSATION above.

G. Other Direct Costs

Other Direct Costs incurred by CONSULTANT and its Contractor due to modifications to the Scope of Work resulting from field investigations and field work required by the Agreement. These items may include special equipment, test equipment and tooling and other materials and services not previously identified. Refer to attachment "D" Allowable Direct Costs for payment information.

H. Reimbursable Direct Costs

OC SAN will reimburse the CONSULTANT for reasonable travel and business expenses as described in this section and further described in Attachment "D" - Allowable Direct Costs to this Agreement. The reimbursement of the above-mentioned expenses will be based on an "accountable plan" as considered by Internal Revenue Service (IRS). The plan includes a combination of reimbursements based upon receipts and a "per diem" component approved by IRS. The most recent schedule of the per diem rates utilized by OC SAN can be found on the U.S. General Service Administration website at <http://www.gsa.gov/portal/category/104711#>.

The CONSULTANT shall be responsible for the most economical and practical means of management of reimbursable costs inclusive but not limited to travel, lodging and meals arrangements. OC SAN shall apply the most economic and practical method of reimbursement which may include reimbursements based upon receipts and/or “per diem” as deemed the most practical.

CONSULTANT shall be responsible for returning to OC SAN any excess reimbursements after the reimbursement has been paid by OC SAN.

Travel and travel arrangements – Any travel involving airfare, overnight stays or multiple day attendance must be approved by OC SAN in advance.

Local Travel is considered travel by the CONSULTANT within OC SAN general geographical area which includes Orange, Los Angeles, Ventura, San Bernardino, Riverside, San Diego, Imperial and Kern Counties. Automobile mileage is reimbursable if CONSULTANT is required to utilize personal vehicle for local travel.

Lodging – Overnight stays will not be approved by OC SAN for local travel. However, under certain circumstances overnight stay may be allowed at the discretion of OC SAN based on reasonableness of meeting schedules and the amount of time required for travel by the CONSULTANT. Such determination will be made on a case-by-case basis and at the discretion of OC SAN.

Travel Meals – Per-diem rates as approved by IRS shall be utilized for travel meals reimbursements. Per diem rates shall be applied to meals that are appropriate for travel times. Receipts are not required for the approved meals.

Additional details related to the reimbursement of the allowable direct costs are provided in the Attachment “D” - Allowable Direct Costs of this Agreement.

I. Limitation of Costs

If, at any time, CONSULTANT estimates the cost of performing the services described in CONSULTANT’s Proposal will exceed seventy-five percent (75%) of the not-to-exceed amount of the Agreement, including approved additional compensation, CONSULTANT shall notify OC SAN immediately, and in writing. This written notice shall indicate the additional amount necessary to complete the services. Any cost incurred in excess of the approved not-to-exceed amount, without the express written consent of OC SAN’s authorized representative shall be at CONSULTANT’s own risk. This written notice shall be provided separately from, and in addition to any notification requirements contained in the CONSULTANT’s invoice and monthly progress report. Failure to notify OC SAN that the services cannot be completed within the authorized not-to-exceed amount is a material breach of this Agreement.

3. REALLOCATION OF TOTAL COMPENSATION

OC SAN, by its Director of Engineering, shall have the right to approve a reallocation of the incremental amounts constituting the total compensation, provided that the total compensation is not increased.

4. PAYMENT

- A. Monthly Invoice: CONSULTANT shall include in its monthly invoice, a detailed breakdown of costs associated with the performance of any corrections or revisions of the work for that invoicing period. CONSULTANT shall allocate costs in the same manner as it would for payment requests as described in this Section of the Agreement. CONSULTANT shall warrant and certify the accuracy of these costs and understand that submitted costs are subject to Section 11 - AUDIT PROVISIONS.
- B. CONSULTANT may submit monthly or periodic statements requesting payment for those items included in Section 2 - COMPENSATION hereof in the format as required by OC SAN. Such requests shall be based upon the amount and value of the work and services performed by CONSULTANT under this Agreement and shall be prepared by CONSULTANT and accompanied by such supporting data, including a detailed breakdown of all costs incurred and work performed during the period covered by the statement, as may be required by OC SAN.

Upon approval of such payment request by OC SAN, payment shall be made to CONSULTANT as soon as practicable of one hundred percent (100%) of the invoiced amount on a per task basis.

If OC SAN determines that the work under this Agreement, or any specified task hereunder, is incomplete and that the amount of payment is in excess of:

- i. The amount considered by OC SAN's Director of Engineering to be adequate for the protection of OC SAN; or
- ii. The percentage of the work accomplished for each task.

OC SAN may, at the discretion of the Director of Engineering, retain an amount equal to that which ensures that the total amount paid to that date does not exceed the percentage of the completed work for each task or the project in its entirety.

- C. CONSULTANT may submit periodic payment requests for each 30-day period of this Agreement for the profit as set forth in Section 2 - COMPENSATION above. Said profit payment request shall be proportionate to the work actually accomplished to date on a per task basis. In the event OC SAN's Director of Engineering determines that no satisfactory progress has been made since the prior payment, or in the event of a delay in the work progress for any reason, OC SAN shall have the right to withhold any scheduled proportionate profit payment.
- D. Upon satisfactory completion by CONSULTANT of the work called for under the terms of this Agreement, and upon acceptance of such work by OC SAN, CONSULTANT will be paid the unpaid balance of any money due for such work, including any retained percentages relating to this portion of the work.
- E. Upon satisfactory completion of the work performed hereunder and prior to final payment under this Agreement for such work, or prior settlement upon termination of this Agreement, and as a condition precedent thereto, CONSULTANT shall execute and deliver to OC SAN a release of all claims against OC SAN arising under or by

virtue of this Agreement other than such claims, if any, as may be specifically exempted by CONSULTANT from the operation of the release in stated amounts to be set forth therein.

- F. Pursuant to the California False Claims Act (Government Code Sections 12650-12655), any CONSULTANT that knowingly submits a false claim to OC SAN for compensation under the terms of this Agreement may be held liable for treble damages and up to a ten thousand dollars (\$10,000) civil penalty for each false claim submitted. This Section shall also be binding on all Subconsultants.

A CONSULTANT or Subconsultant shall be deemed to have submitted a false claim when the CONSULTANT or Subconsultant: a) knowingly presents or causes to be presented to an officer or employee of OC SAN a false claim or request for payment or approval; b) knowingly makes, uses, or causes to be made or used a false record or statement to get a false claim paid or approved by OC SAN; c) conspires to defraud OC SAN by getting a false claim allowed or paid by OC SAN; d) knowingly makes, uses, or causes to be made or used a false record or statement to conceal, avoid, or decrease an obligation to OC SAN; or e) is a beneficiary of an inadvertent submission of a false claim to OC SAN, and fails to disclose the false claim to OC SAN within a reasonable time after discovery of the false claim.

5. CALIFORNIA DEPARTMENT OF INDUSTRIAL RELATIONS (DIR) REGISTRATION AND RECORD OF WAGES

- A. To the extent CONSULTANT's employees and/or Subconsultants who will perform work during the design and preconstruction phases of a construction contract for which Prevailing Wage Determinations have been issued by the DIR and as more specifically defined under Labor Code Section 1720 et seq, CONSULTANT and Subconsultants shall comply with the registration requirements of Labor Code Section 1725.5. Pursuant to Labor Code Section 1771.4, the work is subject to compliance monitoring and enforcement by the DIR.
- B. The CONSULTANT and Subconsultants shall maintain accurate payroll records and shall comply with all the provisions of Labor Code Section 1776, and shall submit payroll records to the Labor Commissioner pursuant to Labor Code Section 1771.4(a)(3). Penalties for non-compliance with the requirements of Section 1776 may be deducted from progress payments per Section 1776.
- C. Pursuant to Labor Code Section 1776, the CONSULTANT and Subconsultants shall furnish a copy of all certified payroll records to OC SAN and/or general public upon request, provided the public request is made through OC SAN, the Division of Apprenticeship Standards or the Division of Labor Enforcement of the Department of Industrial Relations.
- D. The CONSULTANT and Subconsultants shall comply with the job site notices posting requirements established by the Labor Commissioner per Title 8, California Code of Regulation Section 16461(e).

6. DOCUMENT OWNERSHIP – SUBSEQUENT CHANGES TO PLANS AND SPECIFICATIONS

A. Ownership of Documents for the Services performed.

All documents, including but not limited to, original plans, studies, sketches, drawings, computer printouts and disk files, and specifications prepared in connection with or related to the Scope of Work or Services, shall be the property of OC SAN. OC SAN's ownership of these documents includes use of, reproduction or reuse of and all incidental rights, whether or not the work for which they were prepared has been performed. OC SAN ownership entitlement arises upon payment or any partial payment for work performed and includes ownership of any and all work product completed prior to that payment. This Section shall apply whether the CONSULTANT's Services are terminated: a) by the completion of the Agreement, or b) in accordance with other provisions of this Agreement. Notwithstanding any other provision of this paragraph or Agreement, the CONSULTANT shall have the right to make copies of all such plans, studies, sketches, drawings, computer printouts and disk files, and specifications.

B. CONSULTANT shall not be responsible for damage caused by subsequent changes to or uses of the plans or specifications, where the subsequent changes or uses are not authorized or approved by CONSULTANT, provided that the service rendered by CONSULTANT was not a proximate cause of the damage.

7. INSURANCE

A. General

- i. Insurance shall be issued and underwritten by insurance companies acceptable to OC SAN.
- ii. Insurers must have an "A-" Policyholder's Rating, or better, and Financial Rating of at least Class VIII, or better, in accordance with the most current A.M. Best's Guide Rating. However, OC SAN will accept State Compensation Insurance Fund, for the required policy of Workers' Compensation Insurance subject to OC SAN's option to require a change in insurer in the event the State Fund financial rating is decreased below "B". Further, OC SAN will require CONSULTANT to substitute any insurer whose rating drops below the levels herein specified. Said substitution shall occur within twenty (20) days of written notice to CONSULTANT, by OC SAN or its agent.
- iii. Coverage shall be in effect prior to the commencement of any work under this Agreement.

B. General Liability

The CONSULTANT shall maintain during the life of this Agreement, including the period of warranty, commercial general liability insurance written on an occurrence basis providing the following minimum limits of liability coverage One Million Dollars (\$1,000,000) per occurrence with Two Million Dollars (\$2,000,000) aggregate. If aggregate limits apply separately to this contract (as evidenced by submission of ISO

form CG 25 03 or 25 04), then the aggregate limit may be equivalent to the per occurrence limit. Said insurance shall include coverage for the following hazards: premises-operations, blanket contractual liability (for this Agreement), products liability/completed operations (including any product manufactured or assembled), broad form property damage, blanket contractual liability, independent contractors' liability, personal and advertising injury, mobile equipment, owners and contractors' protective liability, and cross liability and severability of interest clauses. A statement on an insurance certificate will not be accepted in lieu of the actual additional insured endorsement(s). If requested by OC SAN and applicable, XCU coverage (Explosion, Collapse and Underground) and Riggers/On Hook Liability must be included in the general liability policy and coverage must be reflected on the submitted certificate of insurance. Where permitted by law, CONSULTANT hereby waives all rights of recovery by subrogation because of deductible clauses, inadequacy of limits of any insurance policy, limitations or exclusions of coverage, or any other reason against OC SAN, its or their officers, agents, or employees, and any other consultant, contractor, or subcontractor performing work or rendering services on behalf of OC SAN in connection with the planning, development, and construction of the project. In all its insurance coverages related to the work, CONSULTANT shall include clauses providing that each insurer shall waive all of its rights of recovery by subrogation against OC SAN, its or their officers, agents, or employees, or any other consultant, contractor, or subcontractor performing work or rendering services at the project. Where permitted by law, CONSULTANT shall require similar written express waivers and insurance clauses from each of its Subconsultants of every tier. A waiver of subrogation shall be effective as to any individual or entity, even if such individual or entity (a) would otherwise have a duty of indemnification, contractual or otherwise, (b) did not pay the insurance premium, directly or indirectly, and (c) whether or not such individual or entity has an insurable interest in the property damaged.

C. Umbrella Excess Liability

The minimum limits of general liability and automobile liability insurance required, as set forth herein, shall be provided for through either a single policy of primary insurance or a combination of policies of primary and umbrella excess coverage. Umbrella excess liability coverage shall be issued with limits of liability which, when combined with the primary insurance, will equal the minimum limits for general liability and automobile liability.

D. Automobile/Vehicle Liability Insurance

The CONSULTANT shall maintain a policy of automobile liability insurance on a comprehensive form covering all owned, non-owned, and hired automobiles, trucks, and other vehicles providing the following minimum limit of liability coverage: combined single limit of One Million Dollars (\$1,000,000). A statement on an insurance certificate will not be accepted in lieu of the actual additional insured endorsement.

E. Drone Liability Insurance

If a drone will be used, drone liability insurance must be maintained by CONSULTANT in the amount of One Million Dollars (\$1,000,000) in a form acceptable to OC SAN.

F. Workers' Compensation Insurance

The CONSULTANT shall provide such workers' compensation insurance as required by the Labor Code of the State of California in the amount of the statutory limit, including employer's liability insurance with a minimum limit of One Million Dollars (\$1,000,000) per occurrence. Such workers' compensation insurance shall be endorsed to provide for a waiver of subrogation in favor of OC SAN. A statement on an insurance certificate will not be accepted in lieu of the actual endorsements unless the insurance carrier is State of California Insurance Fund and the identifier "SCIF" and endorsement numbers 2570 and 2065 are referenced on the certificate of insurance. If an exposure to Jones Act liability may exist, the insurance required herein shall include coverage for Jones Act claims.

G. Errors and Omissions/Professional Liability

CONSULTANT shall maintain in full force and effect, throughout the term of this Agreement, standard industry form professional negligence errors and omissions insurance coverage in an amount of not less than Two Million Dollars (\$2,000,000) with limits in accordance with the provisions of this paragraph. If the policy of insurance is written on a "claims made" basis, said policy shall be continued in full force and effect at all times during the term of this Agreement, and for a period of five (5) years from the date of the completion of the services hereunder.

In the event of termination of said policy during this period, CONSULTANT shall obtain continuing insurance coverage for the prior acts or omissions of CONSULTANT during the course of performing services under the term of this Agreement. Said coverage shall be evidenced by either a new policy evidencing no gap in coverage or by separate extended "tail" coverage with the present or new carrier.

In the event the present policy of insurance is written on an "occurrence" basis, said policy shall be continued in full force and effect during the term of this Agreement or until completion of the services provided for in this Agreement, whichever is later. In the event of termination of said policy during this period, new coverage shall be obtained for the required period to insure for the prior acts of CONSULTANT during the course of performing services under the term of this Agreement.

CONSULTANT shall provide to OC SAN a certificate of insurance in a form acceptable to OC SAN indicating the deductible or self-retention amounts and the expiration date of said policy, and shall provide renewal certificates not less than ten (10) days prior to the expiration of each policy term.

H. Proof of Coverage

The CONSULTANT shall furnish OC SAN with original certificates and amendatory endorsements effecting coverage. Said policies and endorsements shall conform to the requirements herein stated. All certificates and endorsements are to be received and approved by OC SAN before work commences. OC SAN reserves the right to require, at any time, complete, certified copies of all required insurance policies, including endorsements, effecting the coverage required. The following are approved forms that must be submitted as proof of coverage:

- Certificate of Insurance ACORD Form 25 or other equivalent certificate of insurance form
 - Additional Insurance (General Liability) The combination of (ISO Forms) CG 20 10 and CG 20 37
- All other additional insured endorsements must be submitted for approval by OC SAN, and OC SAN may reject alternatives that provide different or less coverage to OC SAN.
- Additional Insured (Automobile Liability) Submit endorsement provided by carrier for OC SAN approval.
 - Waiver of Subrogation Submit workers' compensation waiver of subrogation endorsement provided by carrier for OC SAN approval.
 - Cancellation Notice No endorsement is required. However, CONSULTANT is responsible for notifying OC SAN of any pending or actual insurance policy cancellation, as described in Article I. Cancellation and Policy Change Notice, below.

I. Cancellation and Policy Change Notice

The CONSULTANT is required to notify OC SAN in writing of any insurance cancellation notice it receives or other knowledge of pending or actual insurance policy cancellation within two (2) working days of receipt of such notice or acquisition of such knowledge. Additionally, the CONSULTANT is required to notify OC SAN in writing of any change in the terms of insurance, including reduction in coverage or increase in deductible/SIR, within two (2) working days of receipt of such notice or knowledge of same.

Said notices shall be mailed to OC SAN at:

ORANGE COUNTY SANITATION DISTRICT
 10844 Ellis Avenue
 Fountain Valley, CA 92708
 Attention: Contracts, Purchasing & Materials Management Division

J. Primary Insurance

The general and automobile liability policies shall contain a Primary and "Non-Contributory" clause. Any other insurance maintained by OC SAN shall be excess and not contributing with the insurance provided by CONSULTANT.

K. Separation of Insured

The general and automobile liability policies shall contain a "Separation of Insureds" clause.

L. Non-Limiting (if applicable)

Nothing in this document shall be construed as limiting in any way, nor shall it limit the indemnification provision contained in this Agreement, or the extent to which CONSULTANT may be held responsible for payment of damages to persons or property.

M. Deductibles and Self-Insured Retentions

Any deductible and/or self-insured retention must be declared to OC SAN on the certificate of insurance. All deductibles and/or self-insured retentions require approval by OC SAN. At the option of OC SAN, either: the insurer shall reduce or eliminate such deductible or self-insured retention as respects OC SAN; or the CONSULTANT shall provide a financial guarantee satisfactory to OC SAN guaranteeing payment of losses and related investigations, claim administration and defense expenses.

N. Defense Costs

The general and automobile liability policies shall have a provision that defense costs for all insureds and additional insureds are paid in addition to and do not deplete any policy limits.

O. Subconsultants

The CONSULTANT shall be responsible to establish insurance requirements for any Subconsultant hired by the CONSULTANT. The insurance shall be in amounts and types reasonably sufficient to deal with the risk of loss involving the Subconsultant's operations and work.

P. Limits Are Minimums

If the CONSULTANT maintains higher limits than any minimums shown above, then OC SAN requires and shall be entitled to coverage for the higher limits maintained by CONSULTANT.

8. SCOPE CHANGES

In the event of a change in the Scope of Work or other terms in the Agreement, as requested by OC SAN, the parties hereto shall execute an amendment to this Agreement setting forth with particularity all terms of the new Agreement, including, but not limited to, any additional CONSULTANT's fees. CONSULTANT hereby agrees to use any and all procedures, programs, and systems required by OC SAN to process and execute such Amendment(s), including, but not limited to, computer programs and systems.

9. PROJECT TEAM AND SUBCONSULTANTS

CONSULTANT shall provide to OC SAN, prior to execution of this Agreement, the names and full description of all Subconsultants and CONSULTANT's project team members anticipated to be used on this project by CONSULTANT. CONSULTANT shall

include a description of the scope of work to be done by each Subconsultant and each CONSULTANT's project team member. CONSULTANT shall include the respective compensation amounts for CONSULTANT and each Subconsultant on a per task basis, broken down as indicated in Section 2 – COMPENSATION.

There shall be no substitution of the listed Subconsultants and CONSULTANT's project team members without prior written approval by OC SAN.

10. ENGINEERING REGISTRATION

The CONSULTANT's personnel are comprised of registered engineers and a staff of specialists and draftsmen in each department. The firm itself is not a registered engineer but represents and agrees that wherever in the performance of this Agreement requires the services of a registered engineer, such services hereunder will be performed under the direct supervision of registered engineers.

11. AUDIT PROVISIONS

- A. OC SAN retains the reasonable right to access, review, examine, and audit, any and all books, records, documents and any other evidence of procedures and practices that OC SAN determines are necessary to discover and verify that the CONSULTANT is in compliance with all requirements under this Agreement. The CONSULTANT shall include OC SAN's right as described above, in any and all of their subcontracts, and shall ensure that these rights are binding upon all Subconsultants.
- B. OC SAN retains the right to examine CONSULTANT's books, records, documents and any other evidence of procedures and practices that OC SAN determines are necessary to discover and verify all direct and indirect costs, of whatever nature, which are claimed to have been incurred, or anticipated to be incurred or to ensure CONSULTANT's compliance with all requirements under this Agreement during the term of this Agreement and for a period of three (3) years after its termination.
- C. CONSULTANT shall maintain complete and accurate records in accordance with generally accepted industry standard practices and OC SAN's policy. The CONSULTANT shall make available to OC SAN for review and audit, all project related accounting records and documents, and any other financial data within 15 days after receipt of notice from OC SAN. Upon OC SAN's request, the CONSULTANT shall submit exact duplicates of originals of all requested records to OC SAN. If an audit is performed, CONSULTANT shall ensure that a qualified employee of the CONSULTANT will be available to assist OC SAN's auditor in obtaining all project related accounting records and documents, and any other financial data.

12. LEGAL RELATIONSHIP BETWEEN PARTIES

The legal relationship between the parties hereto is that of an independent contractor and nothing herein shall be deemed to make CONSULTANT an employee of OC SAN.

13. NOTICES

All notices hereunder and communications regarding the interpretation of the terms of this Agreement, or changes thereto, shall be effected by delivery of said notices in person or by depositing said notices in the U.S. mail, registered or certified mail, return receipt requested, postage prepaid.

Notices shall be mailed to OC SAN at:

ORANGE COUNTY SANITATION DISTRICT
10844 Ellis Avenue
Fountain Valley, CA 92708-7018
Attention: Ludwig Lapus, Senior Contracts Administrator
Copy: Rich Leon, Project Manager

Notices shall be mailed to CONSULTANT at:

CDM SMITH INC.
46 Discovery, Suite 250
Irvine, CA 92618
Attention: Alberto Acevedo

All communication regarding the Scope of Work, will be addressed to the Project Manager. Direction from other OC SAN's staff must be approved in writing by OC SAN's Project Manager prior to action from the CONSULTANT.

14. TERMINATION

OC SAN may terminate this Agreement at any time, without cause, upon giving thirty (30) days written notice to CONSULTANT. In the event of such termination, CONSULTANT shall be entitled to compensation for work performed on a prorated basis through and including the effective date of termination.

CONSULTANT shall be permitted to terminate this Agreement upon thirty (30) days written notice only if CONSULTANT is not compensated for billed amounts in accordance with the provisions of this Agreement, when the same are due.

Notice of termination shall be mailed to OC SAN and/or CONSULTANT in accordance with Section 13 - NOTICES.

15. DOCUMENTS AND STUDY MATERIALS

The documents and study materials for this project shall become the property of OC SAN upon the termination or completion of the work. CONSULTANT agrees to furnish to OC SAN copies of all memoranda, correspondence, computation and study materials in its files pertaining to the work described in this Agreement, which is requested in writing by OC SAN.

16. COMPLIANCE

A. Labor

CONSULTANT certifies by the execution of this Agreement that it pays employees not less than the minimum wage as defined by law, and that it does not discriminate in its employment with regard to race, color, religion, sex or national origin; that it is in compliance with all federal, state and local directives and executive orders regarding non-discrimination in employment; and that it agrees to demonstrate positively and aggressively the principle of equal opportunity in employment.

B. Air Pollution

CONSULTANT and its subconsultants and subcontractors shall comply with all applicable federal, state and local air pollution control laws and regulations.

C. Iran Contracting Act

CONSULTANT and its subconsultants and subcontractors shall comply with the Iran Contracting Act of 2010 (Public Contract Code sections 2200-2208).

17. AGREEMENT EXECUTION AUTHORIZATION

Both OC SAN and CONSULTANT do covenant that each individual executing this document by and on behalf of each party is a person duly authorized to execute agreements for that party.

18. DISPUTE RESOLUTION

In the event of a dispute arising between the parties regarding performance or interpretation of this Agreement, the dispute shall be resolved by binding arbitration under the auspices of the Judicial Arbitration and Mediation Service ("JAMS"), or similar organization or entity conducting alternate dispute resolution services.

19. ATTORNEY'S FEES, COSTS AND NECESSARY DISBURSEMENTS

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 it may be entitled.

20. PROGRESS REPORTS

Monthly progress reports shall be submitted for review by the tenth day of the following month and must include as a minimum: 1) current activities, 2) future activities, 3) potential items that are not included in the Scope of Work, 4) concerns and possible delays, 5) percentage of completion, and 6) budget status.

21. WARRANTY

CONSULTANT shall perform its services in accordance with generally accepted industry and professional standards. If, within the 12-month period following completion of its services, OC SAN informs CONSULTANT that any part of the services fails to meet those standards, CONSULTANT shall, within the time prescribed by OC SAN, take all such actions as are necessary to correct or complete the noted deficiency(ies).

22. INDEMNIFICATION

To the fullest extent permitted by law, CONSULTANT shall indemnify, defend (at CONSULTANT's sole cost and expense and with legal counsel approved by OC SAN, which approval shall not be unreasonably withheld), protect and hold harmless OC SAN and all of OC SAN's officers, directors, employees, CONSULTANT's, and agents (collectively the "Indemnified Parties"), from and against any and all claims, damages, liabilities, causes of action, suits, arbitration awards, losses, judgments, fines, penalties, costs and expenses (including, without limitation, attorneys' fees, disbursements and court costs, and all other professional, expert or CONSULTANT's fees and costs and OC SAN's general and administrative expenses; individually, a "Claim"; collectively, "Claims") which may arise from or are in any manner related, directly or indirectly, to any work performed, or any operations, activities, or services provided by CONSULTANT in carrying out its obligations under this Agreement to the extent of the negligent, recklessness and/or willful misconduct of CONSULTANT, its principals, officers, agents, employees, CONSULTANT's suppliers, CONSULTANT, Subconsultants, subcontractors, and/or anyone employed directly or indirectly by any of them, regardless of any contributing negligence or strict liability of an Indemnified Party. Notwithstanding the foregoing, nothing herein shall be construed to require CONSULTANT to indemnify the Indemnified Parties from any Claim arising solely from:

- (A) the active negligence or willful misconduct of the Indemnified Parties; or
- (B) a natural disaster or other act of God, such as an earthquake; or
- (C) the independent action of a third party who is neither one of the Indemnified Parties nor the CONSULTANT, nor its principal, officer, agent, employee, nor CONSULTANT's supplier, CONSULTANT, Subconsultant, subcontractor, nor anyone employed directly or indirectly by any of them.

Exceptions (A) through (B) above shall not apply, and CONSULTANT shall, to the fullest extent permitted by law, indemnify the Indemnified Parties, from Claims arising from more than one cause if any such cause taken alone would otherwise result in the obligation to indemnify hereunder.

CONSULTANT's liability for indemnification hereunder is in addition to any liability CONSULTANT may have to OC SAN for a breach by CONSULTANT of any of the provisions of this Agreement. Under no circumstances shall the insurance requirements and limits set forth in this Agreement be construed to limit CONSULTANT's indemnification obligation or other liability hereunder. The terms of this Agreement are contractual and the result of negotiation between the parties hereto. Accordingly, any rule of construction of contracts (including, without limitation, California Civil Code Section 1654) that ambiguities are to be construed against the drafting party, shall not be employed in the interpretation of this Agreement.

23. DUTY TO DEFEND

The duty to defend hereunder is wholly independent of and separate from the duty to indemnify and such duty to defend shall exist regardless of any ultimate liability of CONSULTANT and shall be consistent with Civil Code Section 2782.8. Such defense obligation shall arise immediately upon presentation of a Claim by any person if, without regard to the merit of the Claim, such Claim could potentially result in an obligation to indemnify one or more Indemnified Parties, and upon written notice of such Claim being provided to CONSULTANT. Payment to CONSULTANT by any Indemnified Party or the payment or advance of defense costs by any Indemnified Party shall not be a condition precedent to enforcing such Indemnified Party's rights to indemnification hereunder. In the event a final judgment, arbitration, award, order, settlement, or other final resolution expressly determines that the claim did not arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the CONSULTANT, to any extent, then OC SAN will reimburse CONSULTANT for the reasonable costs of defending the Indemnified Parties against such claims.

CONSULTANT's indemnification obligation hereunder shall survive the expiration or earlier termination of this Agreement until such time as action against the Indemnified Parties for such matter indemnified hereunder is fully and finally barred by the applicable statute of limitations.

24. CONSULTANT PERFORMANCE

The CONSULTANT's performance shall be evaluated by OC SAN. A copy of the evaluation shall be sent to the CONSULTANT for comment. The evaluation, together with the comments, shall be retained by OC SAN and may be considered in future CONSULTANT selection processes.

25. COMPLIANCE WITH OC SAN POLICIES AND PROCEDURES

CONSULTANT shall comply with all OC SAN policies and procedures including the Contractor Safety Standards, as applicable, all of which may be amended from time to time.

26. CLOSEOUT

When OC SAN determines that all work authorized under the Agreement is fully complete and that OC SAN requires no further work from CONSULTANT, or the Agreement is otherwise terminated or expires in accordance with the terms of the Agreement, OC SAN shall give the Consultant written notice that the Agreement will be closed out. CONSULTANT shall submit all outstanding billings, work submittals, deliverables, reports or similarly related documents as required under the Agreement within thirty (30) days of receipt of notice of Agreement closeout.

Upon receipt of CONSULTANT's submittals, OC SAN shall commence a closeout audit of the Agreement and will either:

- i. Give the CONSULTANT a final Agreement Acceptance: or
- ii. Advise the CONSULTANT in writing of any outstanding item or items which must be furnished, completed, or corrected at the CONSULTANT's cost.

CONSULTANT shall be required to provide adequate resources to fully support any administrative closeout efforts identified in this Agreement. Such support must be provided within the timeframe requested by OC SAN.

Notwithstanding the final Agreement Acceptance the CONSULTANT will not be relieved of its obligations hereunder, nor will the CONSULTANT be relieved of its obligations to complete any portions of the work, the non-completion of which were not disclosed to OC SAN (regardless of whether such nondisclosures were fraudulent, negligent, or otherwise); and the CONSULTANT shall remain obligated under all those provisions of the Agreement which expressly or by their nature extend beyond and survive final Agreement Acceptance.

Any failure by OC SAN to reject the work or to reject the CONSULTANT's request for final Agreement Acceptance as set forth above shall not be deemed to be acceptance of the work by OC SAN for any purpose nor imply acceptance of, or agreement with, the CONSULTANT's request for final Agreement Acceptance.

27. ENTIRE AGREEMENT

This Agreement constitutes the entire understanding and agreement between the Parties and supersedes all previous negotiations between them pertaining to the subject matter thereof.

[INTENTIONALLY LEFT BLANK. SIGNATURES FOLLOW ON THE NEXT PAGE.]

IN WITNESS WHEREOF, this Agreement has been executed in the name of OC SAN and CONSULTANT by their respective duly authorized officers as of the day and year first written above.

CONSULTANT: CDM SMITH INC.

By _____
Date _____

Printed Name & Title

ORANGE COUNTY SANITATION DISTRICT

By _____
John B. Withers
Board Chairman
Date _____

By _____
Kelly A. Lore
Clerk of the Board
Date _____

By _____
Ruth Zintzun
Purchasing & Contracts Manager
Date _____

- Attachments: Attachment "A" – Scope of Work
Attachment "B" – Not Attached
Attachment "C" – Not Attached
Attachment "D" – Allowable Direct Costs
Attachment "E" – Fee Proposal
Attachment "F" – Not Used
Attachment "G" – Not Attached
Attachment "H" – Not Used
Attachment "I" – Cost Matrix and Summary
Attachment "J" – Not Attached
Attachment "K" – Minor Subconsultant Hourly Rate Schedule
Attachment "L" – Contractor Safety Standards
Attachment "M" – Iran Contracting Act Verification

LRL:ms

ATTACHMENT “A”

SCOPE OF WORK

DIGESTERS REHABILITATION AT PLANT NO. 2, PROJECT NO. P2-137

PROFESSIONAL DESIGN SERVICE AGREEMENT

ATTACHMENT A - SCOPE OF WORK

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1. PROJECT REQUIREMENTS

1.0 SUMMARY

1.0.1 PROFESSIONAL DESIGN ENGINEERING SERVICES

A. Provide professional design engineering services for the project described herein including the following:

1. Engineering studies (not used)
2. Preliminary Design Report
3. Environmental documentation services (not used)
4. Permitting assistance (not used)
5. Preparation of bid documents

1.0.2 PROFESSIONAL LICENSING REQUIREMENTS

A. All plans and specifications shall be prepared by a professional engineer licensed in the State of California of the associated discipline.

1.1 BACKGROUND

Solids treatment at Plant No. 2 is handled by 18 mesophilic digesters, labeled C through T, built between the 1950's and 1970's. The digesters have similar shapes consisting of a dome, cylindrical walls, and an interior floor slab that slopes to the center. The inner diameter of most digesters is 80-feet with exception of Digesters P thru S, which have 105-feet inner diameter. The dome covers are fixed and contain the digester gas with a dome system made up of a concrete exterior top, foam insulation, and reinforced concrete section or steel dome. The concrete in several locations around the perimeter of the digester walls and dome surfacing has deteriorated and shows signs of rebar corrosion and concrete spalling, scaling, and cracking.

The digester and pump room layout has one of two typical configurations, a common pump room in between two digesters or one pump room connected to one digester.

Each digester circulates the hot water using one circulation pump and one three-way mixing valve through a heat exchanger that performs the sludge heating. The three-way mixing valve modulates the rate of hot water flowing through the heat exchanger and temperature setpoints are maintained by a local temperature controller. The valves and controllers are either pneumatically or electrically operated. The majority of the digesters use a local temperature controller which are not connected to the plant SCADA and cannot be set remotely.

Handrails exist around the perimeter of the digester dome to allow staff safe passage to access and maintain equipment and piping on the dome. Walkway bridges between each digester are also used by staff for accessing the digesters. Approximately 1,800 L.F. of the handrails do not conform to CAL/OSHA standards and are not spaced appropriately within the handrail structure.

Existing walkway bridges were built between digesters to allow for staff access and to support a gas pipeline between the digesters. The steel and concrete elements of the digester walking bridges show visible signs of concrete cracking, steel corrosion, and exposed rebar. Under a

separate project, the bridges between digesters Q and R and O and T were recently found to have not accounted for the pipeline loads and relocation of the pipelines off the bridge is under consideration.

The motor control centers, and associated equipment are located inside the electrical room of the digester pump rooms. The MCCs were installed in the 1960's and 1970's and are difficult to maintain due to unavailability of replacement parts. Several of the MCCs were also built with different control schemes preventing staff from operating and monitoring equipment in a consistent and uniform manner.

1.2 GENERAL PROJECT DESCRIPTION

The primary objective for this project is to rehabilitate the Plant 2 digesters to provide a reliable, operational performance for the next 15 years. The exterior digester walls and roofing system will be repaired to prevent further water/gas intrusion/release and corrosion. The walkway bridges will be repaired to make them safe for staff access. The hot water mixing system will be replaced between the heat exchanger and circulation pump, including the three-way mixing valve, piping, instrumentation, controls, and appurtenances. The hot water control system will be connected to the PLC. The midrail section of the handrails for seven 80-ft digesters will be repaired and/or modified to be CAL-OSHA compliant. The motor control centers (MCCs) will be replaced.

The repair and replacement work will minimize interruptions to the process flow. Digester outages will be limited to two digesters out of service at a time.

1.3 PROJECT EXECUTION PHASES

All OC SAN projects are divided into six phases. CONSULTANT shall provide engineering services for all Project Elements listed in this Scope of Work for the following Phases:

Phase 1 – Project Development (Not in this Scope of Work)

Phase 2 – Preliminary Design

Phase 3 – Design

Phase 4 – Construction (Not in this Scope of Work)

Phase 5 – Commissioning (Not in this Scope of Work)

Phase 6 – Close Out (Not in this Scope of Work)

1.4 DESCRIPTION OF PROJECT ELEMENTS

Detailed descriptions of the Project Elements are presented below.

1.4.1 PROJECT ELEMENT 1 – DIGESTER DOME AND WALL REPAIRS

A. For all digesters except Digesters I, J, and K, rehabilitate the exterior portion of the concrete digester walls to allow for continued operation of the digesters until completion of project P2-129, Digester P, Q, R, and S Replacement. Repair and seal the sludge pipe penetrations in the exterior digester walls and floor slab penetrations inside the pump rooms. Repair the dome leaks. Repair the external joint seal between the dome and concrete wall for Digesters E and H.

B. Assumptions for Level of Effort

1. For the purpose of estimating the predesign and design phase levels of effort, the CONSULTANT shall make the following assumptions regarding this project element:

- a. No repairs are required on the interior of the digesters.
- b. Existing mechanical and structural components (e.g., pipe and fittings, steel truss dome, center column, manway access covers) inside the digester and on top of the digester dome are not part of this project.
- c. There are no seismic repairs for this project.

1.4.2 PROJECT ELEMENT 2 – DIGESTER DOME INSULATION REPAIRS

A. For all digesters except Digesters I, J, and K, repair the dome roof insulation (see example photos in Exhibit 19) to alleviate tripping and slipping hazards and to maintain cost effective heating of the digesters.

B. Assumptions for Level of Effort

1. For the purpose of estimating the predesign and design phase levels of effort, the CONSULTANT shall make the following assumptions regarding this project element:

- a. Some portions of the domes will have large square foot replacement and some localized repair.

1.4.3 PROJECT ELEMENT 3 – HOT WATER PIPE SYSTEM REPLACEMENT

A. Replace in-kind the hot water pipe and fittings between the hot water recirculation pump and heat exchanger for eleven digesters (see Digester Repair Table in Exhibit 19). Demolish the existing pneumatic based hot water temperature controller, including the temperature elements and three-way hot water mixing valve, and replace with an electronic based hot water control system (controls, field instruments, and mixing valve) monitored and controlled by a PLC for seven digesters (see Digester Repair Table in Exhibit 19). Remove and safely dispose of hazardous materials including asbestos containing materials and lead based paints within the hot water pipe replacement limits (see Asbestos and Lead Report in Exhibit 19).

B. Assumptions for Level of Effort

1. For the purpose of estimating the predesign and design phase levels of effort, the CONSULTANT shall make the following assumptions regarding this project element:

- a. Existing heat exchangers and pumps inside the pump rooms will not be replaced under this project. Sludge piping and hot water piping inside the tunnels will also be protected in place.

1.4.4 PROJECT ELEMENT 4 – BRIDGE REPAIRS

A. Repair fourteen of the seventeen walkway bridges and associated gas pipe supports spanning between the digesters, including the bridge to the Gas Compressor Building (see Digester Bridge Observations Report in Exhibit 19).

1.4.5 PROJECT ELEMENT 5 – SAFETY ITEMS

A. Demolish all unused mechanical piping and pipe supports located on top of the digester dome. Repair and/or modify approximately 1,800 lineal feet of handrails around

the circumference of seven digesters along the midrail section. At Digester S only, add missing handrail at the end of the walkway to prevent access.

1.4.6 PROJECT ELEMENT 6 – MOTOR CONTROL CENTER (MCC) REPLACEMENTS

A. Replace the motor control centers and associated cables for digesters P/Q (MCC-PQ and MCC-PQS), T (MCC-DT), F/G (MCC-F), C/D (MCC-E), and E/H (MCC-S) with arc rated MCCs (see single line diagrams in Exhibit 19). Any deficiencies in the existing cable trays identified in Exhibit 26 (Project J-47 Cable Tray Improvements Preliminary Design Report) shall be corrected.

B. Assumptions for Level of Effort

1. For the purpose of estimating the predesign and design phase levels of effort, the CONSULTANT shall make the following assumptions regarding this project element:

a. All existing cables (source and load) associated with the MCCs shall be replaced.

b. New conduits shall be provided as required based on condition and need.

1.4.7 PROJECT ELEMENT 7 – RELOCATE CARBON CANISTERS

A. Relocate the carbon canisters located on the digester domes to ground level with associated piping and valving.

B. Assumptions for Level of Effort

1. For the purpose of estimating the predesign and design phase levels of effort, the CONSULTANT shall make the following assumptions regarding this project element:

a. The carbon canisters shall be placed on a concrete pad.

b. Venting shall be 10-feet above the digester wall.

1.4.8 TEMPORARY FACILITIES DURING CONSTRUCTION

A. Not used

1.4.9 COORDINATION WITH OTHER PROJECTS

A. The following projects may impact or require coordination with this project:

1. FE19-10 Digesters C, D, F, G, and I Gas Balance Lines Replacement
2. FE20-02 Digester C, D, F, and G Mechanical Rehabilitation at Plant No. 2
3. P2-128 TPAD Digester Facility at Plant No. 2
4. P2-124 Interim Food Waste Receiving Facility
5. J-124, Digester Gas Facilities Replacement
6. Miscellaneous Maintenance Projects
7. FR2-0025 - Digester O-T and Q-R Bridge Repair

1.5 DESIGN CONSIDERATIONS

The following design considerations shall be carried from Preliminary Design through Final Design.

1.5.1 TECHNOLOGY AND CONFIGURATION CHOICES

The project elements in this facility shall be achieved using proven technologies. Alternative means of accomplishing the project elements must be reviewed and accepted by OC SAN prior to detailed evaluation. All alternative technologies proposed should be currently operating in other wastewater treatment facilities of similar capacity.

1.5.2 DESIGN DECISIONS

Design decisions shall be agreed upon by OC SAN prior to any work being performed by the CONSULTANT in preliminary and detailed design. All design decisions shall be documented.

1.5.3 DESIGN SELECTION CRITERIA

A. Design selection shall consider construction, lifecycle, operation, and maintenance costs as well as process benefits and overall quality. When design recommendations are presented to OC SAN, the design selection criteria shall be clearly identified with the recommendation.

B. The cost estimate shall consist of a life cycle cost analysis for the options proposed, including costs for engineering, construction, start-up, and operational and maintenance, and future rehabilitation and replacement.

C. The construction cost estimate shall be as described in Engineering Design Guidelines Section 01.4.6 included as **Exhibit 17 - OC SAN Engineering Design Guidelines and Standards – Available online at <https://www.OC San.com/about-us/transparency/document-central/-/folder-917>**. Life cycle cost analysis is described in Section 01.2.19 of the Guidelines.

1.5.4 PROJECT ELEMENT DESCRIPTION REVISIONS

CONSULTANT shall review and revise the Project Element Descriptions using track changes at the end of Preliminary Design and at each design submittal. Changes shall be submitted to OC SAN for review.

1.5.5 COST MODEL

A. Not Used

1.6 PROJECT SCHEDULE

1.6.1 GENERAL

A. The table below lists the time frames associated with each major project deliverable and with OC SAN’s review and approval of those deliverables. CONSULTANT shall comply with the deadlines indicated in that table.

B. OC SAN’s Project Manager will issue a Preliminary Design NTP. OC SAN’s Project Manager will also issue a Final Design NTP upon OC SAN’s acceptance of the final Preliminary Design Report.

C. The time frames specified below are used to estimate the actual milestone dates based on the assumed NTP date, as shown in **Exhibit 8 - Project Schedule Calculation**.

D. OC SAN will consider an alternative CONSULTANT-proposed schedule provided it is consistent with OC SAN resources and schedule constraints and adds value to OC SAN.

PROJECT MILESTONE AND DEADLINES	
MILESTONE	DEADLINE
Submit Project Management Plan (PMP)	10 workdays from Administrative NTP
Kickoff Meeting	The kickoff meeting will be scheduled to coincide with the Preliminary Design NTP

PROJECT MILESTONE AND DEADLINES	
MILESTONE	DEADLINE
Submit draft Preliminary Design Report (PDR)	80 workdays from the Preliminary Design NTP. CONSULTANT shall establish a schedule with the OC SAN PM for separately submitting working drafts of each Design Memo for OC SAN review prior to completing the draft PDR. This schedule shall factor in the logical sequence for completing the memos as well as both CONSULTANT and OC SAN resources.
OC SAN Review of draft PDR	15 workdays from receipt of Draft PDR
Submit final Preliminary Design Report	20 workdays from receipt of OC SAN comments on Draft PDR.
Final Design NTP	CONSULTANT's schedule shall allow [10] working days from submittal of the final PDR to receipt of the Design Phase NTP.
Submit Design Submittal 1 (DS1)	Not included in the project.
OC SAN Review of DS1	Not included in the project.
Submit Design Submittal 2 (DS2)	100 workdays from receipt of OC SAN comments on PDR
OC SAN Review of DS2	20 workdays from receipt of DS2
Submit Design Submittal 3 (DS3)	80 workdays from receipt of OC SAN comments on DS2.
OC SAN Review of DS3	20 workdays from receipt of DS3
Submit Final Design Submittal (FDS)	40 workdays from receipt of OC SAN comments on DS3. CONSULTANT shall stop work upon submission of DS3, except as required to participate in OC SAN meetings, until receipt of OC SAN comments on DS3.
OC SAN Review of FDS	20 workdays from receipt of FDS
Final Technical Specifications and Plans	20 workdays from receipt of OC SAN comments on FDS.

2. PHASE 2 – PRELIMINARY DESIGN

2.0.1 GENERAL

The preliminary design phase will define the project. The final deliverable of this phase will be a Preliminary Design Report (PDR) with the basis of design for all elements of the project.

2.1 PREDESIGN EVALUATION STUDIES

A. Not in this SOW

2.2 PRELIMINARY DESIGN PRODUCTION

2.2.1 GENERAL

A. Preliminary Design Report (PDR) production involves the preparation of design memos, drawings, calculations, and other supporting material resulting in the PDR.

2.2.2 DESIGN MEMOS

A. The CONSULTANT shall produce Design Memos as indicated below in accordance with **Exhibit 1 - Preliminary Design Report Requirements**. The CONSULTANT shall discuss the combining of design memos with OC SAN and develop a design memo submittal list.

Process Design Configuration

- Design Configuration
- Redundancy
- Monitoring and Sampling
- Process Flow Diagrams
- Operating Philosophies
- Site and Facility Layouts
- Preliminary Load Criticality Ranking Table

Hydraulic Analysis

- Hydraulic Analysis
- Hydraulic Profile

Demolition

- Describe Demolition Requirements
- Demolition List
- Demolition Plans (mechanical, structural, electrical, and I&C)
- Demo EID

Rehabilitation Requirements

Geotechnical Data Report

- Review of Existing Data - Preliminary Geotechnical Report
- Geotechnical Data Report and Recommendations

Civil Design Parameters

- General Civil
- Drainage Requirements
- Corrosion Protection Requirements

Utility Requirements

Structural Design Parameters

- Digester Exterior Concrete Condition Assessment Finding and Recommendations
- Digester Bridge Condition Assessment Finding and Recommendations

Architectural Design Parameters

Process Mechanical Design Parameters

Building Mechanical Design Parameters

Fire Protection

- Fire Protection Requirements
- Fire Water Flow Analysis
- Fire Protection Requirements for Existing Facilities

Electrical

- Codes/standards. Brief description of electrical system improvement. Electrical drawings. Brief description of J-47 improvements.

- Identify Electrical System Impacts
- Report – Data Collection and Verification
- Preliminary Load List
- Preliminary Standby Power Requirements
- ETAP – Preliminary Short Circuit Analysis and Load Flow/Voltage Drop Studies
- ETAP – Provide Data. OC SAN will perform preliminary ETAP studies.
- Preliminary Analysis for cable pull calcs, ductbank cable derating, cable tray fill calcs.
- Hazardous Area Classification Requirements
- Instrumentation and Control**
 - Instrumentation and Control System
 - Specialty Safety Systems
 - Preliminary SAT
 - PLC and RIO Panel Location Map
 - CCTV Coverage Map
- Landscaping**
 - Landscaping Requirements
 - Develop up to alternative concepts for review and acceptance
- Plant Utility Investigation Findings**
- Vibration Analysis**
- Collections Basis of Design**
 - Codes and Standards
 - Hydraulic Analysis
 - Pipeline Basis of Design
 - Manhole Basis of Design
 - Hydraulic Profiles
- Collections Rehabilitation Alternatives**
 - Pipeline Rehabilitation
 - Manhole Rehabilitation
- Collections Pipeline Design**
 - Assume 3 viable alignment options
 - Design Memo Items 1-12
 - Open-cut vs. Trenchless Technologies
 - Trenchless Technologies at Major Closings
- Collections Utility Investigation Findings**
- Collections Conceptual Traffic Control**
 - AHJ and Traffic Control Identification
 - Basis for Traffic Control Strategy
 - Traffic Analysis
 - Traffic Control Plans
- Design Safety Requirements**
 - Design Safety Requirements
 - Identify all potential project specific safety issues
 - Identify all potential Cal OSHA and OC SAN safety issues
 - Identify construction safety hazards

- Use Sample Full Project Safety Review Plan to verify safety elements
- Risk Management Check List to verify safety elements
- HAZOP
- Public Impacts**
- Environmental and Regulatory Requirements**
 - CEQA Part of Programmatic EIR
 - CEQA work consists of [_____]
 - Determine project environmental and regulatory requirements
 - Matrix of CEQA and Permit Requirements
 - Mitigation, Monitoring and Reporting List
- Permit Requirements**
 - List of Permits Required
 - Oil Well Abandonment
- Stormwater Requirements**
- Hazardous Material Survey, Mitigation and Control**
- Maintainability**
 - Define Maintainability Requirements
 - Maintainability Requirements Plan Drawings
 - Define Maintainability Rules
 - Define Maintainability Information for Project Specific Equipment
- Facility Operation and Maintenance**
 - Facility O&M Requirements
 - Operating Philosophies
 - Preliminary Assessment of O&M Staffing Requirements
- Implementation Plan**
 - Identification of Adjacent Projects
 - Preliminary Commissioning Checklist
 - Preliminary Construction Sequencing Plan
 - Review of Constructability Issues
 - Temporary Handling of Flow
- Construction Odor Monitoring and Mitigation**
- Preliminary Technical Specification List**

2.2.3 PROJECT SPECIFIC DESIGN MEMOS

A. A heat study analysis shall be generated to determine the operation of the digester under two conditions – with insulation and without it. The study will be used to determine the extent of the insulation repairs needed from an energy standpoint.

2.2.4 PRELIMINARY DESIGN DRAWINGS

A. The CONSULTANT shall produce the following Preliminary Design Report drawings in accordance with **Exhibit 1 - Preliminary Design Report Requirements**.

- General
- Demolition
- Civil
- Landscape

- Structural
- Architectural
- Mechanical
- Electrical
- Instrumentation and Control

2.2.5 PRELIMINARY DESIGN REPORT (PDR) PRODUCTION, CONTENTS AND ORGANIZATION

- A. Preliminary Design Report (PDR) Production involves the preparation of design memos, drawings, calculations, and other supporting material resulting in the PDR.
- B. The CONSULTANT shall combine the materials described below into a draft PDR. The PDR shall be structured as outlined below, with the contents corresponding to the tasks listed in this Scope of Work.

Volume 1 – Preliminary Design Report Technical Memos

Executive Summary

Design Memos

Design Memo 1, 2, 3, etc.

List of Proposed Specification Sections

Volume 2 – Drawings (see Preliminary Design Drawings list below)

Volume 3 – Submittal Documentation

Calculations

Equipment Data & Catalog Cuts

Decision Log

Meeting Minutes

- C. The Executive Summary shall summarize the conclusions of the Memos included in the report, and specifically include a summary construction schedule and construction cost estimate.
- D. The draft PDR and final PDR shall be submitted in searchable PDF format legible on-screen and as a hard copy. The number of hard copies is indicated in **Exhibit 9 - Deliverables Quantities**. The labeling and organization of the PDF submittal shall be in accordance with **Exhibit 14 - Bluebeam Designer Training for Submission**.
- E. Each design memo shall be a separate file.
- F. The OC SAN Project Manager may request that the CONSULTANT submit an electronic proof set of the Draft PDR and Final PDR prior to hard copy production in order to initially confirm that the submittal is ready for printing.

2.2.6 PRELIMINARY DESIGN COST ESTIMATE

- A. The CONSULTANT shall provide a cost estimate for the associated PDR submittal indicated below in accordance with **Exhibit 1 - Preliminary Design Report Requirements**.

2.3 PRELIMINARY DESIGN ACTIVITIES

The following services shall be provided by the CONSULTANT or an appropriately qualified subconsultant. In any case, the CONSULTANT shall be responsible for managing all subconsultants, including reviewing their work products prior to submission to OC SAN.

2.3.1 EASEMENTS, PROPERTY BOUNDARIES AND WORK AREA LIMITS

A. Not in this SOW

2.3.2 TOPOGRAPHIC SURVEY

A. Not in this SOW

2.3.3 GEOTECHNICAL INVESTIGATION

A. Not in this SOW

2.3.4 FIELD INVESTIGATION

A. The existing record drawings may not reflect the complete as-built field conditions. CONSULTANT shall perform field investigations to verify existing conditions, confirm condition of existing equipment to remain that will be reused by the project (including piping, valves, gates, conduit, cable trays, and supports), and confirm feasibility of proposed design.

B. Existing control schemes of similar equipment varies between the digesters due to the digesters being constructed in different timeframes. CONSULTANT shall examine as-builts, field verify the existing controls and instrumentation and controls, and in order to determine the extent of modifications required for the differing digester equipment. The digester temperature control system will include monitoring signals for the hot water pipe temperature (discharge and suction) and mixing valve position. The PLC temperature-based controller will regulate hot water distribution using the 3-way mixing valve to limit the hot water temperature for each heat exchanger loop.

C. For the existing MCCs and associated equipment, CONSULTANT shall also perform field verifications to determine the condition of the existing field equipment, including cable trays and conduits, that may remain and be reused if deemed to be in good acceptable working condition (i.e., conduits).

D. MCCs shall be based on standardized control schemes for the existing digester equipment. Signals and controls shall be similar to existing conditions. Existing field instruments and controls shall be modified when not compatible with new equipment. Consultant shall review existing drawings and investigate field conditions prior to making recommendations for upgrades/modifications. A construction cost analysis shall be used to consider the most feasible alternative for upgrades.

2.3.5 UTILITY INVESTIGATION

A. To better manage the risks, CONSULTANT shall perform a thorough document search of all utilities impacted by the work for all applicable Project Elements of this Scope of Work, regardless of size and all other facilities above or below ground. Utilities include all in-plant and other interferences. The search shall include the records and plans of OC SAN.

B. Review of OC SAN Records

1. OC SAN's "As-built/Record" plans may be incomplete or inaccurate with respect to the routing of individual utilities, pipelines, etc. in the vicinity of the project.

C. On-Site Inspection

1. An on-site inspection shall be made in the project area. During the on-site inspection, a senior-level CONSULTANT representative shall walk the site accompanied by OC SAN's Project Engineer and Supervising Inspector. The

CONSULTANT representative shall be experienced in the location and identification of utilities in the field. During the on-site inspection the CONSULTANT shall document all visible features that indicate utilities within the project area and compare them with the available utility plans.

2. Existing control schemes of similar equipment varies between the digesters due to the digesters being constructed in different timeframes. CONSULTANT shall examine as-builts, field verify the existing instrumentation and controls, and determine the extent of modifications required for the differing digester equipment. The digester temperature control system will include monitoring signals for the hot water pipe temperature (discharge and suction) and mixing valve position. The temperature PLC based control will regulate hot water distribution using the 3-way mixing valve to limit the hot water temperature for each heat exchanger loop.

3. For the existing MCC's and associated equipment, CONSULTANT shall perform field verifications to determine the condition of the existing field equipment, including cable trays and conduits, that may remain and be reused if deemed to be in acceptable working condition.

4. MCCs shall be based on standardized control schemes for the existing digester equipment. Signals and controls shall be similar to existing conditions. Existing field instruments and controls shall be modified when not compatible with new equipment. Consultant shall review existing drawings and investigate field conditions prior to making recommendations for upgrades/modifications. A construction cost analysis shall be used to consider the most feasible alternative for upgrades.

D. Refer also to "Plant Utility Investigations Findings" Design Memo

2.3.6 DIGESTER EXTERIOR CONCRETE AND BRIDGE CONDITION ASSESSMENT

A. A visual inspection of the exterior conditions of the digesters and bridges are required, including the cause of damage and the extent of damage, shall be done to identify concrete deficiencies in the exterior digester walls, pump rooms, and digester roof domes prior to making recommendations for repairs. Core samples may be needed as necessary to complete the work (assume a minimum of an additional ten total). Summarize findings and recommendations in a structural design memo.

B. A structural analysis shall be done to identify the deficiencies of the existing bridges prior to formulating details for the bridge design repairs. The pipe supported by the bridge shall also be included in the structural analysis. CONSULTANT shall take into consideration if relocating the pipe or retrofitting the bridge is more appropriate. Summarize finding and recommendations in structural design memo.

2.3.7 ELECTRICAL LOAD MEASUREMENTS

A. Not in this SOW

2.3.8 PUBLIC RELATIONS

A. Not in this SOW

2.3.9 VALUE ENGINEERING ASSISTANCE

A. Not in this SOW

2.3.10 ENVIRONMENTAL DOCUMENTATION

A. Not in this SOW

2.3.11 PERMITTING ASSISTANCE

A. Not in this SOW

2.3.12 PROJECT MANAGEMENT

A. CONSULTANT shall be responsible for managing CONSULTANT’s project execution, schedule, budget, subconsultants, and coordination with other projects. The CONSULTANT shall perform the project management requirements in accordance with **Exhibit 3 - Project Management Requirements** with the project specific options identified below.

B. Project Management Plan (PMP):

Not required

Required

PMP approval prior to beginning technical work on the project.

C. Project Logs

Major Decision Log

Project Decision Log

Action Item Log

Decision Issues Log

Meeting Log

Risk Management Log

D. Progress Report

Not required

Required

E. Project Invoices

1. Estimating earned value, tasks shall be further broken down to subtasks of no more than \$100,000

2. Costs for invoicing shall be grouped into the following work packages:

Work Package	Description	Tasks
3146	Preliminary Design	All Phase 2 tasks, except those listed above.
3250	CONSULTANT Services During Design	Tasks 3.6 through 3.12
3252	Design Submittal 2	Tasks 3.1 through 3.4, divided into effort by design submittal. FDS is charged against DS3.
3253	Design Submittal 3	
3254	Bid Support Services	Task 3.5

2.3.13 RISK MANAGEMENT

A. When required below, CONSULTANT shall provide risk management in accordance with **Exhibit 4 - Risk Management Requirements** with the project specific options identified below.

B. Risk Management:

- Not required
- Required
 - Initial Risk Workshop

a. PDR Risk Management Workshop: 1 hour. (held 4 weeks prior to draft PDR at OC SAN)

C. Moderator

1. OC SAN will moderate the risk management meetings defined in **Exhibit 4 - Risk Management Requirements**.

2.3.14 QUALITY CONTROL

A. The CONSULTANT shall provide quality control requirements in accordance with **Exhibit 6 - Quality Control Requirements**.

2.4 PDR WORKSHOPS AND MEETINGS

2.4.1 GENERAL

A. Workshop and meeting planning, requirements, agendas, and meeting minutes shall be in accordance with **Exhibit 5 - Workshop and Meeting Requirements**.

2.4.2 PDR PRODUCTION WORKSHOPS

A. Predesign Kickoff Workshop

1. A two-hour project kick-off meeting shall be held with OC SAN staff to introduce principal members of OC SAN and CONSULTANT's teams. The discussion topics shall include OC SAN responsibilities, CONSULTANT's responsibilities, invoice procedures, personnel badges, parking, site access, CONSULTANT's Scope of Work, detailed project schedule with milestones, Work Breakdown Structure requirements, and OC SAN confined space and other safety policy training.

B. PDR Production Workshops shall be held during Preliminary Design to review the topics listed below. The list below also indicates the number of workshops to be held to cover the specific topic. Unless otherwise noted, each workshop shall be two hours in length.

PDR PRODUCTION WORKSHOPS	
TOPIC	NUMBER OF WORKSHOPS
PDR Production Kickoff	1
PDR Production Workshops	
Electrical and Instrumentation and Control	2
Existing Conditions and Bridge Structural Condition	1

PDR PRODUCTION WORKSHOPS	
TOPIC	NUMBER OF WORKSHOPS
Hazardous Materials and Dome Insulation Heat Study	1
Implementation Plan and Sequencing Constraints	2

2.4.3 PDR REVIEW WORKSHOPS

A. CONSULTANT shall hold the following workshops to review the draft Preliminary Design Report as required in **Exhibit 5 - Workshop and Meeting Requirements**:

1. Draft PDR Presentation Workshop
2. Draft PDR Review Workshop
3. PDR Validation Workshop

2.4.4 EQUIPMENT AND PROCESS REDUNDANCY WORKSHOP

A. Not in this SOW

2.4.5 MAINTAINABILITY WORKSHOPS

A. Not in this SOW

2.4.6 PDR CONSTRUCTABILITY WORKSHOP

A. A constructability workshop shall be held after the draft PDR submittal review to identify any fatal flaws in the design relative to constructability. Some of the subjects that shall be covered in this workshop include the following: conflicts between design disciplines, geotechnical considerations, construction sequencing, power outages, equipment shutdowns, viability of equipment relocation, safety, operational requirements, access for maintenance, size-critical equipment requirements and constraints, permitting, public nuisance issues, other local conditions, and constraints.

B. This workshop shall be held at OC SAN facilities and shall generally be four hours in length. OC SAN and CONSULTANT staff shall attend this workshop.

C. CONSULTANT shall be responsible for completing the following tasks relative to the workshop:

1. Prepare package for constructability review workshop participants. The package shall consist of detailed plans and specifications and other information selected by CONSULTANT.
2. Prepare presentation on the project.
3. Summarize the constructability review workshop comments and action taken on each comment in a memorandum.
4. All comments and recommendations of the workshop shall be incorporated into Implementation Plan Design Memo and the Bid Documents.

2.4.7 TECHNICAL PROGRESS MEETINGS

A. Technical Progress Meetings shall be held every four weeks to review various issues with OC SAN's project team. The CONSULTANT shall coordinate with the OC SAN Project Manager to determine what topics will be covered in what meetings, and what OC SAN and CONSULTANT team members are required for each.

2.4.8 FOCUSED MEETINGS

A. Focused meetings shall be held throughout preliminary design to discuss specific issues in detail and generate comments and direction from OC SAN staff. The following tentative list of topics may be covered in these meetings:

1. Structural engineer's review of bridge deficiencies
2. Tunnel utilities investigations findings
3. Dome and concrete repairs
4. OC SAN Safety Standards, confined space, and other safety requirements
5. Hazardous Area classification (with OC SAN Authority Having Jurisdiction representative participating)
6. Technical Definitions/equipment data sheets
7. Control concepts
8. Instrumentation and control upgrades
9. Sample EID database
10. Sample SAT database
11. I/O relocation plan
12. Electrical distribution system, system controls and the related upgrades
13. Single-line diagrams and electrical demolition
14. Construction sequencing
15. Coordination with other projects
16. Additional meetings as necessary

B. Meeting lengths shall be as required to cover the topic in question. Depending on subject matter and attendees, one meeting may cover multiple subjects. CONSULTANT shall determine how many meetings will be needed to cover these topics. CONSULTANT may suggest additional topics as necessary. Supplementary meetings may be scheduled with OC SAN staff, as necessary to allow coordination between CONSULTANT and OC SAN staff.

3. PHASE 3 – DESIGN

3.0 BID DOCUMENTS

3.0.1 GENERAL

A. CONSULTANT shall provide engineering services to prepare biddable plans, technical specifications, and other Bid Documents as required based on the design concepts and criteria developed during Phase 2 - Preliminary Design. In this Scope of Work, construction documents include specifications; drawings; cable, conduit, and cable tray schedules; commissioning plan materials; equipment and instrumentation database (EID); reference drawings; and SCADA Administration Tool (SAT).

All drawings and systems will include as-built information from field condition surveys.

3.0.2 ENGINEERING DESIGN GUIDELINE UPDATES

A. All changes in OC SAN's Engineering Standards, OC SAN's Design Guidelines, and/or changes in design concepts and facility layouts as a result of OC SAN comments that may occur up to transmittal of OC SAN comments on Design Submittal 2, shall be incorporated into the Design by CONSULTANT with no increase in CONSULTANT's Not-to-Exceed upper limit on fees.

3.0.3 GENERAL REQUIREMENTS AND ADDITIONAL GENERAL REQUIREMENTS

A. The following are the minimum Additional GRs topics required for this project:

- Summary of Work
- Work Sequence
- Work Restrictions
- Permits
- Environmental Restrictions and Controls
- Measurement and Payment (includes Mobilization/Demobilization)
- Seismic Design Criteria (for those restraints, supports, etc. to be design by the Contractor)
- Shipping, Storage and Handling
- Project Control Management System (PMWeb construction management software)
- Equipment Service Manuals
- Equipment and Instrument Database (EID)
- Commissioning
- Training of OC SAN Personnel
- Hazardous Materials Mitigation and Controls
- Mold Remediation and Controls
- Contractor's construction schedule and reports

3.0.4 DESIGN SUBMITTALS

A. The CONSULTANT shall produce the following design submittals as indicated below in accordance with **Exhibit 2 - Design Requirements**. If a design submittal is eliminated, then the design submittal shall include the requirements associated with the required design submittal along with the requirements associated with the previous unchecked design submittals.

- Design Submittal 1
- Design Submittal 2
- Design Submittal 3
- Final Design Submittal

B. Continuing Work After Design Submittal Submission

- CONSULTANT is expected to **continue design work** on the project while OC SAN staff reviews Design Submittal 2. For Design Submittal 3, CONSULTANT shall stop all design work until receipt of OC SAN comments on that submittal.

CONSULTANT is expected to **stop design work** on the project until OC SAN staff completes the review of each Design Submittal.

3.0.5 CABLE AND CONDUIT SCHEDULE

CONSULTANT shall put the cable and raceway schedule on the drawings. CONSULTANT may utilize an Excel spreadsheet and copy the spreadsheet onto the drawings.

CONSULTANT shall utilize OC SAN's Microsoft Access Cable and Raceway Schedule database electronic format.

3.0.6 COMMISSIONING PLAN MATERIALS

A. The CONSULTANT shall provide a commissioning plan material in accordance **Exhibit 2 - Design Requirements.**

B. Specification Section 01810, Commissioning

OC SAN will prepare Section 01810

CONSULTANT shall edit Section 01810

C. ORT Procedures

OC SAN will prepare ORT procedures

CONSULTANT shall prepare ORT procedures using OC SAN's ORT procedure generator

CONSULTANT shall prepare new ORT procedures

D. Pre-FAT Procedures

Pre-FAT procedures not required

OC SAN will prepare Pre-FAT procedures

CONSULTANT shall prepare Pre-FAT procedures

E. FAT Procedures

OC SAN will prepare FAT procedures

CONSULTANT shall prepare FAT procedures

F. RAT Procedures

RAT procedures not required

OC SAN will prepare RAT procedures

CONSULTANT shall prepare RAT procedures

G. PAT Procedures

PAT procedures not required

OC SAN will prepare PAT procedures

CONSULTANT shall prepare PAT procedures

3.0.7 EQUIPMENT AND INSTRUMENTATION DATABASE (EID)

EID is not required.

OC SAN will develop the EID in accordance **Exhibit 2 - Design Requirements.**

CONSULTANT shall develop EID in accordance **Exhibit 2 - Design Requirements.**

3.0.8 SCADA ADMINISTRATION TOOL (SAT)

- SAT is not required.
- OC SAN will develop the SAT in accordance **Exhibit 2 - Design Requirements.**
- CONSULTANT shall develop the SAT in accordance **Exhibit 2 - Design Requirements.**

3.0.9 CONSTRUCTION SUBMITTAL ITEMS LIST

- OC SAN will develop the Construction Submittal Items List in accordance with **Exhibit 2 - Design Requirements.**
- CONSULTANT shall develop the Construction Submittal Items List in accordance with **Exhibit 2 - Design Requirements.**

3.0.10 TEMPORARY FACILITIES DURING CONSTRUCTION

- Temporary facilities and bypass pumping are not required.

3.1 DESIGN SUPPORT DOCUMENTATION

3.1.1 DESIGN SUBMITTAL SUPPORT DOCUMENTATION

- A. The CONSULTANT shall provide a Design Submittal Support Documentation in accordance **Exhibit 2 - Design Requirements.**
- B. Design Information
 - 1. CONSULTANT shall include the following material with each Design Submittal:
 - a. CONSULTANT shall maintain the Project Logs specified under Phase 2 Project Management through Phase 3. Current copies of all logs shall be included with each Design Submittal.
 - b. Written response log to OC SAN comments on the previous submittal.
 - c. CEQA and Regulatory Compliance Matrix. This matrix shall list each applicable CEQA mitigation requirement and all known permit requirements with the corresponding description of how each requirement is to be satisfied. Measures to satisfy requirements might be in the GRs, Additional GRs, particular specification requirements, or actions taken separately from the construction contract.
 - d. Calculations
 - e. Draft or final Geotechnical Reports not submitted in the previous submittal and those revised since the previous submittal.
 - f. Proposed list of suppliers to be named in the specifications for major equipment
 - g. Draft or final Fire Protection Reports not submitted in the previous submittal and those revised since the previous submittal.
 - h. Draft or final Field Findings Reports not submitted in the previous submittal and those revised since the previous submittal.
 - i. Equipment data sheets
 - j. Equipment catalog cuts and vendor quotations.

k. Commissioning Package List: The Preliminary Commissioning Package List first developed in the PDR Production Phase shall be updated in each Design Submittal and used as a starting point to develop the list of commissioning procedures.

l. All memos that have been prepared since the previous submittal was delivered.

C. Facility Operation and Maintenance

- Not required.
- Update operating philosophies
- Update estimates of Operation and Maintenance staffing requirements

D. Electrical Design Documentation

- Electrical design documentation not required.
- Updated Electrical Load Criticality Table
- Electrical Analysis Report
- Load list for all equipment
- Equipment sizing from three manufacturers for motor control centers, switchgear, transformers, and power panels
- Lighting calculations
- Standby generator loading calculations
- Cable tray fill calculations

E. Power System Studies

- ETAP not required.
- Plant ETAP model for the project performed by OC SAN.
- Plant ETAP model for the project performed by CONSULTANT.
- Electrical Systems Analysis Report performed by CONSULTANT.

3.1.2 CONSTRUCTION COST ESTIMATE

A. The CONSULTANT shall provide a cost estimate for the associated design submittal indicated below in accordance with **Exhibit 2 - Design Requirements**.

- Design Submittal 1
- Design Submittal 2
- Design Submittal 3
- Final Design Submittal

3.1.3 CONSTRUCTION SCHEDULE

A. The CONSULTANT shall provide a Preliminary Construction Schedule for the associated design submittal indicated below in accordance with **Exhibit 2 - Design Requirements**.

- Construction Schedule is not Required
- Design Submittal 1
- Design Submittal 2
- Design Submittal 3
- Final Design Submittal

3.1.4 PROCUREMENT ALTERNATIVES

A. The CONSULTANT shall recommend the appropriate procurement alternatives as described in **Exhibit 2 - Design Requirements**.

Procurement alternatives not required

3.2 DESIGN ACTIVITIES

The following services shall be provided by the CONSULTANT or an appropriately qualified subconsultant. In any case, the CONSULTANT shall be responsible for managing all subconsultants, including reviewing their work products prior to submission to OC SAN.

3.2.1 UTILITY AND SITE INVESTIGATIONS

A. CONSULTANT services related to Utility and Site Investigations on the project are specified in Phase 2 – Preliminary Design and those services shall continue during Phase 3. CONSULTANT shall allocate the budgeted hours between Phase 2 and Phase 3 based on when these services will be required.

3.2.2 PROJECT MANAGEMENT

A. CONSULTANT shall be responsible for managing CONSULTANT's project execution, schedule, budget, subconsultants, and coordination with other projects. CONSULTANT services related to Project Management on the project are specified in Phase 2 – Preliminary Design and those services shall continue during Phase 3 – Design as required. CONSULTANT shall allocate the budgeted hours between Phase 2 and Phase 3 based on when these services will be required.

3.2.3 RISK MANAGEMENT

A. When required below, CONSULTANT shall provide risk management in accordance with **Exhibit 4 - Risk Management Requirements** with the project specific options identified below.

B. Risk Management:

Not Required

Required

DS1 Risk Workshop: 1 hour (held during OC SAN's review of DS1 at OC SAN)

DS2 Risk Workshop: 1 hour (held during OC SAN's review of DS2 at OC SAN)

DS3 Risk Workshop: 1 hour (held during OC SAN's review of DS3 at OC SAN)

3.2.4 QUALITY CONTROL

A. The CONSULTANT shall provide Quality Control requirements in accordance with **Exhibit 6 - Quality Control Requirements**.

Independent Multi-Discipline Design Workshop is not required.

Independent Multi-Discipline Design Workshop is required. (minimum duration of [4] days)

3.3 DESIGN WORKSHOPS AND MEETINGS

3.3.1 GENERAL

A. Workshop and meeting planning, requirements, agendas, and meeting minutes shall be in accordance with **Exhibit 5 - Workshop and Meeting Requirements**.

3.3.2 DESIGN PHASE WORKSHOPS

A. The focus of workshops is to review project progress to date and the technical decisions that have been made in focused meetings. CONSULTANT shall conduct the workshops listed below in Phase 3 – Design. The CONSULTANT shall allow the following time for each workshop:

DESIGN PHASE WORKSHOPS	
WORKSHOP TYPE	DURATION
Design Kickoff Workshop	2 hours
Design Review Meetings	3 hours
Design Validation Meeting	2 hours

B. The following Design Review Meetings shall include the following topics:

1. Electrical and I&C
2. Structural and Mechanical, and
3. Construction Sequencing

C. **Various workshops shall be provided for the Design Review Meetings**

D. During final design, workshops shall be held after each design submittal, except FDS.

3.3.3 PRE-DS2 CONSTRUCTABILITY WORKSHOP (NOT IN SOW)

3.3.4 DESIGN PHASE MEETINGS

A. Technical Progress Meetings (not in SOW)

B. Focused Meetings

1. Focused meetings shall be held throughout design to discuss specific issues in detail and generate comments and direction from OC SAN staff. The following tentative list of topics may be covered in these meetings:

- a. Wet and dry utility coordination,
- b. Concrete repair methods and materials
- c. Dome, bridge, and corrosion analysis
- d. Safety and hazardous area requirements
- e. Control concepts, Instrumentation and control upgrades, PLC and I/O layouts, panels
- f. Sample P&ID, basis for equipment tag numbering, and sample EID and SAT databases
- g. Single-line diagrams, system controls, electrical demolition, conduit, and cable schedules
- h. Construction sequencing, inspections, constraints, and outage requirements

2. Each meeting shall generally be **one to two** hours in length. CONSULTANT shall determine how many meetings will be needed to cover these topics but no less than three prior to submittal of DS2 and one prior to submittal of DS3. CONSULTANT may suggest additional topics as necessary. Supplementary

meetings may be scheduled with OC SAN staff, as necessary to allow coordination between the CONSULTANT and OC SAN staff.

3.3.5 COMMISSIONING TEAM MEETINGS

A. Design phase commissioning team meetings shall be held on a **monthly** basis after completion of OC SAN's review of the DS2 submittal.

B. Meetings will generally be **one** hour in length. CONSULTANT shall determine how many meetings shall be needed to cover these topics and organize the topics accordingly. CONSULTANT may suggest additional topics as necessary. Supplementary meetings may be scheduled with OC SAN staff, as necessary, to allow coordination between CONSULTANT and OC SAN staff.

C. The Commissioning Team meetings shall cover the following subjects:

1. Provide a detailed review of the proposed construction sequencing plan and make recommendations for improvements. These recommendations shall be incorporated into the plans and specifications as appropriate. Possible incentives for the Contractor to finish the project early shall be explored.
2. Identify procedures, testing requirements and sequencing for commissioning.
3. Develop a detailed outline of a commissioning plan based on the results of the recommended construction sequencing plan.
4. Prepare testing requirements and plan to prove process performance relative to design criteria developed in the PDR. Testing shall be performed after the RAT and supervised by the CONSULTANT.
5. Identify timing within the construction contract schedule when commissioning activities are required, including hold points for testing and inspection.
6. Identify roles and responsibilities of the Project Manager, Resident Engineer, Inspector, Project Engineer, PCI, Engineering support, Design CONSULTANT and Contractor.
7. Develop a timeline of commissioning
8. Develop a commissioning specification
9. Develop standard forms for testing and commissioning documentation
10. Electrical, mechanical and process tie-ins
11. Startup requirements and testing
12. O&M training

3.3.6 CONSTRUCTION SUBMITTAL ITEMS LIST MEETING

A. Meet with OC SAN in **DS3** to review the CONSULTANT's approach to developing the project Construction Submittal Items List using **Exhibit 18 –** and the CONSULTANT-provided specifications and discuss the grouping of submittals in commissioning packages and phases.

3.4 BID PHASE SUPPORT SERVICES

3.4.1 BID PHASE SUPPORT SERVICES

A. CONSULTANT shall provide the following bid period services:

1. Participate in the pre-bid meeting.
2. Prepare project drawing set and project specification addenda to provide clarification and resolve errors and omissions identified prior to bid opening.

3.4.2 BID EVALUATION ASSISTANCE

- A. Participate in reviewing alternate equipment proposals from the Contractor, if applicable.
- B. Participate in the evaluation of the submitted bids, furnish consultation and advice to OC SAN staff, and assist with all the related equipment, cost, and other analyses as required to finalize the award decision.

3.4.3 CONFORMED DOCUMENT PREPARATION

- A. Within **two** weeks of the bid date, prepare conformed documents set (drawings, databases, specifications, and other required materials) that incorporates the addenda. See Engineering Design Guidelines, Chapter 01, Design Guidelines – General Requirements, Section 01.4 “Preparation of Project Deliverables” for requirements as modified in Section V of this Scope of Work, “Project-Specific Deviations from OC SAN Design Guidelines” and the requirements of the CAD Manual).

4. PHASE 4 – CONSTRUCTION AND INSTALLATION SERVICES (NOT IN SOW)

5. PHASE 5 – COMMISSIONING SERVICES (NOT IN SOW)

6. PHASE 6 – CLOSE OUT (NOT IN SOW)

7. GENERAL REQUIREMENTS

7.0 GENERAL

7.0.1 OC SAN ENGINEERING DESIGN GUIDELINES AND STRATEGIC PLAN

- A. CONSULTANT shall refer to and adhere to the requirements of OC SAN Safety Standards, OC SAN Engineering Design Guidelines, any deviations to the Engineering Design Guidelines listed below, and other OC SAN’s Design Standards referenced therein. **Exhibit 16 - Spec Review using Microsoft Word and Teams**
- B. **Exhibit 17 - OC SAN Engineering Design Guidelines and Standards – Available** online at <https://www.OC San.com/about-us/transparency/document-central/-folder-917> is a complete set of the OC SAN Safety Standards and OC SAN Design Standards, the latest edition at the time of the design proposal stage.
- C. The Engineering Guidelines define what plant design concepts/tools/methods and project management requirements shall be adhered to and in what manner they shall be used/provided by Consultants, e.g., requirements regarding design concepts, submittals, documentation details, use of OC SAN Master Specifications, and other related OC SAN Standards, etc.
- D. Refer also to Section “CONSULTANT’s Responsibilities” in OC SAN Engineering Design Guidelines Chapter 01. Refer to “Master Specifications Instructions for Use” that mandates rules and conventions to be used in all OC SAN project specifications.
- E. The project Scope of Work defines whether or not each specific deliverable described in the Guidelines shall be part of the project and when each task shall take place.

- F. The project Scope of Work also includes requirements that supplement and/or modify the Guidelines requirements for this project.
- G. The project Scope of Work and OC SAN Engineering Design Guidelines impact CONSULTANT's project cost.
- H. Except as specified in this Scope of Work, design of all facilities shall conform to the recommendations of the currently approved Master Plan for OC SAN facilities. The project shall also incorporate all applicable mitigation measures included in associated environmental documents and site-specific local requirements.
- I. In addition, OC SAN will require the CONSULTANT to follow subsequent revisions of OC SAN Safety Standards, OC SAN Engineering Design Guidelines, and other OC SAN Design Standards up to transmittal by OC SAN of comments on Design Submittal 2, shall be incorporated into the Design by CONSULTANT with no increase in CONSULTANT's Not-to-Exceed upper limit on fees.
- J. OC SAN may update OC SAN's Master Specifications and/or add new OC SAN Master Specifications up to transmittal by OC SAN of comments on Design Submittal 2. The CONSULTANT shall utilize the new and/or modified Master Specifications for the DS3 submittal.
- K. The CONSULTANT shall not begin editing the project specifications until the project team meets with OC SAN's Design Standards Custodian to discuss and receive comments regarding the CONSULTANT's proposed list of project specifications. This meeting will be used to determine which specifications are to use OC SAN's master specifications, and where other sources will be utilized.

7.0.2 PROJECT PHASES AND TASKS

A. Project tasks and deliverables shall include the requirements described in this Scope of Work. CONSULTANT shall also refer to Appendix A of OC SAN Engineering Design Guidelines for the level of detail requirements for individual deliverables in each Phase of the project not covered in the Scope of Work.

7.0.3 CONSTRUCTION SEQUENCING AND CONSTRAINTS

A. CONSULTANT shall develop with OC SAN staff and include in the Bid Documents detailed requirements for construction sequencing and constraints. These shall ensure safe and reliable operation and maintenance of OC SAN facilities. The facilities must be kept on-line and fully operational with minimal interruptions throughout construction.

7.0.4 WORKING HOURS

A. Meetings with OC SAN staff shall be scheduled from Monday through Thursday between the hours of 8:00 AM and 4:00 PM. Any CONSULTANT staff working on-site shall conform to OC SAN work schedules. CONSULTANT shall refer to the Engineering Design Guidelines, Chapter 01, Section 01.3.5 "CONSULTANT Inspection of Treatment Facilities" for further requirements.

7.0.5 STANDARD DRAWINGS AND TYPICAL DETAILS

A. All the details used in the project (OC SAN's Standard Drawings and CONSULTANT-developed typical details) shall be shown on the Plans.

7.0.6 SOFTWARE

A. The CONSULTANT is expected to develop and provide the deliverables using the standard software currently approved for use by OC SAN. The standard OC SAN software includes, but is not limited to, the following:

B. Any software that the CONSULTANT needs to comply with these standards shall be purchased and maintained by the CONSULTANT at no additional cost to OC SAN. In the event OC SAN provides the CONSULTANT with access to OC SAN software and hardware at an OC SAN facility in order to facilitate performance of their work, all software shall remain the property of OC SAN. Only software licensed to OC SAN shall be installed on OC SAN equipment. In addition, only OC SAN IT Department staff will perform the installation of this software.

C. Refer to Chapters 10 and 11 and Appendix A of OC SAN Engineering Design Guidelines for requirements on preparation of Criticality Tables and ETAP, SAT, and EID databases. Refer to OC SAN CAD Manual and to Chapter 11 and Appendix A of OC SAN Engineering Design Guidelines for requirements regarding P&ID drawings.

7.0.7 SUBMITTAL REVIEW USING BLUEBEAM

A. OC SAN has standardized on the use of Bluebeam Revu for reviewing and providing comments to PDF files. PDF files will be hosted in a Bluebeam cloud-based studio session for review. See **Exhibit 15 - Bluebeam Designer User Training** for a detailed explanation on how Bluebeam will be used to provide, validate, and close submittal review comments.

B. Prior to submitting electronic PDF files, format them as indicated in **Exhibit 14 - Bluebeam Designer Training for Submission** and “OC SAN CAD Standards Manual” prior to submission.

C. A one-hour training session on the use of Bluebeam and custom status menu will be provided by OC SAN. All Consultant team members responsible for quality control and reconciliation of submittal comments shall attend.

7.0.8 WORD TRACK CHANGES

A. Specifications documents and other MS-Word based deliverables will be hosted in OC SAN Teams environment for review. The guidelines for reviewing and commenting on MS-Word files, including Specifications reviews, can be found in **Exhibit 16 - Spec Review using Microsoft Word and Teams**.

7.0.9 GIS SUBMITTALS

A. Consultant shall provide the following GIS deliverables propagated from approved design submittals after the design submittal is accepted. These GIS submittals will not be reviewed or presented by Consultant. The purpose is to provide project specific GIS layers that could be used to visualize interproject dependencies and conflicts.

1. Electronic Submittal
 - a. MK files for use with Google Earth
2. Final PDR
 - a. Single project boundary (Polygon)
 - (1) Boundary to encompass all new facilities and existing to be modified including:

- Buildings\Structures
 - Tunnels
 - Surface Utilities
 - Pavement
- b. Structures (Polygon)
- New structure outline
 - Additions to existing structures
 - Structure label
3. DS2
- a. Project boundary - *updated from PDR*
- b. Structures - *updated from PDR*
- c. Utilities (Polyline)
- (1) Utility alignment
- d. Manholes, bollards, valve covers (Point)
4. DS3, and FDS
- a. Project boundary - updated from previous DS
- b. Structures - updated from previous DS
- c. Utilities - updated from previous DS
- d. Manholes, bollards, valve covers - updated from previous DS
- (1) Critical utility labels (including but not limited to):
- Digester gas
 - Fuel pipeline
 - 12 kV Electrical

7.0.10 PCSA,PDSA, AND TASK ORDERS – PMWEB PROCEDURES

This Agreement shall utilize PMWeb as the Project Control Management System (PCMS) for overall management of the Agreement. All PCMS related documents requiring formal signatures shall be digital, and all copies digitally distributed. The PCMS conforms to the requirements set forth in California Government Code section 16.5 regarding digital signatures; therefore, digital signatures are in full force and effect and are legally the same as a hand-written signature. At least one PCMS account shall have the authority to approve Amendments.

OC SAN shall maintain the PCMS and serve as the administrator for the duration of this Agreement. OC SAN will provide the CONSULTANT with user access for approved personnel as needed for the duration of the Agreement. OC SAN shall control access to the PCMS by assigning user profiles and login credentials. Notify OC San of any changes to personnel. Access modifications shall be coordinated as needed throughout the Agreement. Do not to share PCMS account passwords with anyone inside or outside of the company.

Routine maintenance of the PCMS system may be required during the Agreement. Access to the PCMS system may be restricted or unavailable at these times and will be scheduled outside of typical working hours whenever possible.

The PCMS is a web-based environment and is therefore subject to the inherent speed and connectivity problems of the Internet. The CONSULTANT is responsible for its own connectivity to the Internet. PCMS response time is dependent on the CONSULTANT's equipment, including processor speed, Internet access speed, Internet traffic, etc.

OC SAN will not be liable for any delays associated with the utilization of the PCMS including, but not limited to: slow response time, down time periods, connectivity problems, or loss of information.

The OC SAN will provide a one-time free training session of up to two (2) hours to train CONSULTANT's designated staff on general system requirements, procedures, and methods.

Automated system notifications generated via PCMS (e.g. in-system notices, system generated email, or email with attachment) shall constitute a formal written notification in compliance with the Professional Design Service Agreement (PDSA), Professional Construction Service Agreement (PCSA), or Task Order (TO) Agreement.

8. PROJECT-SPECIFIC DEVIATIONS FROM OC SAN DESIGN GUIDELINES

None in this SOW

9. STAFF ASSISTANCE

OC SAN staff member or designee assigned to work with CONSULTANT on the design of this project is Richard Leon at (714) 593-7732, e-mail to: RLEON@OCSAN.GOV

10. EXHIBITS

Exhibit 1 - Preliminary Design Report Requirements

Exhibit 2 - Design Requirements

Exhibit 3 - Project Management Requirements

Exhibit 4 - Risk Management Requirements

Exhibit 5 - Workshop and Meeting Requirements

Exhibit 6 - Quality Control Requirements

Exhibit 7 - Design Submittal Requirements Matrix

Exhibit 8 - Project Schedule Calculation

Exhibit 9 - Deliverables Quantities

Exhibit 10 - Sample Construction Cost Estimate Format

Exhibit 11 - Sample Full Project Safety Review Plan

Exhibit 12 - Sample Risk Management Check List

Exhibit 13 - MMRP Log Template

Exhibit 14 - Bluebeam Designer Training for Submission

Exhibit 15 - Bluebeam Designer User Training

Exhibit 16 - Spec Review using Microsoft Word and Teams

Exhibit 17 - OC SAN Engineering Design Guidelines and Standards – Available online at <https://www.OC San.com/about-us/transparency/document-central/-folder-917>

Exhibit 18 – Not Used

Exhibit 19 - Project Reference Material

- Existing MCCs Single Line Diagrams (SLDs)
- Asbestos and Lead Inventory
- P2 Digester Bridge Observations Report
- Digester Repair Table Summary
- P&ID Pump, Heat Exchanger, Grinders Digesters L & M
- Digester Control Summary Excel
- Photos
- Concrete Core Lab Sample Reports Digesters J, O

Exhibit 20 – Not Used

Exhibit 21 - Commissioning Procedure Training

Exhibit 22 - ORT Procedure Examples

Exhibit 23 - Pre-FAT Procedure Examples

Exhibit 24 - Sample FAT Procedure

Exhibit 25 - Sample RAT Procedure

Exhibit 26 - Project J-47 Cable Tray Improvements Preliminary Design Report

RL:dm

ATTACHMENT “E”

FEE PROPOSAL

ATTACHMENT "E"
FEE PROPOSAL FORM
P2-137 DIGESTERS REHABILITATION AT PLANT NO. 2

Submitted by: CDM Smith
(Name of Firm)

Consultant Name:		CDM Smith		
Raw Labor		\$	866,384	
Fringe Costs	38.48%	\$	333,385	
Note: Round all values to nearest dollar.		Burdened Labor (Raw Labor + Fringe)		\$ 1,199,769
		Overhead	98.73%	\$ 1,184,532
		Subtotal (Burdened labor + OH)		\$ 2,384,301
		Profit (% of Subtotal)	5.26%	\$ 127,799
		Total Direct Costs, not to exceed		\$ 72,260
TOTAL - "Consultant" Not to Exceed				\$ 2,584,360

Major Subconsultant:				
Raw Labor				
Fringe Costs	39.00%	\$	-	
Note: Round all values to nearest dollar.		Burdened Labor (Raw Labor + Fringe)		\$ -
		Overhead	73.00%	\$ -
		Subtotal (Burdened labor + OH)		\$ -
		Profit (% of Subtotal)	10.00%	\$ -
		Total Direct Costs, not to exceed		\$ -
TOTAL - Major Subconsultant A Not to Exceed				\$ -

Subconsultants Under \$100,000		
Jamison Engineering		\$ 91,000
David Heinz		\$ 24,640
TOTAL - Subconsultants Under \$100,000		\$ 115,640

SUMMARY	
Consultant	\$ 2,584,360
	\$ -
Subconsultants Under \$100,000	\$ 115,640
GRAND TOTAL - Not to Exceed	\$ 2,700,000



OPERATIONS COMMITTEE

Administration Building
10844 Ellis Avenue
Fountain Valley, CA 92708
(714) 593-7433

Agenda Report

File #: 2022-2105

Agenda Date: 3/16/2022

Agenda Item No: 4.

FROM: James D. Herberg, General Manager
Originator: Kathy Millea, Director of Engineering

SUBJECT:

SURVEYING SERVICES, PSA2022-002

GENERAL MANAGER'S RECOMMENDATION

RECOMMENDATION: Recommend to the Board of Directors to:

Approve Professional Services Agreements to provide on-call surveying services for collection system and treatment plant projects, PSA2022-002, for a three-year period effective May 1, 2022, for an amount not to exceed \$200,000 per individual agreement (\$800,000 total) with the following four firms:

- Michael Baker International, Inc.
- Stantec Consulting Services, Inc.
- Psomas
- D. Woolley & Associates, Inc.

BACKGROUND

The Orange County Sanitation District (OC San) uses outside specialty consultants for surveying services in support of the Capital Improvement Program, Small Construction Projects, and Maintenance Projects during the planning, design, and construction of facilities both inside the plants and for the collection systems.

RELEVANT STANDARDS

- Ensure the public's money is wisely spent
- 1, 5, 20-year planning horizons
- California Government Code §4526: Select the "best qualified firm" and "negotiate fair and equitable fees"

PROBLEM

The current on-call surveying services contracts are expiring in April 2022. Without new contracts, OC San would not have access to surveying services to support the Capital Improvement Program, Small Construction Projects, and Maintenance Projects.

PROPOSED SOLUTION

Award Professional Services Agreements to provide on-call surveying services. The agreements will cover a three-year period. The recommended contract amounts are based on the number and type of services utilized over the past three years, as well as the anticipated needs going forward for the next three years based on forecasted project workload. Staff will use these Consultants on an as-needed basis only. The total agreement cost is not guaranteed, nor is it paid to the Consultant if their services are not used.

TIMING CONCERNS

The current contracts will be expiring, and the budgets expended. Delaying the new contracts will prevent the use of these services to support collection system and treatment plant projects.

RAMIFICATIONS OF NOT TAKING ACTION

Increased risk of construction quality and code compliance problems during execution of the Capital Improvement Program, Small Construction Projects, and Maintenance Projects without these services.

PRIOR COMMITTEE/BOARD ACTIONS

N/A

ADDITIONAL INFORMATION

On August 25, 2021, OC San issued a Notice to Prospective Proposers to over 1,600 vendors, which outlined the timeline for the solicitation. On September 14, 2021, OC San requested and advertised for proposals. 40 companies identified themselves as potential bidders.

Ten proposals were received on October 28, 2021 and evaluated in accordance with the evaluation process set forth in OC San's Purchasing Ordinance by a pre-selected Evaluation Team consisting of OC San staff: two Construction Inspection Supervisors and two Construction Inspectors. The Evaluation Team also included two non-voting representatives from the Contracts Administration Division.

The following evaluation criteria were described in the Request for Proposals (RFP) and used to evaluate the proposals.

CRITERION	WEIGHT
Project Approach and Scope of Work Understanding	25%
Staff Qualifications	40%
Professional Registration and Experience	35%

The Evaluation Team scored the proposal on the established criteria as summarized in the table below:

Rank	Firm	Approach and Understanding (Max 25)	Staff Qualifications (Max 40)	Prof. Registr & Experience (Max 35)	Total Score (Max 100)
1	Michael Baker International, Inc.	24	39	34	97
2	Stantec Consulting Services Inc.	23	38	34	95
3	Psomas	20	37	31	88
4	D. Woolley & Associates, Inc.	20	30	26	76
5	KDM Meridian	18	25	30	73
6	Hunsaker & Associates Irvine, Inc.	11	22	23	56
7	Cabrinha, Hearn & Associates	14	24	16	54
8	TKE Engineering, Inc.	15	18	19	52
9	Johnson-Frank & Associates, Inc.	10	20	16	46
10	Cannon Reliable Responsive Solutions*				Non-responsive

The proposal from Cannon Reliable Responsive Solutions was determined to be non-responsive as their submitted Safety Declaration and accompanying OSHA Logs indicated an Accident Frequency Factor that exceeded the OC San limitation of 1.25.

Based on this scoring, staff recommends award of agreements to the top four-ranked firms. The Proposers recommended for award generally had a better approach to meeting OC San's needs in combination with highly qualified staff and demonstrated experience performing the type of inspections and testing needed for OC San's projected work over the contract period. Lower scoring Proposers generally did not address all of the requirements of the RFP.

The fee proposals for these firms were opened on January 27, 2022 and the rates were reviewed for general conformance and found to be acceptable.

CEQA

N/A

FINANCIAL CONSIDERATIONS

This request complies with authority levels of OC San's Purchasing Ordinance. The budgeted costs for the proposed Professional Service Agreements are contained within the approved CIP project budgets and no additional funding is necessary.

ATTACHMENT

The following attachment(s) may be viewed on-line at the OC San website (www.ocsan.gov) with the complete agenda package:

- Professional Services Agreements - Surveying Services

JM:DF:jw

PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT, is made and entered into to be effective the 1st day of May, 2022, by and between the ORANGE COUNTY SANITATION DISTRICT, hereinafter referred to as "OC SAN", and D. WOOLLEY & ASSOCIATES, INC., for purposes of this AGREEMENT hereinafter referred to as "CONSULTANT". OC SAN and CONSULTANT are referred to herein collectively as the "Parties" or individually as a "Party."

WITNESSETH:

WHEREAS, OC SAN desires to engage a consultant for surveying services for the OC SAN's Capital Improvement Program, Facilities Engineering, Operations, and Maintenance projects, PSA2022-002; and,

WHEREAS, CONSULTANT is qualified to provide the necessary services in connection with these requirements and has agreed to provide the necessary professional services; and,

WHEREAS, OC SAN has adopted procedures for the selection of professional services and has proceeded in accordance with said procedures to select a CONSULTANT to perform this work; and,

WHEREAS, at its regular meeting on March 23, 2022, the Board of Directors, by Minute Order, accepted the recommendation of the Operations Committee to approve this AGREEMENT between OC SAN and CONSULTANT.

NOW, THEREFORE, in consideration of the promises and mutual benefits, which will result to the parties in carrying out the terms of this AGREEMENT, it is mutually agreed as follows:

1. SCOPE OF WORK

CONSULTANT agrees to furnish necessary professional services to accomplish those project elements outlined in the Scope of Work attached hereto as "Attachment A", and by this reference made a part of this AGREEMENT.

- A. The CONSULTANT shall be responsible for the professional quality, technical accuracy, and completeness and coordination of the work and services furnished by the CONSULTANT under this AGREEMENT, including the work performed by its Subconsultants. Where approval by OC SAN is indicated, it is understood to be conceptual approval only and does not relieve the CONSULTANT of responsibility for complying with all applicable laws, regulations, codes, industry standards and liability for damages caused by errors, omissions, noncompliance with industry standards, and/or negligence on the part of the CONSULTANT or its Subconsultants.
- B. CONSULTANT is responsible for the quality of work prepared under this AGREEMENT and shall ensure that all work is performed to the highest industry standards for clarity, uniformity, and completeness. CONSULTANT shall timely respond to all comments, suggestions, and recommendations from OC SAN. All comments from OC SAN, or its agent, shall be incorporated into the work prior to

the next review deadline or addressed, in writing, as to why the comment(s) has/have not been incorporated. CONSULTANT shall ensure that each submittal is 100% accurate for the level of work submitted (i.e. correct references, terms, capitalization or equal status, spelling, punctuation, etc.).

- C. In the event that CONSULTANT's services and/or work product(s) is not to the satisfaction of OC SAN and/or does not conform to the requirements of this AGREEMENT or the applicable industry standards, the CONSULTANT shall, without additional compensation, promptly correct or revise any errors or deficiencies in its work product(s) within the timeframe specified by the Project Manager. OC SAN may charge to CONSULTANT all costs, expenses and damages associated with any such corrections or revisions.
- D. All professional services performed by the CONSULTANT, including, but not limited to, all drafts, data, correspondence, proposals, and reports compiled or composed by the CONSULTANT, pursuant to this AGREEMENT, are for the sole use of OC SAN, its agents and employees. Neither the documents nor their contents shall be released to any third party without the prior written consent of OC SAN. This provision does not apply to information that (a) was publicly known, or otherwise known to the CONSULTANT, at the time that it was disclosed to the CONSULTANT by OC SAN, or (b) subsequently becomes publicly known to the CONSULTANT other than through disclosure by OC SAN.

2. COMPENSATION

Total compensation shall be paid to CONSULTANT for services in accordance with the following provisions:

A. Total Compensation

Total compensation shall be in an amount not to exceed Two Hundred Thousand Dollars (\$200,000.00), over a three (3) year period.

OC SAN shall pay to CONSULTANT one total hourly rate set forth in Attachment "D" - Fee Proposal. The rate shall include all costs such as, but not necessarily limited to, technician labor, equipment, and overhead rates, report writing, office review and supervision, other miscellaneous charges. Drive time and mileage shall be included in the hourly rate and will not be allowed as additional costs.

B. Other Direct Costs

Other Direct Costs incurred by CONSULTANT and its Contractor due to modifications in scope of work resulting from field investigations and field work required by Contract. These items may include special equipment, test equipment and tooling and other materials and services not previously identified. Refer to attachment "K" Allowable Direct Costs for payment information.

3. PAYMENT

- A. Invoice: CONSULTANT shall include in its invoice, a detailed breakdown of costs associated with the performance of any corrections or revisions of the work for that invoicing period, in a format acceptable to OC SAN. CONSULTANT shall include copies of the daily notes or tasks including the signature of the OC SAN's Inspector approving the day's work for that invoicing period. CONSULTANT shall warrant and certify the accuracy of these costs and provide all support documentation required by OC SAN. CONSULTANT understands that submitted costs are subject to Audit Provisions as stated under this Agreement.
- B. CONSULTANT will submit statements covering services and/or work performed for payment for those items. The format must include, as a minimum: 1) current billing period invoicing, 2) current billing period "total percent invoiced to date", and 3) budget status and amount remaining. Such requests shall be accompanied by such supporting data as may be required by OC SAN.

Upon approval of such payment request by OC SAN, payment shall be made to CONSULTANT as soon as practicable of one hundred percent (100%) of the invoiced amount.

- C. Upon satisfactory completion of the work performed hereunder and prior to final payment under this AGREEMENT for such work, or prior settlement upon termination of this AGREEMENT, and as a condition precedent thereto, CONSULTANT shall execute and deliver to OC SAN a release of all claims against OC SAN arising under or by virtue of this AGREEMENT other than such claims, if any, as may be specifically exempted by CONSULTANT from the operation of the release in stated amounts to be set forth therein.
- D. Pursuant to the California False Claims Act (Government Code sections 12650-12655), any CONSULTANT that knowingly submits a false claim to OC SAN for compensation under the terms of this AGREEMENT may be held liable for treble damages and up to a \$10,000 civil penalty for each false claim submitted. This section shall also be binding on all Subconsultants.

A CONSULTANT or Subconsultant shall be deemed to have submitted a false claim when the CONSULTANT or Subconsultant: (a) knowingly presents or causes to be presented to an officer or employee of OC SAN a false claim or request for payment or approval; (b) knowingly makes, uses, or causes to be made or used a false record or statement to get a false claim paid or approved by OC SAN; (c) conspires to defraud OC SAN by getting a false claim allowed or paid by OC SAN; (d) knowingly makes, uses, or causes to be made or used a false record or statement to conceal, avoid, or decrease an obligation to OC SAN; or (e) is a beneficiary of an inadvertent submission of a false claim to OC SAN, and fails to disclose the false claim to OC SAN within a reasonable time after discovery of the false claim.

4. PREVAILING WAGES

To the extent CONSULTANT intends to utilize employees who will perform work during the contract, as more specifically defined under Labor Code Section 1720, CONSULTANT shall be subject to prevailing wage requirements with respect to such employees.

5. CALIFORNIA DEPARTMENT OF INDUSTRIAL RELATIONS (DIR) REGISTRATION AND RECORD OF WAGES

- A. To the extent CONSULTANT's employees and/or Subconsultants who will perform Work during the design and preconstruction phases of a construction contract for which Prevailing Wage Determinations have been issued by the DIR and as more specifically defined under Labor Code Section 1720 et seq, CONSULTANT and Subconsultants shall comply with the registration requirements of Labor Code Section 1725.5. Pursuant to Labor Code Section 1771.4, the Work is subject to compliance monitoring and enforcement by the DIR.
- B. The CONSULTANT and Subconsultants shall maintain accurate payroll records and shall comply with all the provisions of Labor Code Section 1776, and shall submit payroll records to the Labor Commissioner pursuant to Labor Code Section 1771.4(a)(3). Penalties for non-compliance with the requirements of Section 1776 may be deducted from progress payments per Section 1776.
- C. Pursuant to Labor Code Section 1776, the CONSULTANT and Subconsultants shall furnish a copy of all certified payroll records to OC SAN and/or general public upon request, provided the public request is made through OC SAN, the Division of Apprenticeship Standards or the Division of Labor Enforcement of the Department of Industrial Relations.
- D. The CONSULTANT and 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).

6. DOCUMENT OWNERSHIP – CONSULTANT PERFORMANCE

- A. Ownership of Documents for the Professional Services performed.

All documents in all forms (electronic, paper, etc.), including, but not limited to, studies, sketches, drawings, computer printouts, disk files, and electronic copies prepared in connection with or related to the Scope of Work or Professional Services, shall be the property of OC SAN. OC SAN's ownership of these documents includes use of, reproduction or reuse of and all incidental rights, whether or not the work for which they were prepared has been performed. OC SAN ownership entitlement arises upon payment or any partial payment for work performed and includes ownership of any and all work product completed prior to that payment. This Section shall apply whether the CONSULTANT's Professional Services are terminated: a) by the completion of the AGREEMENT, or b) in accordance with other provisions of this AGREEMENT. Notwithstanding

any other provision of this paragraph or AGREEMENT, the CONSULTANT shall have the right to make copies of all such plans, studies, sketches, drawings, computer printouts and disk files, and specifications.

- B. CONSULTANT shall not be responsible for damage caused by subsequent changes to or uses of the study or deliverable where the subsequent changes or uses are not authorized or approved by CONSULTANT, provided that the service rendered by CONSULTANT was not a proximate cause of the damage.

7. AGREEMENT TERM

The services provided under this AGREEMENT shall be for the period of three (3) years, commencing on May 1, 2022 and continuing through April 30, 2025.

8. INSURANCE

A. General

- i. Insurance shall be issued and underwritten by insurance companies acceptable to OC SAN.
- ii. Insurers must have an "A-" Policyholder's Rating, or better, and Financial Rating of at least Class VIII, or better, in accordance with the most current A.M. Best's Guide Rating. However, OC SAN will accept State Compensation Insurance Fund, for the required policy of Worker's Compensation Insurance subject to OC SAN's option to require a change in insurer in the event the State Fund financial rating is decreased below "B". Further, OC SAN will require CONSULTANT to substitute any insurer whose rating drops below the levels herein specified. Said substitution shall occur within twenty (20) days of written notice to CONSULTANT, by OC SAN or its agent.
- iii. Coverage shall be in effect prior to the commencement of any work under this AGREEMENT.

B. General Liability

The CONSULTANT shall maintain during the life of this AGREEMENT, including the period of warranty, Commercial General Liability Insurance written on an occurrence basis providing the following minimum limits of liability coverage: Two Million Dollars (\$2,000,000) per occurrence with Four Million Dollars (\$4,000,000) aggregate. Said insurance shall include coverage for the following hazards: Premises-Operations, blanket contractual liability (for this AGREEMENT), products liability/completed operations (including any product manufactured or assembled), broad form property damage, blanket contractual liability, independent contractors liability, personal and advertising injury, mobile equipment, owners and contractors protective liability, and cross liability and severability of interest clauses. A statement on an insurance certificate will not be

accepted in lieu of the actual additional insured endorsement(s). If requested by OC SAN and applicable, XCU coverage (Explosion, Collapse and Underground) and Riggers/On Hook Liability must be included in the General Liability policy and coverage must be reflected on the submitted Certificate of Insurance.

C. Umbrella Excess Liability

The minimum limits of general liability and Automotive Liability Insurance required, as set forth herein, shall be provided for through either a single policy of primary insurance or a combination of policies of primary and umbrella excess coverage. Umbrella excess liability coverage shall be issued with limits of liability which, when combined with the primary insurance, will equal the minimum limits for general liability and automotive liability.

D. Automotive/Vehicle liability Insurance

The CONSULTANT shall maintain a policy of Automotive Liability Insurance on a comprehensive form covering all owned, non-owned, and hired automobiles, trucks, and other vehicles providing the following minimum limits of liability coverage: Combined single limit of One Million Dollars (\$1,000,000). A statement on an insurance certificate will not be accepted in lieu of the actual additional insured endorsement.

E. Drone Liability Insurance

If a drone will be used, drone liability insurance must be maintained by CONSULTANT in the amount of One Million Dollars (\$1,000,000) in a form acceptable by OC SAN.

F. Worker's Compensation Insurance

The CONSULTANT shall provide such Workers' Compensation Insurance as required by the Labor Code of the State of California in the amount of the statutory limit, including Employer's Liability Insurance with a minimum limit of One Million Dollars (\$1,000,000) per occurrence. Such Worker's Compensation Insurance shall be endorsed to provide for a waiver of subrogation in favor of OC SAN. A statement on an insurance certificate will not be accepted in lieu of the actual endorsements unless the insurance carrier is State of California Insurance Fund and the identifier "SCIF" and endorsement numbers 2570 and 2065 are referenced on the certificate of insurance. If an exposure to Jones Act liability may exist, the insurance required herein shall include coverage for Jones Act claims.

G. Errors and Omissions/Professional Liability

CONSULTANT shall maintain in full force and effect, throughout the term of this AGREEMENT, standard industry form professional negligence errors and omissions insurance coverage in an amount of not less than One Million Dollars (\$1,000,000) with limits in accordance with the provisions of this Paragraph. If the policy of insurance is written on a "claims made" basis, said policy shall be

continued in full force and effect at all times during the term of this AGREEMENT, and for a period of five (5) years from the date of the completion of the services hereunder.

In the event of termination of said policy during this period, CONSULTANT shall obtain continuing insurance coverage for the prior acts or omissions of CONSULTANT during the course of performing services under the term of this AGREEMENT. Said coverage shall be evidenced by either a new policy evidencing no gap in coverage or by separate extended "tail" coverage with the present or new carrier.

In the event the present policy of insurance is written on an "occurrence" basis, said policy shall be continued in full force and effect during the term of this AGREEMENT or until completion of the services provided for in this AGREEMENT, whichever is later. In the event of termination of said policy during this period, new coverage shall be obtained for the required period to insure for the prior acts of CONSULTANT during the course of performing services under the term of this AGREEMENT.

CONSULTANT shall provide to OC SAN a certificate of insurance in a form acceptable to OC SAN indicating the deductible or self-retention amounts and the expiration date of said policy, and shall provide renewal certificates not less than ten (10) days prior to the expiration of each policy term.

H. Proof of Coverage

The CONSULTANT shall furnish OC SAN with original certificates and amendatory endorsements effecting coverage. Said policies and endorsements shall conform to the requirements herein stated. All certificates and endorsements are to be received and approved by OC SAN before work commences. OC SAN reserves the right to require complete, certified copies of all required insurance policies, including endorsements, effecting the coverage required, at any time. The following are approved forms that must be submitted as proof of coverage:

- Certificate of Insurance ACORD Form 25 (5/2010) or equivalent.
- Additional Insurance (General Liability) (ISO Form) CG2010 11 85 or
The combination of (ISO Forms)
CG 2010 10 01 and CG 2037 10 01
All other Additional Insured endorsements must be submitted for approval by OC SAN, and OC SAN may reject alternatives that provide different or less coverage to OC SAN.
- Additional Insured (Auto Liability) Submit endorsement provided by carrier for OC SAN approval.

- Waiver of Subrogation State Compensation Insurance Fund Endorsement No. 2570 or equivalent.
- Cancellation Notice State Compensation Insurance Fund Endorsement No. 2065 or equivalent.

I. Cancellation Notice

Each insurance policy required herein shall be endorsed to state that coverage shall not be cancelled by either party, except after thirty (30) days' prior written notice. The Cancellation Section of ACORD Form 25 (5/2010) shall state the required thirty (30) days' written notification. The policy shall not terminate, nor shall it be cancelled, nor the coverage reduced until thirty (30) days after written notice is given to OC SAN except for nonpayment of premium, which shall require not less than ten (10) days written notice to OC SAN. Should there be changes in coverage or an increase in deductible or SIR amounts, the CONSULTANT and its insurance broker/agent shall send to OC SAN a certified letter which includes a description of the changes in coverage and/or any increase in deductible or SIR amounts. The certified letter must be sent to the attention of Risk Management, and shall be received by OC SAN not less than thirty (30) days prior to the effective date of the change(s) if the change would reduce coverage or increase deductibles or SIR amounts or otherwise reduce or limit the scope of insurance coverage provided to OC SAN.

J. Primary Insurance

All liability policies shall contain a Primary and Non Contributory Clause. Any other insurance maintained by OC SAN shall be excess and not contributing with the insurance provided by CONSULTANT.

K. Separation of Insured

All liability policies shall contain a "Separation of Insureds" clause.

L. Non-Limiting (if applicable)

Nothing in this document shall be construed as limiting in any way, nor shall it limit the indemnification provision contained in this AGREEMENT, or the extent to which CONSULTANT may be held responsible for payment of damages to persons or property.

M. Deductibles and Self-Insured Retentions

Any deductible and/or self-insured retention must be declared to OC SAN on the Certificate of Insurance. All deductibles and/or self-insured retentions require approval by OC SAN. At the option of OC SAN, either: the insurer shall reduce or eliminate such deductible or self-insured retention as respects OC SAN; or the CONSULTANT shall provide a financial guarantee satisfactory to OC SAN guaranteeing payment of losses and related investigations, claim administration and defense expenses.

N. Defense Costs

Liability policies shall have a provision that defense costs for all insureds and additional insureds are paid in addition to and do not deplete any policy limits.

O. Subconsultants

The CONSULTANT shall be responsible to establish insurance requirements for any Subconsultant hired by the CONSULTANT. The insurance shall be in amounts and types reasonably sufficient to deal with the risk of loss involving the Subconsultant's operations and work.

P. Limits Are Minimums

If the CONSULTANT maintains higher limits than any minimums shown above, then OC SAN requires and shall be entitled to coverage for the higher limits maintained by CONSULTANT.

9. SCOPE CHANGES

In the event of a change in the Scope of Work or a change in the proposed Project, as requested by OC SAN, the Parties hereto shall execute an Amendment to this AGREEMENT setting forth with particularity all terms of the new AGREEMENT, including, but not limited to any additional CONSULTANT's fees.

10. PROJECT TEAM AND SUBCONSULTANTS

CONSULTANT shall provide to OC SAN, prior to execution of this AGREEMENT, the names and full description of all Subconsultants and CONSULTANT's project team members anticipated to be used on this Project under this AGREEMENT by CONSULTANT. CONSULTANT shall include a description of the work and services to be done by each Subconsultant and each of CONSULTANT's Project team member. CONSULTANT shall include the respective compensation amounts for CONSULTANT and each Subconsultant.

There shall be no substitution of the listed Subconsultants and CONSULTANT's project team members without prior written approval by OC SAN.

11. ENGINEERING REGISTRATION

The CONSULTANT's personnel and Subconsultants are comprised of a staff of specialists in each department. The firm itself is not a registered engineer but represents and agrees that wherever, in the performance of this AGREEMENT, the services of a registered engineer is required, such services hereunder will be performed under the direct supervision of registered engineers who are registered in California.

12. AUDIT PROVISIONS.

A. OC SAN retains the reasonable right to access, review, examine, and audit, any and all books, records, documents and any other evidence of procedures and

practices that OC SAN determines are necessary to discover and verify that the CONSULTANT is in compliance with all requirements under this AGREEMENT. The CONSULTANT shall include OC SAN's right as described above, in any and all of their subcontracts, and shall ensure that these rights are binding upon all Subconsultants.

- B. OC SAN retains the right to examine CONSULTANT's books, records, documents and any other evidence of procedures and practices that OC SAN determines are necessary to discover and verify all direct and indirect costs, of whatever nature, which are claimed to have been incurred, or anticipated to be incurred or to ensure CONSULTANT's compliance with all requirements under this AGREEMENT during the term of this AGREEMENT and for a period of three (3) years after its termination.
- C. CONSULTANT shall maintain complete and accurate records in accordance with generally accepted industry standard practices and OC SAN's policy. The CONSULTANT shall make available to OC SAN for review and audit, all project related accounting records and documents, and any other financial data within 15 days after receipt of notice from OC SAN. Upon OC SAN's request, the CONSULTANT shall submit exact duplicates of originals of all requested records to OC SAN. If an audit is performed, CONSULTANT shall ensure that a qualified employee of the CONSULTANT will be available to assist OC SAN's auditor in obtaining all Project related accounting records and documents, and any other financial data.

13. LEGAL RELATIONSHIP BETWEEN PARTIES

The legal relationship between the parties hereto is that of an independent contractor and nothing herein shall be deemed to transform CONSULTANT, its staff, independent contractors, or Subconsultants into employees of OC SAN. CONSULTANT'S staff performing services under the AGREEMENT shall at all times be employees and/or independent contractors of CONSULTANT. CONSULTANT shall monitor and control its staff and pay wages, salaries, and other amounts due directly to its staff in connection with the AGREEMENT. CONSULTANT shall be responsible for hiring, review, and termination of its staff and shall be accountable for all reports and obligations respecting them, such as social security, income tax withholding, unemployment compensation, workers' compensation and similar matters.

14. NOTICES

All notices hereunder and communications regarding the interpretation of the terms of this AGREEMENT, or changes thereto, shall be effected by delivery of said notices in person or by depositing said notices in the U.S. mail, registered or certified mail, return receipt requested, postage prepaid and addressed as follows:

ORANGE COUNTY SANITATION DISTRICT
10844 Ellis Avenue
Fountain Valley, CA 92708-7018
Attention: Clarice Marcin, Contracts Administration
Copy: William Gilbert and Rick Kwiecien, Project Managers

CONSULTANT:

D. WOOLLEY & ASSOCIATES, INC.

2832 Walnut Avenue, Suite A

Tustin, CA 92780

Attention: David E. Woolley

All communication regarding the Scope of Work, will be addressed to the Project Manager. Direction from other OC SAN staff must be approved in writing by OC SAN's Project Manager prior to action from the CONSULTANT.

15. TERMINATION

OC SAN may terminate this AGREEMENT at any time, without cause, upon giving thirty (30) days written notice to CONSULTANT. In the event of such termination, CONSULTANT shall be entitled to compensation for work performed on a prorated basis through and including the effective date of termination.

CONSULTANT shall be permitted to terminate this AGREEMENT upon thirty (30) days written notice only if CONSULTANT is not compensated for billed amounts in accordance with the provisions of this AGREEMENT, when the same are due.

Notice of termination shall be mailed to OC SAN at the address listed in Section 14 - NOTICES.

16. DOCUMENTS AND STUDY MATERIALS

The documents and study materials for this Project shall become the property of OC SAN upon the termination or completion of the work. CONSULTANT agrees to furnish to OC SAN copies of all memoranda, correspondence, electronic materials, computation and study materials in its files pertaining to the work described in this AGREEMENT, which is requested in writing by OC SAN.

17. COMPLIANCE

A. Labor

CONSULTANT certifies by the execution of this AGREEMENT that it pays employees not less than the minimum wage as defined by law, and that it does not discriminate in its employment with regard to race, color, religion, sex or national origin; that it is in compliance with all federal, state and local directives and executive orders regarding non-discrimination in employment; and that it agrees to demonstrate positively and aggressively the principle of equal opportunity in employment.

B. Air Pollution

CONSULTANT and its Subconsultants and subcontractors shall comply with all applicable federal, state and local air pollution control laws and regulations.

18. AGREEMENT EXECUTION AUTHORIZATION

Both OC SAN and CONSULTANT do covenant that each individual executing this document by and on behalf of each Party is a person duly authorized to execute this AGREEMENT for that Party.

19. DISPUTE RESOLUTION

In the event of a dispute arising between the parties regarding performance or interpretation of this AGREEMENT, the dispute shall be resolved by binding arbitration under the auspices of the Judicial Arbitration and Mediation Service (“JAMS”), or similar organization or entity conducting alternate dispute resolution services.

20. ATTORNEY'S FEES, COSTS AND NECESSARY DISBURSEMENTS

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 he may be entitled.

21. WARRANTY

CONSULTANT shall perform its services in accordance with generally accepted industry and professional standards. If, within the 12-month period following completion of its services, OC SAN informs CONSULTANT that any part of the services fails to meet those standards, CONSULTANT shall, within the time prescribed by OC SAN, take all such actions as are necessary to correct or complete the noted deficiency(ies).

22. INDEMNIFICATION

To the fullest extent permitted by law, CONSULTANT shall indemnify, defend (at CONSULTANT's sole cost and expense and with legal counsel approved by OC SAN, which approval shall not be unreasonably withheld), protect and hold harmless OC SAN and all of OC SAN's officers, directors, employees, CONSULTANT's, and agents (collectively the “Indemnified Parties”), from and against any and all claims, damages, liabilities, causes of action, suits, arbitration awards, losses, judgments, fines, penalties, costs and expenses (including, without limitation, attorneys' fees, disbursements and court costs, and all other professional, expert or CONSULTANT's fees and costs and OC SAN's general and administrative expenses; individually, a “Claim”; collectively, “Claims”) which may arise from or are in any manner related, directly or indirectly, to any work performed, or any operations, activities, or services provided by CONSULTANT in carrying out its obligations under this AGREEMENT to the extent of the negligent, recklessness and/or willful misconduct of CONSULTANT, its principals, officers, agents, employees, CONSULTANT's suppliers, CONSULTANT, Subconsultants, subcontractors, and/or anyone employed directly or indirectly by any of them, regardless of any contributing negligence or strict liability of an Indemnified Party. Notwithstanding the foregoing, nothing herein shall be construed to require CONSULTANT to indemnify the Indemnified Parties from any Claim arising solely from:

- (A) the active negligence or willful misconduct of the Indemnified Parties; or
- (B) a natural disaster or other act of God, such as an earthquake; or
- (C) the independent action of a third party who is neither one of the Indemnified Parties nor the CONSULTANT, nor its principal, officer, agent, employee, nor CONSULTANT's supplier, CONSULTANT, Subconsultant, subcontractor, nor anyone employed directly or indirectly by any of them.

Exceptions (A) through (B) above shall not apply, and CONSULTANT shall, to the fullest extent permitted by law, indemnify the Indemnified Parties, from Claims arising from more than one cause if any such cause taken alone would otherwise result in the obligation to indemnify hereunder.

CONSULTANT's liability for indemnification hereunder is in addition to any liability CONSULTANT may have to OC SAN for a breach by CONSULTANT of any of the provisions of this AGREEMENT. Under no circumstances shall the insurance requirements and limits set forth in this AGREEMENT be construed to limit CONSULTANT's indemnification obligation or other liability hereunder. The terms of this AGREEMENT are contractual and the result of negotiation between the parties hereto. Accordingly, any rule of construction of contracts (including, without limitation, California Civil Code Section 1654) that ambiguities are to be construed against the drafting party, shall not be employed in the interpretation of this AGREEMENT.

23. DUTY TO DEFEND

The duty to defend hereunder is wholly independent of and separate from the duty to indemnify and such duty to defend shall exist regardless of any ultimate liability of CONSULTANT and shall be consistent with Civil Code section 2782.8. Such defense obligation shall arise immediately upon presentation of a Claim by any person if, without regard to the merit of the Claim, such Claim could potentially result in an obligation to indemnify one or more Indemnified Parties, and upon written notice of such Claim being provided to CONSULTANT. Payment to CONSULTANT by any Indemnified Party or the payment or advance of defense costs by any Indemnified Party shall not be a condition precedent to enforcing such Indemnified Party's rights to indemnification hereunder. In the event a final judgment, arbitration, award, order, settlement, or other final resolution expressly determines that the claim did not arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the CONSULTANT, to any extent, then OC SAN will reimburse CONSULTANT for the reasonable costs of defending the Indemnified Parties against such claims.

CONSULTANT's indemnification obligation hereunder shall survive the expiration or earlier termination of this AGREEMENT until such time as action against the Indemnified Parties for such matter indemnified hereunder is fully and finally barred by the applicable statute of limitations.

24. COMPLIANCE WITH OC SAN POLICIES AND PROCEDURES

CONSULTANT shall comply with all OC SAN policies and procedures including the Contractor Safety Standards, as applicable, all of which may be amended from time to time.

25. CLOSEOUT

When OC SAN determines that all Work authorized under the AGREEMENT is fully complete and that OC SAN requires no further work from CONSULTANT, or the AGREEMENT is otherwise terminated or expires in accordance with the terms of the AGREEMENT, OC SAN shall give the Consultant written notice that the AGREEMENT will be closed out. CONSULTANT shall submit all outstanding billings, work submittals, deliverables, reports or similarly related documents as required under the AGREEMENT within thirty (30) days of receipt of notice of AGREEMENT closeout.

Upon receipt of CONSULTANT's submittals, OC SAN shall commence a closeout audit of the AGREEMENT and will either:

- i. Give the CONSULTANT a final AGREEMENT Acceptance: or
- ii. Advise the CONSULTANT in writing of any outstanding item or items which must be furnished, completed, or corrected at the CONSULTANT's cost.

CONSULTANT shall be required to provide adequate resources to fully support any administrative closeout efforts identified in the AGREEMENT. Such support must be provided within the timeframe requested by OC SAN.

Notwithstanding the final AGREEMENT acceptance, the CONSULTANT will not be relieved of its obligations hereunder, nor will the CONSULTANT be relieved of its obligations to complete any portions of the work, the non-completion of which were not disclosed to OC SAN (regardless of whether such nondisclosures were fraudulent, negligent, or otherwise), and the CONSULTANT shall remain obligated under all those provisions of the AGREEMENT which expressly or by their nature extend beyond and survive final AGREEMENT Acceptance.

Any failure by OC SAN to reject the work or to reject the CONSULTANT's request for final AGREEMENT Acceptance as set forth above shall not be deemed to be acceptance of the work by OC SAN for any purpose nor imply acceptance of, or AGREEMENT with, the CONSULTANT's request for final AGREEMENT Acceptance.

26. ENTIRE AGREEMENT

This AGREEMENT constitutes the entire understanding and AGREEMENT between the Parties and supersedes all previous negotiations between them pertaining to the subject matter thereof.

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

IN WITNESS WHEREOF, this AGREEMENT has been executed in the name of OC SAN, by its officers thereunto duly authorized, and CONSULTANT as of the day and year first above written.

CONSULTANT: D. WOOLLEY & ASSOCIATES, INC.

By _____ Date _____

Printed Name & Title

ORANGE COUNTY SANITATION DISTRICT

By _____ Date _____
John B. Withers
Board Chairman

By _____ Date _____
Kelly A. Lore
Clerk of the Board

By _____ Date _____
Ruth Zintzun
Purchasing & Contracts Manager

- Attachments: Attachment "A" – Scope of Work
Attachment "B" – Not Attached
Attachment "C" – Not Attached
Attachment "D" – Fee Proposal
Attachment "E" – Not Used
Attachment "F" – Not Attached
Attachment "G" – Not Attached
Attachment "H" – Not Used
Attachment "I" – Safety Declaration
Attachment "J" – Contractor Safety Standards
Attachment "K" - Allowable Direct Costs

CMM:yp

ATTACHMENT “A”

SCOPE OF WORK

ATTACHMENT “A”

**SCOPE OF WORK
SURVEYING SERVICES**

**FOR THE ORANGE COUNTY SANITATION DISTRICT’S CAPITAL IMPROVEMENT
PROGRAM, FACILITIES ENGINEERING, OPERATIONS, AND MAINTENANCE PROJECTS**

PSA2022-002

I. PURPOSE

The selected CONSULTANT shall provide on-call surveying services as required in support of OC SAN’s Capital Improvement Program, Facilities Engineering, Operations, and Maintenance projects. The locations for this work include the two treatment plants and other facilities (pump stations and collections system) located throughout Orange County.

II. TYPICAL TASKS

PRELIMINARY ALIGNMENT: Provide preliminary stationing at intervals as required by the OC SAN Engineer.

CONSTRUCTION ALIGNMENT: Provide horizontal and vertical controls. Paint or flag centerline of sewer for collections projects when requested by the OC SAN Engineer.

CONTRACTOR'S STAKING: Provide one set of offset line-and-grade stakes for pipeline, manholes, structures, etc. at 25 to 50-foot intervals, or as required by the OC SAN Engineer along with cut sheets for contractor's use.

PIPE CASINGS/TUNNELS: Provide one set of offset stakes for each pit location and one set for horizontal and vertical control in pits, with cut sheets.
Provide line-and-grade checks inside casings.

PIPELINE HEADING CHECK: Provide line-and-grade checks daily or as required by the OC SAN Engineer.

STREET CENTERLINE TIES: Prior to construction, tie-out street centerline monumentation, and after construction, replace disturbed or destroyed street centerline ties.

PAVEMENT REPLACEMENT: At the locations requested by OC SAN, street cross sections will be surveyed prior to construction. For pavement replacement after construction, one set of paving and curb stakes will be provided at locations designated by OC SAN.

MISCELLANEOUS SURVEY: As requested by OC SAN, provide boundary and topographic surveys, monument replacement, aerial photography, settlement monitoring, easement review and preparation, and other miscellaneous items. Prepare base maps and exhibits using AutoCAD, latest version, record required documents with the County.

III. REQUIREMENTS

1. CONSULTANT shall be available to work the next day if scheduled by the end of the work day. OC SAN expects that the technician will arrive at the site with the correct equipment, calibrated to existing standards with documentation. OC SAN will not reimburse the CONSULTANT for the time required to obtain the correct equipment. Crews shall sign in/out with signatures by OC SAN representative and 3rd party crew.
2. Equipment that requires calibration shall be calibrated prior to the work. Calibration costs shall be included in the total hourly rate for field service fees.
3. CONSULTANT shall be experienced with tunnel and casing surveys.
4. Copies of all survey notes shall be furnished to OC SAN within 24 hours of survey or stakeout. Cut sheets and heading checks documents shall be provided the same day.
5. Survey work shall be documented in English Standard Units and/or Metric Units, as required by OC SAN.
6. CONSULTANT shall be available for occasional night work (4:30 p.m. to 7:00 a.m.) upon 24hour advance notice.
7. Survey party should consist of two or three persons per crew with a certified party chief, or equal.
8. Party chief or company representative should be available for the pre-construction meeting and other key meetings as the project progresses.
9. All supplies, such as, but not limited to, stakes, flagging, nails, spikes, ties, paint, etc. shall be included in the hourly rate.
10. All surveyors must be adequately insured for liability and property damage, and a copy of the policy must be forwarded to OC SAN. Vehicles shall bear the CONSULTANT's name.
11. CONSULTANT shall be able to provide proper traffic control in accordance with the Work Area Traffic Control Handbook (WATCH) Manual, Manual on Uniform Traffic Control Devices (MUTCD) or as required by the governing agency when carrying out their functions and duties.

12. At least one member of the party shall have a cell phone or other form of communication so as to be in contact with the home office in the event OC SAN requires immediate communication during normal working hours, and shall have means to be directly contacted in the field by OC SAN personnel via cell phone.
13. CONSULTANT must be able to recognize survey errors or omissions in the contract drawings, survey or stakeout, and alert OC SAN staff timely in order to mitigate production delays and costs.
14. CONSULTANT shall comply with OSHA requirements and OCS D Safety Standards.
15. On occasion, CONSULTANT will be required to enter confined spaces to perform work. Entrants shall be CAL-OSHA confined-space trained and certified. Certifications shall be submitted to OC SAN for review and approval at least 48 hours prior to commencement of work. Personnel will be entering under Contractor's confined-space entry permit.
16. Personal protective equipment (PPE), including lower explosive limit (LEL) personal monitors is required onsite for all personnel.
 - a. Personnel must be fall-protection trained and provide their own fall-protection PPE, when onsite.
17. OC SAN shall provide to the CONSULTANT a Task Order Number that will be used to track the work. The CONSULTANT will not begin any work without the Task Order Number. If the CONSULTANT receives direction from OC SAN to perform some type of work without a Task Order Number, the CONSULTANT shall contact the Inspection Supervisor to determine if the work is authorized and receive a Task Order Number if appropriate.
18. CONSULTANT will submit monthly statements, ***separately for each project or Task***, covering services and/or work performed no later than the second Wednesday of the following month and in the format required by OC SAN, to request payment. Such requests shall be based upon the amount and value of the work and services performed by CONSULTANT under this Agreement and shall be prepared by CONSULTANT and accompanied by such supporting data (including sign in/out sheets signed by CONSULTANT and OC SAN representative), including:
 - Task Order Number and Project Number and/or Project Description included on the statement.
 - Tasks completed, identified by the Task number assigned to each Task.
 - Detailed breakdown of all costs incurred per task performed, and all back-up documentation for each Task.
 - Copy of the daily notes or tasks including the signature of OC SAN's Inspector approving the day's work.
 - Running total of services billed, services paid, services billed but not paid, and the amount of the contract remaining.

OC SAN will not approve any task performed without the appropriate back-up documentation and may result in delayed or partial payment. Failure to submit monthly

statements no later than the second Wednesday of the following month may result in delayed payment.

19. If any conflict of interest occurs on a project, OC SAN shall be notified without delay of the conflict. OC SAN will evaluate conflict of interest on a case-by-case basis and advise as to whether it may be waived in each case.

PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT, is made and entered into to be effective the 1st day of May, 2022, by and between the ORANGE COUNTY SANITATION DISTRICT, hereinafter referred to as "OC SAN", and MICHAEL BAKER INTERNATIONAL, INC., for purposes of this AGREEMENT hereinafter referred to as "CONSULTANT". OC SAN and CONSULTANT are referred to herein collectively as the "Parties" or individually as a "Party."

WITNESSETH:

WHEREAS, OC SAN desires to engage a consultant for surveying services for the OC SAN's Capital Improvement Program, Facilities Engineering, Operations, and Maintenance projects, PSA2022-002; and,

WHEREAS, CONSULTANT is qualified to provide the necessary services in connection with these requirements and has agreed to provide the necessary professional services; and,

WHEREAS, OC SAN has adopted procedures for the selection of professional services and has proceeded in accordance with said procedures to select a CONSULTANT to perform this work; and,

WHEREAS, at its regular meeting on March 23, 2022, the Board of Directors, by Minute Order, accepted the recommendation of the Operations Committee to approve this AGREEMENT between OC SAN and CONSULTANT.

NOW, THEREFORE, in consideration of the promises and mutual benefits, which will result to the parties in carrying out the terms of this AGREEMENT, it is mutually agreed as follows:

1. SCOPE OF WORK

CONSULTANT agrees to furnish necessary professional services to accomplish those project elements outlined in the Scope of Work attached hereto as "Attachment A", and by this reference made a part of this AGREEMENT.

- A. The CONSULTANT shall be responsible for the professional quality, technical accuracy, and completeness and coordination of the work and services furnished by the CONSULTANT under this AGREEMENT, including the work performed by its Subconsultants. Where approval by OC SAN is indicated, it is understood to be conceptual approval only and does not relieve the CONSULTANT of responsibility for complying with all applicable laws, regulations, codes, industry standards and liability for damages caused by errors, omissions, noncompliance with industry standards, and/or negligence on the part of the CONSULTANT or its Subconsultants.
- B. CONSULTANT is responsible for the quality of work prepared under this AGREEMENT and shall ensure that all work is performed to the highest industry standards for clarity, uniformity, and completeness. CONSULTANT shall timely respond to all comments, suggestions, and recommendations from OC SAN. All comments from OC SAN, or its agent, shall be incorporated into the work prior to the next review deadline or addressed, in writing, as to why the comment(s)

has/have not been incorporated. CONSULTANT shall ensure that each submittal is 100% accurate for the level of work submitted (i.e. correct references, terms, capitalization or equal status, spelling, punctuation, etc.).

- C. In the event that CONSULTANT's services and/or work product(s) is not to the satisfaction of OC SAN and/or does not conform to the requirements of this AGREEMENT or the applicable industry standards, the CONSULTANT shall, without additional compensation, promptly correct or revise any errors or deficiencies in its work product(s) within the timeframe specified by the Project Manager. OC SAN may charge to CONSULTANT all costs, expenses and damages associated with any such corrections or revisions.
- D. All professional services performed by the CONSULTANT, including, but not limited to, all drafts, data, correspondence, proposals, and reports compiled or composed by the CONSULTANT, pursuant to this AGREEMENT, are for the sole use of OC SAN, its agents and employees. Neither the documents nor their contents shall be released to any third party without the prior written consent of OC SAN. This provision does not apply to information that (a) was publicly known, or otherwise known to the CONSULTANT, at the time that it was disclosed to the CONSULTANT by OC SAN, or (b) subsequently becomes publicly known to the CONSULTANT other than through disclosure by OC SAN.

2. COMPENSATION

Total compensation shall be paid to CONSULTANT for services in accordance with the following provisions:

A. Total Compensation

Total compensation shall be in an amount not to exceed Two Hundred Thousand Dollars (\$200,000.00), over a three (3) year period.

OC SAN shall pay to CONSULTANT one total hourly rate set forth in Attachment "D" - Fee Proposal. The rate shall include all costs such as, but not necessarily limited to, technician labor, equipment, and overhead rates, report writing, office review and supervision, other miscellaneous charges. Drive time and mileage shall be included in the hourly rate and will not be allowed as additional costs.

B. Other Direct Costs

Other Direct Costs incurred by CONSULTANT and its Contractor due to modifications in scope of work resulting from field investigations and field work required by Contract. These items may include special equipment, test equipment and tooling and other materials and services not previously identified. Refer to attachment "K" Allowable Direct Costs for payment information.

3. PAYMENT

- A. Invoice: CONSULTANT shall include in its invoice, a detailed breakdown of costs associated with the performance of any corrections or revisions of the work for that invoicing period, in a format acceptable to OC SAN. CONSULTANT shall include copies of the daily notes or tasks including the signature of the OC SAN's Inspector approving the day's work for that invoicing period. CONSULTANT shall warrant and certify the accuracy of these costs and provide all support documentation required by OC SAN. CONSULTANT understands that submitted costs are subject to Audit Provisions as stated under this Agreement.
- B. CONSULTANT will submit statements covering services and/or work performed for payment for those items. The format must include, as a minimum: 1) current billing period invoicing, 2) current billing period "total percent invoiced to date", and 3) budget status and amount remaining. Such requests shall be accompanied by such supporting data as may be required by OC SAN.

Upon approval of such payment request by OC SAN, payment shall be made to CONSULTANT as soon as practicable of one hundred percent (100%) of the invoiced amount.

- C. Upon satisfactory completion of the work performed hereunder and prior to final payment under this AGREEMENT for such work, or prior settlement upon termination of this AGREEMENT, and as a condition precedent thereto, CONSULTANT shall execute and deliver to OC SAN a release of all claims against OC SAN arising under or by virtue of this AGREEMENT other than such claims, if any, as may be specifically exempted by CONSULTANT from the operation of the release in stated amounts to be set forth therein.
- D. Pursuant to the California False Claims Act (Government Code sections 12650-12655), any CONSULTANT that knowingly submits a false claim to OC SAN for compensation under the terms of this AGREEMENT may be held liable for treble damages and up to a \$10,000 civil penalty for each false claim submitted. This section shall also be binding on all Subconsultants.

A CONSULTANT or Subconsultant shall be deemed to have submitted a false claim when the CONSULTANT or Subconsultant: (a) knowingly presents or causes to be presented to an officer or employee of OC SAN a false claim or request for payment or approval; (b) knowingly makes, uses, or causes to be made or used a false record or statement to get a false claim paid or approved by OC SAN; (c) conspires to defraud OC SAN by getting a false claim allowed or paid by OC SAN; (d) knowingly makes, uses, or causes to be made or used a false record or statement to conceal, avoid, or decrease an obligation to OC SAN; or (e) is a beneficiary of an inadvertent submission of a false claim to OC SAN, and fails to disclose the false claim to OC SAN within a reasonable time after discovery of the false claim.

4. PREVAILING WAGES

To the extent CONSULTANT intends to utilize employees who will perform work during the contract, as more specifically defined under Labor Code Section 1720, CONSULTANT shall be subject to prevailing wage requirements with respect to such employees.

5. CALIFORNIA DEPARTMENT OF INDUSTRIAL RELATIONS (DIR) REGISTRATION AND RECORD OF WAGES

- A. To the extent CONSULTANT's employees and/or Subconsultants who will perform Work during the design and preconstruction phases of a construction contract for which Prevailing Wage Determinations have been issued by the DIR and as more specifically defined under Labor Code Section 1720 et seq, CONSULTANT and Subconsultants shall comply with the registration requirements of Labor Code Section 1725.5. Pursuant to Labor Code Section 1771.4, the Work is subject to compliance monitoring and enforcement by the DIR.
- B. The CONSULTANT and Subconsultants shall maintain accurate payroll records and shall comply with all the provisions of Labor Code Section 1776, and shall submit payroll records to the Labor Commissioner pursuant to Labor Code Section 1771.4(a)(3). Penalties for non-compliance with the requirements of Section 1776 may be deducted from progress payments per Section 1776.
- C. Pursuant to Labor Code Section 1776, the CONSULTANT and Subconsultants shall furnish a copy of all certified payroll records to OC SAN and/or general public upon request, provided the public request is made through OC SAN, the Division of Apprenticeship Standards or the Division of Labor Enforcement of the Department of Industrial Relations.
- D. The CONSULTANT and 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).

6. DOCUMENT OWNERSHIP – CONSULTANT PERFORMANCE

- A. Ownership of Documents for the Professional Services performed.

All documents in all forms (electronic, paper, etc.), including, but not limited to, studies, sketches, drawings, computer printouts, disk files, and electronic copies prepared in connection with or related to the Scope of Work or Professional Services, shall be the property of OC SAN. OC SAN's ownership of these documents includes use of, reproduction or reuse of and all incidental rights, whether or not the work for which they were prepared has been performed. OC SAN ownership entitlement arises upon payment or any partial payment for work performed and includes ownership of any and all work product completed prior to that payment. This Section shall apply whether the CONSULTANT's Professional Services are terminated: a) by the completion of the AGREEMENT, or b) in accordance with other provisions of this AGREEMENT. Notwithstanding any other provision of this paragraph or AGREEMENT, the CONSULTANT shall

have the right to make copies of all such plans, studies, sketches, drawings, computer printouts and disk files, and specifications.

- B. CONSULTANT shall not be responsible for damage caused by subsequent changes to or uses of the study or deliverable where the subsequent changes or uses are not authorized or approved by CONSULTANT, provided that the service rendered by CONSULTANT was not a proximate cause of the damage.

7. AGREEMENT TERM

The services provided under this AGREEMENT shall be for the period of three (3) years, commencing on May 1, 2022 and continuing through April 30, 2025.

8. INSURANCE

A. General

- i. Insurance shall be issued and underwritten by insurance companies acceptable to OC SAN.
- ii. Insurers must have an "A-" Policyholder's Rating, or better, and Financial Rating of at least Class VIII, or better, in accordance with the most current A.M. Best's Guide Rating. However, OC SAN will accept State Compensation Insurance Fund, for the required policy of Worker's Compensation Insurance subject to OC SAN's option to require a change in insurer in the event the State Fund financial rating is decreased below "B". Further, OC SAN will require CONSULTANT to substitute any insurer whose rating drops below the levels herein specified. Said substitution shall occur within twenty (20) days of written notice to CONSULTANT, by OC SAN or its agent.
- iii. Coverage shall be in effect prior to the commencement of any work under this AGREEMENT.

B. General Liability

The CONSULTANT shall maintain during the life of this AGREEMENT, including the period of warranty, Commercial General Liability Insurance written on an occurrence basis providing the following minimum limits of liability coverage: Two Million Dollars (\$2,000,000) per occurrence with Four Million Dollars (\$4,000,000) aggregate. Said insurance shall include coverage for the following hazards: Premises-Operations, blanket contractual liability (for this AGREEMENT), products liability/completed operations (including any product manufactured or assembled), broad form property damage, blanket contractual liability, independent contractors liability, personal and advertising injury, mobile equipment, owners and contractors protective liability, and cross liability and severability of interest clauses. A statement on an insurance certificate will not be accepted in lieu of the actual additional insured endorsement(s). If requested by OC SAN and applicable, XCU coverage (Explosion, Collapse and Underground) and Riggers/On Hook Liability must be included in the General Liability policy and coverage must be reflected on the submitted Certificate of Insurance.

C. Umbrella Excess Liability

The minimum limits of general liability and Automotive Liability Insurance required, as set forth herein, shall be provided for through either a single policy of primary insurance or a combination of policies of primary and umbrella excess coverage. Umbrella excess liability coverage shall be issued with limits of liability which, when combined with the primary insurance, will equal the minimum limits for general liability and automotive liability.

D. Automotive/Vehicle liability Insurance

The CONSULTANT shall maintain a policy of Automotive Liability Insurance on a comprehensive form covering all owned, non-owned, and hired automobiles, trucks, and other vehicles providing the following minimum limits of liability coverage: Combined single limit of One Million Dollars (\$1,000,000). A statement on an insurance certificate will not be accepted in lieu of the actual additional insured endorsement.

E. Drone Liability Insurance

If a drone will be used, drone liability insurance must be maintained by CONSULTANT in the amount of One Million Dollars (\$1,000,000) in a form acceptable by OC SAN.

F. Worker's Compensation Insurance

The CONSULTANT shall provide such Workers' Compensation Insurance as required by the Labor Code of the State of California in the amount of the statutory limit, including Employer's Liability Insurance with a minimum limit of One Million Dollars (\$1,000,000) per occurrence. Such Worker's Compensation Insurance shall be endorsed to provide for a waiver of subrogation in favor of OC SAN. A statement on an insurance certificate will not be accepted in lieu of the actual endorsements unless the insurance carrier is State of California Insurance Fund and the identifier "SCIF" and endorsement numbers 2570 and 2065 are referenced on the certificate of insurance. If an exposure to Jones Act liability may exist, the insurance required herein shall include coverage for Jones Act claims.

G. Errors and Omissions/Professional Liability

CONSULTANT shall maintain in full force and effect, throughout the term of this AGREEMENT, standard industry form professional negligence errors and omissions insurance coverage in an amount of not less than One Million Dollars (\$1,000,000) with limits in accordance with the provisions of this Paragraph. If the policy of insurance is written on a "claims made" basis, said policy shall be continued in full force and effect at all times during the term of this AGREEMENT, and for a period of five (5) years from the date of the completion of the services hereunder.

In the event of termination of said policy during this period, CONSULTANT shall obtain continuing insurance coverage for the prior acts or omissions of

CONSULTANT during the course of performing services under the term of this AGREEMENT. Said coverage shall be evidenced by either a new policy evidencing no gap in coverage or by separate extended "tail" coverage with the present or new carrier.

In the event the present policy of insurance is written on an "occurrence" basis, said policy shall be continued in full force and effect during the term of this AGREEMENT or until completion of the services provided for in this AGREEMENT, whichever is later. In the event of termination of said policy during this period, new coverage shall be obtained for the required period to insure for the prior acts of CONSULTANT during the course of performing services under the term of this AGREEMENT.

CONSULTANT shall provide to OC SAN a certificate of insurance in a form acceptable to OC SAN indicating the deductible or self-retention amounts and the expiration date of said policy, and shall provide renewal certificates not less than ten (10) days prior to the expiration of each policy term.

H. Proof of Coverage

The CONSULTANT shall furnish OC SAN with original certificates and amendatory endorsements effecting coverage. Said policies and endorsements shall conform to the requirements herein stated. All certificates and endorsements are to be received and approved by OC SAN before work commences. OC SAN reserves the right to require complete, certified copies of all required insurance policies, including endorsements, effecting the coverage required, at any time. The following are approved forms that must be submitted as proof of coverage:

- Certificate of Insurance ACORD Form 25 (5/2010) or equivalent.
- Additional Insurance (General Liability) (ISO Form) CG2010 11 85 or
The combination of (ISO Forms)
CG 2010 10 01 and CG 2037 10 01

All other Additional Insured endorsements must be submitted for approval by OC SAN, and OC SAN may reject alternatives that provide different or less coverage to OC SAN.

- Additional Insured (Auto Liability) Submit endorsement provided by carrier for OC SAN approval.
- Waiver of Subrogation State Compensation Insurance Fund Endorsement No. 2570 or equivalent.
- Cancellation Notice State Compensation Insurance Fund Endorsement No. 2065 or equivalent.

I. Cancellation Notice

Each insurance policy required herein shall be endorsed to state that coverage shall not be cancelled by either party, except after thirty (30) days' prior written notice. The policy shall not terminate, nor shall it be cancelled, nor the coverage reduced until thirty (30) days after written notice is given to OC SAN except for nonpayment of premium, which shall require not less than ten (10) days written notice to OC SAN. CONSULTANT shall provide any advance notice required under this Section in the event the insurance carrier will not provide endorsements with the wording required herein. Should there be changes in coverage or an increase in deductible or SIR amounts, the CONSULTANT and its insurance broker/agent shall send to OC SAN a certified letter which includes a description of the changes in coverage and/or any increase in deductible or SIR amounts. The certified letter must be sent to the attention of Risk Management, and shall be received by OC SAN not less than thirty (30) days prior to the effective date of the change(s) if the change would reduce coverage or increase deductibles or SIR amounts or otherwise reduce or limit the scope of insurance coverage provided to OC SAN.

J. Primary Insurance

All liability policies shall contain a Primary and Non Contributory Clause. Any other insurance maintained by OC SAN shall be excess and not contributing with the insurance provided by CONSULTANT.

K. Separation of Insured

All liability policies shall contain a "Separation of Insureds" clause.

L. Non-Limiting (if applicable)

Nothing in this document shall be construed as limiting in any way, nor shall it limit the indemnification provision contained in this AGREEMENT, or the extent to which CONSULTANT may be held responsible for payment of damages to persons or property.

M. Deductibles and Self-Insured Retentions

Any deductible and/or self-insured retention must be declared to OC SAN on the Certificate of Insurance. All deductibles and/or self-insured retentions require approval by OC SAN. At the option of OC SAN, either: the insurer shall reduce or eliminate such deductible or self-insured retention as respects OC SAN; or the CONSULTANT shall provide a financial guarantee satisfactory to OC SAN guaranteeing payment of losses and related investigations, claim administration and defense expenses.

N. Defense Costs

The General and Automobile Liability policies shall have a provision that defense costs for all insureds and additional insureds are paid in addition to and do not deplete any policy limits.

O. Subconsultants

The CONSULTANT shall be responsible to establish insurance requirements for any Subconsultant hired by the CONSULTANT. The insurance shall be in amounts and types reasonably sufficient to deal with the risk of loss involving the Subconsultant's operations and work.

P. Limits Are Minimums

If the CONSULTANT maintains higher limits than any minimums shown above, then OC SAN requires and shall be entitled to coverage for the higher limits maintained by CONSULTANT.

9. SCOPE CHANGES

In the event of a change in the Scope of Work or a change in the proposed Project, as requested by OC SAN, the Parties hereto shall execute an Amendment to this AGREEMENT setting forth with particularity all terms of the new AGREEMENT, including, but not limited to any additional CONSULTANT's fees.

10. PROJECT TEAM AND SUBCONSULTANTS

CONSULTANT shall provide to OC SAN, prior to execution of this AGREEMENT, the names and full description of all Subconsultants and CONSULTANT's project team members anticipated to be used on this Project under this AGREEMENT by CONSULTANT. CONSULTANT shall include a description of the work and services to be done by each Subconsultant and each of CONSULTANT's Project team member. CONSULTANT shall include the respective compensation amounts for CONSULTANT and each Subconsultant.

There shall be no substitution of the listed Subconsultants and CONSULTANT's project team members without prior written approval by OC SAN.

11. ENGINEERING REGISTRATION

The CONSULTANT's personnel and Subconsultants are comprised of a staff of specialists in each department. The firm itself is not a registered engineer but represents and agrees that wherever, in the performance of this AGREEMENT, the services of a registered engineer is required, such services hereunder will be performed under the direct supervision of registered engineers who are registered in California.

12. AUDIT PROVISIONS.

A. OC SAN retains the reasonable right to access, review, examine, and audit, any and all books, records, documents and any other evidence of procedures and

practices that OC SAN determines are necessary to discover and verify that the CONSULTANT is in compliance with all requirements under this AGREEMENT. The CONSULTANT shall include OC SAN's right as described above, in any and all of their subcontracts, and shall ensure that these rights are binding upon all Subconsultants.

- B. OC SAN retains the right to examine CONSULTANT's books, records, documents and any other evidence of procedures and practices that OC SAN determines are necessary to discover and verify all direct and indirect costs, of whatever nature, which are claimed to have been incurred, or anticipated to be incurred or to ensure CONSULTANT's compliance with all requirements under this AGREEMENT during the term of this AGREEMENT and for a period of three (3) years after its termination.
- C. CONSULTANT shall maintain complete and accurate records in accordance with generally accepted industry standard practices and OC SAN's policy. The CONSULTANT shall make available to OC SAN for review and audit, all project related accounting records and documents, and any other financial data within 15 days after receipt of notice from OC SAN. Upon OC SAN's request, the CONSULTANT shall submit exact duplicates of originals of all requested records to OC SAN. If an audit is performed, CONSULTANT shall ensure that a qualified employee of the CONSULTANT will be available to assist OC SAN's auditor in obtaining all Project related accounting records and documents, and any other financial data.

13. LEGAL RELATIONSHIP BETWEEN PARTIES

The legal relationship between the parties hereto is that of an independent contractor and nothing herein shall be deemed to transform CONSULTANT, its staff, independent contractors, or Subconsultants into employees of OC SAN. CONSULTANT'S staff performing services under the AGREEMENT shall at all times be employees and/or independent contractors of CONSULTANT. CONSULTANT shall monitor and control its staff and pay wages, salaries, and other amounts due directly to its staff in connection with the AGREEMENT. CONSULTANT shall be responsible for hiring, review, and termination of its staff and shall be accountable for all reports and obligations respecting them, such as social security, income tax withholding, unemployment compensation, workers' compensation and similar matters.

14. NOTICES

All notices hereunder and communications regarding the interpretation of the terms of this AGREEMENT, or changes thereto, shall be effected by delivery of said notices in person or by depositing said notices in the U.S. mail, registered or certified mail, return receipt requested, postage prepaid and addressed as follows:

ORANGE COUNTY SANITATION DISTRICT
10844 Ellis Avenue
Fountain Valley, CA 92708-7018
Attention: Clarice Marcin, Contracts Administration
Copy: William Gilbert and Rick Kwiecien, Project Managers

CONSULTANT:

MICHAEL BAKER INTERNATIONAL, INC.

«ConsultantsName»

«Address»

«CityStateZip»

All communication regarding the Scope of Work, will be addressed to the Project Manager. Direction from other OC SAN staff must be approved in writing by OC SAN's Project Manager prior to action from the CONSULTANT.

15. TERMINATION

OC SAN may terminate this AGREEMENT at any time, without cause, upon giving thirty (30) days written notice to CONSULTANT. In the event of such termination, CONSULTANT shall be entitled to compensation for work performed on a prorated basis through and including the effective date of termination.

CONSULTANT shall be permitted to terminate this AGREEMENT upon thirty (30) days written notice only if CONSULTANT is not compensated for billed amounts in accordance with the provisions of this AGREEMENT, when the same are due.

Notice of termination shall be mailed to OC SAN at the address listed in Section 14 - NOTICES.

16. DOCUMENTS AND STUDY MATERIALS

The documents and study materials for this Project shall become the property of OC SAN upon the termination or completion of the work. CONSULTANT agrees to furnish to OC SAN copies of all memoranda, correspondence, electronic materials, computation and study materials in its files pertaining to the work described in this AGREEMENT, which is requested in writing by OC SAN.

17. COMPLIANCE

A. Labor

CONSULTANT certifies by the execution of this AGREEMENT that it pays employees not less than the minimum wage as defined by law, and that it does not discriminate in its employment with regard to race, color, religion, sex or national origin; that it is in compliance with all federal, state and local directives and executive orders regarding non-discrimination in employment; and that it agrees to demonstrate positively and aggressively the principle of equal opportunity in employment.

B. Air Pollution

CONSULTANT and its Subconsultants and subcontractors shall comply with all applicable federal, state and local air pollution control laws and regulations.

18. AGREEMENT EXECUTION AUTHORIZATION

Both OC SAN and CONSULTANT do covenant that each individual executing this document by and on behalf of each Party is a person duly authorized to execute this AGREEMENT for that Party.

19. DISPUTE RESOLUTION

In the event of a dispute arising between the parties regarding performance or interpretation of this AGREEMENT, the dispute shall be resolved by binding arbitration under the auspices of the Judicial Arbitration and Mediation Service (“JAMS”), or similar organization or entity conducting alternate dispute resolution services.

20. ATTORNEY'S FEES, COSTS AND NECESSARY DISBURSEMENTS

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 he may be entitled.

21. WARRANTY

CONSULTANT shall perform its services in accordance with generally accepted industry and professional standards. If, within the 12-month period following completion of its services, OC SAN informs CONSULTANT that any part of the services fails to meet those standards, CONSULTANT shall, within the time prescribed by OC SAN, take all such actions as are necessary to correct or complete the noted deficiency(ies).

22. INDEMNIFICATION

To the fullest extent permitted by law, CONSULTANT shall indemnify, defend (at CONSULTANT's sole cost and expense and with legal counsel approved by OC SAN, which approval shall not be unreasonably withheld), protect and hold harmless OC SAN and all of OC SAN's officers, directors, employees, CONSULTANT's, and agents (collectively the “Indemnified Parties”), from and against any and all claims, damages, liabilities, causes of action, suits, arbitration awards, losses, judgments, fines, penalties, costs and expenses (including, without limitation, attorneys' fees, disbursements and court costs, and all other professional, expert or CONSULTANT's fees and costs and OC SAN's general and administrative expenses; individually, a “Claim”; collectively, “Claims”) which may arise from or are in any manner related, directly or indirectly, to any work performed, or any operations, activities, or services provided by CONSULTANT in carrying out its obligations under this AGREEMENT to the extent of the negligent, recklessness and/or willful misconduct of CONSULTANT, its principals, officers, agents, employees, CONSULTANT's suppliers, CONSULTANT, Subconsultants, subcontractors, and/or anyone employed directly or indirectly by any of them, regardless of any contributing negligence or strict liability of an Indemnified Party. Notwithstanding the foregoing, nothing herein shall be construed to require CONSULTANT to indemnify the Indemnified Parties from any Claim arising solely from:

- (A) the active negligence or willful misconduct of the Indemnified Parties; or
- (B) a natural disaster or other act of God, such as an earthquake; or
- (C) the independent action of a third party who is neither one of the Indemnified Parties nor the CONSULTANT, nor its principal, officer, agent, employee, nor CONSULTANT's supplier, CONSULTANT, Subconsultant, subcontractor, nor anyone employed directly or indirectly by any of them.

Exceptions (A) through (B) above shall not apply, and CONSULTANT shall, to the fullest extent permitted by law, indemnify the Indemnified Parties, from Claims arising from more than one cause if any such cause taken alone would otherwise result in the obligation to indemnify hereunder.

CONSULTANT's liability for indemnification hereunder is in addition to any liability CONSULTANT may have to OC SAN for a breach by CONSULTANT of any of the provisions of this AGREEMENT. Under no circumstances shall the insurance requirements and limits set forth in this AGREEMENT be construed to limit CONSULTANT's indemnification obligation or other liability hereunder. The terms of this AGREEMENT are contractual and the result of negotiation between the parties hereto. Accordingly, any rule of construction of contracts (including, without limitation, California Civil Code Section 1654) that ambiguities are to be construed against the drafting party, shall not be employed in the interpretation of this AGREEMENT.

23. DUTY TO DEFEND

The duty to defend hereunder is wholly independent of and separate from the duty to indemnify and such duty to defend shall exist regardless of any ultimate liability of CONSULTANT and shall be consistent with Civil Code section 2782.8. Such defense obligation shall arise immediately upon presentation of a Claim by any person if, without regard to the merit of the Claim, such Claim could potentially result in an obligation to indemnify one or more Indemnified Parties, and upon written notice of such Claim being provided to CONSULTANT. Payment to CONSULTANT by any Indemnified Party or the payment or advance of defense costs by any Indemnified Party shall not be a condition precedent to enforcing such Indemnified Party's rights to indemnification hereunder. In the event a final judgment, arbitration, award, order, settlement, or other final resolution expressly determines that the claim did not arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the CONSULTANT, to any extent, then OC SAN will reimburse CONSULTANT for the reasonable costs of defending the Indemnified Parties against such claims.

CONSULTANT's indemnification obligation hereunder shall survive the expiration or earlier termination of this AGREEMENT until such time as action against the Indemnified Parties for such matter indemnified hereunder is fully and finally barred by the applicable statute of limitations.

24. COMPLIANCE WITH OC SAN POLICIES AND PROCEDURES

CONSULTANT shall comply with all OC SAN policies and procedures including the Contractor Safety Standards, as applicable, all of which may be amended from time to time.

25. CLOSEOUT

When OC SAN determines that all Work authorized under the AGREEMENT is fully complete and that OC SAN requires no further work from CONSULTANT, or the AGREEMENT is otherwise terminated or expires in accordance with the terms of the AGREEMENT, OC SAN shall give the Consultant written notice that the AGREEMENT will be closed out. CONSULTANT shall submit all outstanding billings, work submittals, deliverables, reports or similarly related documents as required under the AGREEMENT within thirty (30) days of receipt of notice of AGREEMENT closeout.

Upon receipt of CONSULTANT's submittals, OC SAN shall commence a closeout audit of the AGREEMENT and will either:

- i. Give the CONSULTANT a final AGREEMENT Acceptance: or
- ii. Advise the CONSULTANT in writing of any outstanding item or items which must be furnished, completed, or corrected at the CONSULTANT's cost.

CONSULTANT shall be required to provide adequate resources to fully support any administrative closeout efforts identified in the AGREEMENT. Such support must be provided within the timeframe requested by OC SAN.

Notwithstanding the final AGREEMENT acceptance, the CONSULTANT will not be relieved of its obligations hereunder, nor will the CONSULTANT be relieved of its obligations to complete any portions of the work, the non-completion of which were not disclosed to OC SAN (regardless of whether such nondisclosures were fraudulent, negligent, or otherwise), and the CONSULTANT shall remain obligated under all those provisions of the AGREEMENT which expressly or by their nature extend beyond and survive final AGREEMENT Acceptance.

Any failure by OC SAN to reject the work or to reject the CONSULTANT's request for final AGREEMENT Acceptance as set forth above shall not be deemed to be acceptance of the work by OC SAN for any purpose nor imply acceptance of, or AGREEMENT with, the CONSULTANT's request for final AGREEMENT Acceptance.

26. ENTIRE AGREEMENT

This AGREEMENT constitutes the entire understanding and AGREEMENT between the Parties and supersedes all previous negotiations between them pertaining to the subject matter thereof.

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

IN WITNESS WHEREOF, this AGREEMENT has been executed in the name of OC SAN, by its officers thereunto duly authorized, and CONSULTANT as of the day and year first above written.

CONSULTANT: MICHAEL BAKER INTERNATIONAL, INC.

By _____ Date

Printed Name & Title

ORANGE COUNTY SANITATION DISTRICT

By _____ Date
John B. Withers
Board Chairman

By _____ Date
Kelly A. Lore
Clerk of the Board

By _____ Date
Ruth Zintzun
Purchasing & Contracts Manager

- Attachments: Attachment "A" – Scope of Work
Attachment "B" – Not Attached
Attachment "C" – Not Attached
Attachment "D" – Fee Proposal
Attachment "E" – Not Attached
Attachment "F" – Not Attached
Attachment "G" – Not Attached
Attachment "H" – Not Used
Attachment "I" – Safety Declaration
Attachment "J" – Contractor Safety Standards
Attachment "K" - Allowable Direct Costs

CMM

ATTACHMENT “A”

SCOPE OF WORK

ATTACHMENT "A"

**SCOPE OF WORK
SURVEYING SERVICES**

**FOR THE ORANGE COUNTY SANITATION DISTRICT'S CAPITAL IMPROVEMENT
PROGRAM, FACILITIES ENGINEERING, OPERATIONS, AND MAINTENANCE PROJECTS**

PSA2022-002

I. PURPOSE

The selected CONSULTANT shall provide on-call surveying services as required in support of OC SAN's Capital Improvement Program, Facilities Engineering, Operations, and Maintenance projects. The locations for this work include the two treatment plants and other facilities (pump stations and collections system) located throughout Orange County.

II. TYPICAL TASKS

PRELIMINARY ALIGNMENT: Provide preliminary stationing at intervals as required by the OC SAN Engineer.

CONSTRUCTION ALIGNMENT: Provide horizontal and vertical controls. Paint or flag centerline of sewer for collections projects when requested by the OC SAN Engineer.

CONTRACTOR'S STAKING: Provide one set of offset line-and-grade stakes for pipeline, manholes, structures, etc. at 25 to 50-foot intervals, or as required by the OC SAN Engineer along with cut sheets for contractor's use.

PIPE CASINGS/TUNNELS: Provide one set of offset stakes for each pit location and one set for horizontal and vertical control in pits, with cut sheets.
Provide line-and-grade checks inside casings.

PIPELINE HEADING CHECK: Provide line-and-grade checks daily or as required by the OC SAN Engineer.

STREET CENTERLINE TIES: Prior to construction, tie-out street centerline monumentation, and after construction, replace disturbed or destroyed street centerline ties.

PAVEMENT REPLACEMENT: At the locations requested by OC SAN, street cross sections will be surveyed prior to construction. For pavement replacement after construction, one set of paving and curb stakes will be provided at locations designated by OC SAN.

MISCELLANEOUS SURVEY: As requested by OC SAN, provide boundary and topographic surveys, monument replacement, aerial photography, settlement monitoring, easement review and preparation, and other miscellaneous items. Prepare base maps and exhibits using AutoCAD, latest version, record required documents with the County.

III. REQUIREMENTS

1. CONSULTANT shall be available to work the next day if scheduled by the end of the work day. OC SAN expects that the technician will arrive at the site with the correct equipment, calibrated to existing standards with documentation. OC SAN will not reimburse the CONSULTANT for the time required to obtain the correct equipment. Crews shall sign in/out with signatures by OC SAN representative and 3rd party crew.
2. Equipment that requires calibration shall be calibrated prior to the work. Calibration costs shall be included in the total hourly rate for field service fees.
3. CONSULTANT shall be experienced with tunnel and casing surveys.
4. Copies of all survey notes shall be furnished to OC SAN within 24 hours of survey or stakeout. Cut sheets and heading checks documents shall be provided the same day.
5. Survey work shall be documented in English Standard Units and/or Metric Units, as required by OC SAN.
6. CONSULTANT shall be available for occasional night work (4:30 p.m. to 7:00 a.m.) upon 24hour advance notice.
7. Survey party should consist of two or three persons per crew with a certified party chief, or equal.
8. Party chief or company representative should be available for the pre-construction meeting and other key meetings as the project progresses.
9. All supplies, such as, but not limited to, stakes, flagging, nails, spikes, ties, paint, etc. shall be included in the hourly rate.
10. All surveyors must be adequately insured for liability and property damage, and a copy of the policy must be forwarded to OC SAN. Vehicles shall bear the CONSULTANT's name.
11. CONSULTANT shall be able to provide proper traffic control in accordance with the Work Area Traffic Control Handbook (WATCH) Manual, Manual on Uniform Traffic Control Devices (MUTCD) or as required by the governing agency when carrying out their functions and duties.

12. At least one member of the party shall have a cell phone or other form of communication so as to be in contact with the home office in the event OC SAN requires immediate communication during normal working hours, and shall have means to be directly contacted in the field by OC SAN personnel via cell phone.
13. CONSULTANT must be able to recognize survey errors or omissions in the contract drawings, survey or stakeout, and alert OC SAN staff timely in order to mitigate production delays and costs.
14. CONSULTANT shall comply with OSHA requirements and OCSD Safety Standards.
15. On occasion, CONSULTANT will be required to enter confined spaces to perform work. Entrants shall be CAL-OSHA confined-space trained and certified. Certifications shall be submitted to OC SAN for review and approval at least 48 hours prior to commencement of work. Personnel will be entering under Contractor's confined-space entry permit.
16. Personal protective equipment (PPE), including lower explosive limit (LEL) personal monitors is required onsite for all personnel.
 - a. Personnel must be fall-protection trained and provide their own fall-protection PPE, when onsite.
17. OC SAN shall provide to the CONSULTANT a Task Order Number that will be used to track the work. The CONSULTANT will not begin any work without the Task Order Number. If the CONSULTANT receives direction from OC SAN to perform some type of work without a Task Order Number, the CONSULTANT shall contact the Inspection Supervisor to determine if the work is authorized and receive a Task Order Number if appropriate.
18. CONSULTANT will submit monthly statements, ***separately for each project or Task***, covering services and/or work performed no later than the second Wednesday of the following month and in the format required by OC SAN, to request payment. Such requests shall be based upon the amount and value of the work and services performed by CONSULTANT under this Agreement and shall be prepared by CONSULTANT and accompanied by such supporting data (including sign in/out sheets signed by CONSULTANT and OC SAN representative), including:
 - Task Order Number and Project Number and/or Project Description included on the statement.
 - Tasks completed, identified by the Task number assigned to each Task.
 - Detailed breakdown of all costs incurred per task performed, and all back-up documentation for each Task.
 - Copy of the daily notes or tasks including the signature of OC SAN's Inspector approving the day's work.
 - Running total of services billed, services paid, services billed but not paid, and the amount of the contract remaining.

OC SAN will not approve any task performed without the appropriate back-up documentation and may result in delayed or partial payment. Failure to submit monthly

statements no later than the second Wednesday of the following month may result in delayed payment.

19. If any conflict of interest occurs on a project, OC SAN shall be notified without delay of the conflict. OC SAN will evaluate conflict of interest on a case-by-case basis and advise as to whether it may be waived in each case.

PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT, is made and entered into to be effective the 1st day of May, 2022, by and between the ORANGE COUNTY SANITATION DISTRICT, hereinafter referred to as "OC SAN", and PSOMAS, for purposes of this AGREEMENT hereinafter referred to as "CONSULTANT". OC SAN and CONSULTANT are referred to herein collectively as the "Parties" or individually as a "Party."

WITNESSETH:

WHEREAS, OC SAN desires to engage a consultant for surveying services for the OC SAN's Capital Improvement Program, Facilities Engineering, Operations, and Maintenance projects, PSA2022-002; and,

WHEREAS, CONSULTANT is qualified to provide the necessary services in connection with these requirements and has agreed to provide the necessary professional services; and,

WHEREAS, OC SAN has adopted procedures for the selection of professional services and has proceeded in accordance with said procedures to select a CONSULTANT to perform this work; and,

WHEREAS, at its regular meeting on March 23, 2022, the Board of Directors, by Minute Order, accepted the recommendation of the Operations Committee to approve this AGREEMENT between OC SAN and CONSULTANT.

NOW, THEREFORE, in consideration of the promises and mutual benefits, which will result to the parties in carrying out the terms of this AGREEMENT, it is mutually agreed as follows:

1. SCOPE OF WORK

CONSULTANT agrees to furnish necessary professional services to accomplish those project elements outlined in the Scope of Work attached hereto as "Attachment A", and by this reference made a part of this AGREEMENT.

- A. The CONSULTANT shall be responsible for the professional quality, technical accuracy, and completeness and coordination of the work and services furnished by the CONSULTANT under this AGREEMENT, including the work performed by its Subconsultants. Where approval by OC SAN is indicated, it is understood to be conceptual approval only and does not relieve the CONSULTANT of responsibility for complying with all applicable laws, regulations, codes, industry standards and liability for damages caused by errors, omissions, noncompliance with industry standards, and/or negligence on the part of the CONSULTANT or its Subconsultants.
- B. CONSULTANT is responsible for the quality of work prepared under this AGREEMENT and shall ensure that all work is performed to the highest industry standards for clarity, uniformity, and completeness. CONSULTANT shall timely respond to all comments, suggestions, and recommendations from OC SAN. All

comments from OC SAN, or its agent, shall be incorporated into the work prior to the next review deadline or addressed, in writing, as to why the comment(s) has/have not been incorporated. CONSULTANT shall ensure that each submittal is 100% accurate for the level of work submitted (i.e. correct references, terms, capitalization or equal status, spelling, punctuation, etc.).

- C. In the event that CONSULTANT's services and/or work product(s) is not to the satisfaction of OC SAN and/or does not conform to the requirements of this AGREEMENT or the applicable industry standards, the CONSULTANT shall, without additional compensation, promptly correct or revise any errors or deficiencies in its work product(s) within the timeframe specified by the Project Manager. OC SAN may charge to CONSULTANT all costs, expenses and damages associated with any such corrections or revisions.
- D. All professional services performed by the CONSULTANT, including, but not limited to, all drafts, data, correspondence, proposals, and reports compiled or composed by the CONSULTANT, pursuant to this AGREEMENT, are for the sole use of OC SAN, its agents and employees. Neither the documents nor their contents shall be released to any third party without the prior written consent of OC SAN. This provision does not apply to information that (a) was publicly known, or otherwise known to the CONSULTANT, at the time that it was disclosed to the CONSULTANT by OC SAN, or (b) subsequently becomes publicly known to the CONSULTANT other than through disclosure by OC SAN.

2. COMPENSATION

Total compensation shall be paid to CONSULTANT for services in accordance with the following provisions:

A. Total Compensation

Total compensation shall be in an amount not to exceed Two Hundred Thousand Dollars (\$200,000.00), over a three (3) year period.

OC SAN shall pay to CONSULTANT one total hourly rate set forth in Attachment "D" - Fee Proposal. The rate shall include all costs such as, but not necessarily limited to, technician labor, equipment, and overhead rates, report writing, office review and supervision, other miscellaneous charges. Drive time and mileage shall be included in the hourly rate and will not be allowed as additional costs.

B. Other Direct Costs

Other Direct Costs incurred by CONSULTANT and its Contractor due to modifications in scope of work resulting from field investigations and field work required by Contract. These items may include special equipment, test equipment and tooling and other materials and services not previously identified. Refer to attachment "K" Allowable Direct Costs for payment information.

3. PAYMENT

- A. Invoice: CONSULTANT shall include in its invoice, a detailed breakdown of costs associated with the performance of any corrections or revisions of the work for that invoicing period, in a format acceptable to OC SAN. CONSULTANT shall include copies of the daily notes or tasks including the signature of the OC SAN's Inspector approving the day's work for that invoicing period. CONSULTANT shall warrant and certify the accuracy of these costs and provide all support documentation required by OC SAN. CONSULTANT understands that submitted costs are subject to Audit Provisions as stated under this Agreement.
- B. CONSULTANT will submit statements covering services and/or work performed for payment for those items. The format must include, as a minimum: 1) current billing period invoicing, 2) current billing period "total percent invoiced to date", and 3) budget status and amount remaining. Such requests shall be accompanied by such supporting data as may be required by OC SAN.

Upon approval of such payment request by OC SAN, payment shall be made to CONSULTANT as soon as practicable of one hundred percent (100%) of the invoiced amount.

- C. Upon satisfactory completion of the work performed hereunder and prior to final payment under this AGREEMENT for such work, or prior settlement upon termination of this AGREEMENT, and as a condition precedent thereto, CONSULTANT shall execute and deliver to OC SAN a release of all claims against OC SAN arising under or by virtue of this AGREEMENT other than such claims, if any, as may be specifically exempted by CONSULTANT from the operation of the release in stated amounts to be set forth therein.
- D. Pursuant to the California False Claims Act (Government Code sections 12650-12655), any CONSULTANT that knowingly submits a false claim to OC SAN for compensation under the terms of this AGREEMENT may be held liable for treble damages and up to a \$10,000 civil penalty for each false claim submitted. This section shall also be binding on all Subconsultants.

A CONSULTANT or Subconsultant shall be deemed to have submitted a false claim when the CONSULTANT or Subconsultant: (a) knowingly presents or causes to be presented to an officer or employee of OC SAN a false claim or request for payment or approval; (b) knowingly makes, uses, or causes to be made or used a false record or statement to get a false claim paid or approved by OC SAN; (c) conspires to defraud OC SAN by getting a false claim allowed or paid by OC SAN; (d) knowingly makes, uses, or causes to be made or used a false record or statement to conceal, avoid, or decrease an obligation to OC SAN; or (e) is a beneficiary of an inadvertent submission of a false claim to OC SAN, and fails to disclose the false claim to OC SAN within a reasonable time after discovery of the false claim.

4. PREVAILING WAGES

To the extent CONSULTANT intends to utilize employees who will perform work during the contract, as more specifically defined under Labor Code Section 1720,

CONSULTANT shall be subject to prevailing wage requirements with respect to such employees.

5. CALIFORNIA DEPARTMENT OF INDUSTRIAL RELATIONS (DIR) REGISTRATION AND RECORD OF WAGES

- A. To the extent CONSULTANT's employees and/or Subconsultants who will perform Work during the design and preconstruction phases of a construction contract for which Prevailing Wage Determinations have been issued by the DIR and as more specifically defined under Labor Code Section 1720 et seq, CONSULTANT and Subconsultants shall comply with the registration requirements of Labor Code Section 1725.5. Pursuant to Labor Code Section 1771.4, the Work is subject to compliance monitoring and enforcement by the DIR.
- B. The CONSULTANT and Subconsultants shall maintain accurate payroll records and shall comply with all the provisions of Labor Code Section 1776, and shall submit payroll records to the Labor Commissioner pursuant to Labor Code Section 1771.4(a)(3). Penalties for non-compliance with the requirements of Section 1776 may be deducted from progress payments per Section 1776.
- C. Pursuant to Labor Code Section 1776, the CONSULTANT and Subconsultants shall furnish a copy of all certified payroll records to OC SAN and/or general public upon request, provided the public request is made through OC SAN, the Division of Apprenticeship Standards or the Division of Labor Enforcement of the Department of Industrial Relations.
- D. The CONSULTANT and 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).

6. DOCUMENT OWNERSHIP – CONSULTANT PERFORMANCE

- A. Ownership of Documents for the Professional Services performed.

All documents in all forms (electronic, paper, etc.), including, but not limited to, studies, sketches, drawings, computer printouts, disk files, and electronic copies prepared in connection with or related to the Scope of Work or Professional Services, shall be the property of OC SAN. OC SAN's ownership of these documents includes use of, reproduction or reuse of and all incidental rights, whether or not the work for which they were prepared has been performed. OC SAN ownership entitlement arises upon payment or any partial payment for work performed and includes ownership of any and all work product completed prior to that payment. This Section shall apply whether the CONSULTANT's Professional Services are terminated: a) by the completion of the AGREEMENT, or b) in accordance with other provisions of this AGREEMENT. Notwithstanding any other provision of this paragraph or AGREEMENT, the CONSULTANT shall have the right to make copies of all such plans, studies, sketches, drawings, computer printouts and disk files, and specifications.

- B. CONSULTANT shall not be responsible for damage caused by subsequent changes to or uses of the study or deliverable where the subsequent changes or uses are not authorized or approved by CONSULTANT, provided that the service rendered by CONSULTANT was not a proximate cause of the damage.

7. AGREEMENT TERM

The services provided under this AGREEMENT shall be for the period of three (3) years, commencing on May 1, 2022 and continuing through April 30, 2025.

8. INSURANCE

A. General

- i. Insurance shall be issued and underwritten by insurance companies acceptable to OC SAN.
- ii. Insurers must have an "A-" Policyholder's Rating, or better, and Financial Rating of at least Class VIII, or better, in accordance with the most current A.M. Best's Guide Rating. However, OC SAN will accept State Compensation Insurance Fund, for the required policy of Worker's Compensation Insurance subject to OC SAN's option to require a change in insurer in the event the State Fund financial rating is decreased below "B". Further, OC SAN will require CONSULTANT to substitute any insurer whose rating drops below the levels herein specified. Said substitution shall occur within twenty (20) days of written notice to CONSULTANT, by OC SAN or its agent.
- iii. Coverage shall be in effect prior to the commencement of any work under this AGREEMENT.

B. General Liability

The CONSULTANT shall maintain during the life of this AGREEMENT, including the period of warranty, Commercial General Liability Insurance written on an occurrence basis providing the following minimum limits of liability coverage: Two Million Dollars (\$2,000,000) per occurrence with Four Million Dollars (\$4,000,000) aggregate. Said insurance shall include coverage for the following hazards: Premises-Operations, blanket contractual liability (for this AGREEMENT), products liability/completed operations (including any product manufactured or assembled), broad form property damage, blanket contractual liability, independent contractors liability, personal and advertising injury, mobile equipment, owners and contractors protective liability, and cross liability and severability of interest clauses. A statement on an insurance certificate will not be accepted in lieu of the actual additional insured endorsement(s). If requested by OC SAN and applicable, XCU coverage (Explosion, Collapse and Underground) and Riggers/On Hook Liability must be included in the General Liability policy and coverage must be reflected on the submitted Certificate of Insurance.

C. Umbrella Excess Liability

The minimum limits of general liability and Automotive Liability Insurance required, as set forth herein, shall be provided for through either a single policy of primary insurance or a combination of policies of primary and umbrella excess coverage. Umbrella excess liability coverage shall be issued with limits of liability which, when combined with the primary insurance, will equal the minimum limits for general liability and automotive liability.

D. Automotive/Vehicle liability Insurance

The CONSULTANT shall maintain a policy of Automotive Liability Insurance on a comprehensive form covering all owned, non-owned, and hired automobiles, trucks, and other vehicles providing the following minimum limits of liability coverage: Combined single limit of One Million Dollars (\$1,000,000). A statement on an insurance certificate will not be accepted in lieu of the actual additional insured endorsement.

E. Drone Liability Insurance

If a drone will be used, drone liability insurance must be maintained by CONSULTANT in the amount of One Million Dollars (\$1,000,000) in a form acceptable by OC SAN.

F. Worker's Compensation Insurance

The CONSULTANT shall provide such Workers' Compensation Insurance as required by the Labor Code of the State of California in the amount of the statutory limit, including Employer's Liability Insurance with a minimum limit of One Million Dollars (\$1,000,000) per occurrence. Such Worker's Compensation Insurance shall be endorsed to provide for a waiver of subrogation in favor of OC SAN. A statement on an insurance certificate will not be accepted in lieu of the actual endorsements unless the insurance carrier is State of California Insurance Fund and the identifier "SCIF" and endorsement numbers 2570 and 2065 are referenced on the certificate of insurance. If an exposure to Jones Act liability may exist, the insurance required herein shall include coverage for Jones Act claims.

G. Errors and Omissions/Professional Liability

CONSULTANT shall maintain in full force and effect, throughout the term of this AGREEMENT, standard industry form professional negligence errors and omissions insurance coverage in an amount of not less than One Million Dollars (\$1,000,000) with limits in accordance with the provisions of this Paragraph. If the policy of insurance is written on a "claims made" basis, said policy shall be continued in full force and effect at all times during the term of this AGREEMENT, and for a period of five (5) years from the date of the completion of the services hereunder.

In the event of termination of said policy during this period, CONSULTANT shall obtain continuing insurance coverage for the prior acts or omissions of CONSULTANT during the course of performing services under the term of this AGREEMENT. Said coverage shall be evidenced by either a new policy evidencing no gap in coverage or by separate extended "tail" coverage with the present or new carrier.

In the event the present policy of insurance is written on an "occurrence" basis, said policy shall be continued in full force and effect during the term of this AGREEMENT or until completion of the services provided for in this AGREEMENT, whichever is later. In the event of termination of said policy during this period, new coverage shall be obtained for the required period to insure for the prior acts of CONSULTANT during the course of performing services under the term of this AGREEMENT.

CONSULTANT shall provide to OC SAN a certificate of insurance in a form acceptable to OC SAN indicating the deductible or self-retention amounts and the expiration date of said policy, and shall provide renewal certificates not less than ten (10) days prior to the expiration of each policy term.

H. Proof of Coverage

The CONSULTANT shall furnish OC SAN with original certificates and amendatory endorsements effecting coverage. Said policies and endorsements shall conform to the requirements herein stated. All certificates and endorsements are to be received and approved by OC SAN before work commences. OC SAN reserves the right to require complete, certified copies of all required insurance policies, including endorsements, effecting the coverage required, at any time. The following are approved forms that must be submitted as proof of coverage:

- Certificate of Insurance ACORD Form 25 (5/2010) or equivalent.

- Additional Insurance (General Liability) (ISO Form) CG2010 11 85 or
The combination of (ISO Forms)
CG 2010 04 13 and CG 2037 04 13

All other Additional Insured endorsements must be submitted for approval by OC SAN, and OC SAN may reject alternatives that provide different or less coverage to OC SAN.

- Additional Insured (Auto Liability) Submit endorsement provided by carrier for OC SAN approval.
- Waiver of Subrogation State Compensation Insurance Fund Endorsement No. 2570 or equivalent.

- Cancellation Notice State Compensation Insurance Fund Endorsement No. 2065 or equivalent.

I. Cancellation Notice

Each insurance policy required herein shall be endorsed to state that coverage shall not be cancelled by either party, except after thirty (30) days' prior written notice. The Cancellation Section of ACORD Form 25 (5/2010) shall state the required thirty (30) days' written notification. The policy shall not terminate, nor shall it be cancelled, nor the coverage reduced until thirty (30) days after written notice is given to OC SAN except for nonpayment of premium, which shall require not less than ten (10) days written notice to OC SAN. Should there be changes in coverage or an increase in deductible or SIR amounts, the CONSULTANT and its insurance broker/agent shall send to OC SAN a certified letter which includes a description of the changes in coverage and/or any increase in deductible or SIR amounts. The certified letter must be sent to the attention of Risk Management, and shall be received by OC SAN not less than thirty (30) days prior to the effective date of the change(s) if the change would reduce coverage or increase deductibles or SIR amounts or otherwise reduce or limit the scope of insurance coverage provided to OC SAN.

J. Primary Insurance

All liability policies shall contain a Primary and Non Contributory Clause. Any other insurance maintained by OC SAN shall be excess and not contributing with the insurance provided by CONSULTANT.

K. Separation of Insured

All liability policies shall contain a "Separation of Insureds" clause.

L. Non-Limiting (if applicable)

Nothing in this document shall be construed as limiting in any way, nor shall it limit the indemnification provision contained in this AGREEMENT, or the extent to which CONSULTANT may be held responsible for payment of damages to persons or property.

M. Deductibles and Self-Insured Retentions

Any deductible and/or self-insured retention must be declared to OC SAN on the Certificate of Insurance. All deductibles and/or self-insured retentions require approval by OC SAN. At the option of OC SAN, either: the insurer shall reduce or eliminate such deductible or self-insured retention as respects OC SAN; or the CONSULTANT shall provide a financial guarantee satisfactory to OC SAN guaranteeing payment of losses and related investigations, claim administration and defense expenses.

N. Defense Costs

Liability policies (other than Professional Liability) shall have a provision that defense costs for all insureds and additional insureds are paid in addition to and do not deplete any policy limits.

O. Subconsultants

The CONSULTANT shall be responsible to establish insurance requirements for any Subconsultant hired by the CONSULTANT. The insurance shall be in amounts and types reasonably sufficient to deal with the risk of loss involving the Subconsultant's operations and work.

P. Limits Are Minimums

If the CONSULTANT maintains higher limits than any minimums shown above, then OC SAN requires and shall be entitled to coverage for the higher limits maintained by CONSULTANT.

9. SCOPE CHANGES

In the event of a change in the Scope of Work or a change in the proposed Project, as requested by OC SAN, the Parties hereto shall execute an Amendment to this AGREEMENT setting forth with particularity all terms of the new AGREEMENT, including, but not limited to any additional CONSULTANT's fees.

10. PROJECT TEAM AND SUBCONSULTANTS

CONSULTANT shall provide to OC SAN, prior to execution of this AGREEMENT, the names and full description of all Subconsultants and CONSULTANT's project team members anticipated to be used on this Project under this AGREEMENT by CONSULTANT. CONSULTANT shall include a description of the work and services to be done by each Subconsultant and each of CONSULTANT's Project team member. CONSULTANT shall include the respective compensation amounts for CONSULTANT and each Subconsultant.

There shall be no substitution of the listed Subconsultants and CONSULTANT's project team members without prior written approval by OC SAN.

11. ENGINEERING REGISTRATION

The CONSULTANT's personnel and Subconsultants are comprised of a staff of specialists in each department. The firm itself is not a registered engineer but represents and agrees that wherever, in the performance of this AGREEMENT, the services of a registered engineer is required, such services hereunder will be performed under the direct supervision of registered engineers who are registered in California.

12. AUDIT PROVISIONS.

A. OC SAN retains the reasonable right to access, review, examine, and audit, any

and all books, records, documents and any other evidence of procedures and practices that OC SAN determines are necessary to discover and verify that the CONSULTANT is in compliance with all requirements under this AGREEMENT. The CONSULTANT shall include OC SAN's right as described above, in any and all of their subcontracts, and shall ensure that these rights are binding upon all Subconsultants.

- B. OC SAN retains the right to examine CONSULTANT's books, records, documents and any other evidence of procedures and practices that OC SAN determines are necessary to discover and verify all direct and indirect costs, of whatever nature, which are claimed to have been incurred, or anticipated to be incurred or to ensure CONSULTANT's compliance with all requirements under this AGREEMENT during the term of this AGREEMENT and for a period of three (3) years after its termination.
- C. CONSULTANT shall maintain complete and accurate records in accordance with generally accepted industry standard practices and OC SAN's policy. The CONSULTANT shall make available to OC SAN for review and audit, all project related accounting records and documents, and any other financial data within 15 days after receipt of notice from OC SAN. Upon OC SAN's request, the CONSULTANT shall submit exact duplicates of originals of all requested records to OC SAN. If an audit is performed, CONSULTANT shall ensure that a qualified employee of the CONSULTANT will be available to assist OC SAN's auditor in obtaining all Project related accounting records and documents, and any other financial data.

13. LEGAL RELATIONSHIP BETWEEN PARTIES

The legal relationship between the parties hereto is that of an independent contractor and nothing herein shall be deemed to transform CONSULTANT, its staff, independent contractors, or Subconsultants into employees of OC SAN. CONSULTANT'S staff performing services under the AGREEMENT shall at all times be employees and/or independent contractors of CONSULTANT. CONSULTANT shall monitor and control its staff and pay wages, salaries, and other amounts due directly to its staff in connection with the AGREEMENT. CONSULTANT shall be responsible for hiring, review, and termination of its staff and shall be accountable for all reports and obligations respecting them, such as social security, income tax withholding, unemployment compensation, workers' compensation and similar matters.

14. NOTICES

All notices hereunder and communications regarding the interpretation of the terms of this AGREEMENT, or changes thereto, shall be effected by delivery of said notices in person or by depositing said notices in the U.S. mail, registered or certified mail, return receipt requested, postage prepaid and addressed as follows:

ORANGE COUNTY SANITATION DISTRICT
10844 Ellis Avenue
Fountain Valley, CA 92708-7018

Attention: Clarice Marcin, Contracts Administration
Copy: William Gilbert and Rick Kwiecien, Project Managers

CONSULTANT:

PSOMAS
«ConsultantsName»
«Address»
«CityStateZip»

All communication regarding the Scope of Work, will be addressed to the Project Manager. Direction from other OC SAN staff must be approved in writing by OC SAN's Project Manager prior to action from the CONSULTANT.

15. TERMINATION

OC SAN may terminate this AGREEMENT at any time, without cause, upon giving thirty (30) days written notice to CONSULTANT. In the event of such termination, CONSULTANT shall be entitled to compensation for work performed on a prorated basis through and including the effective date of termination.

CONSULTANT shall be permitted to terminate this AGREEMENT upon thirty (30) days written notice only if CONSULTANT is not compensated for billed amounts in accordance with the provisions of this AGREEMENT, when the same are due.

Notice of termination shall be mailed to OC SAN at the address listed in Section 14 - NOTICES.

16. DOCUMENTS AND STUDY MATERIALS

The documents and study materials for this Project shall become the property of OC SAN upon the termination or completion of the work. CONSULTANT agrees to furnish to OC SAN copies of all memoranda, correspondence, electronic materials, computation and study materials in its files pertaining to the work described in this AGREEMENT, which is requested in writing by OC SAN.

17. COMPLIANCE

A. Labor

CONSULTANT certifies by the execution of this AGREEMENT that it pays employees not less than the minimum wage as defined by law, and that it does not discriminate in its employment with regard to race, color, religion, sex or national origin; that it is in compliance with all federal, state and local directives and executive orders regarding non-discrimination in employment; and that it agrees to demonstrate positively and aggressively the principle of equal opportunity in employment.

B. Air Pollution

CONSULTANT and its Subconsultants and subcontractors shall comply with all applicable federal, state and local air pollution control laws and regulations.

18. AGREEMENT EXECUTION AUTHORIZATION

Both OC SAN and CONSULTANT do covenant that each individual executing this document by and on behalf of each Party is a person duly authorized to execute this AGREEMENT for that Party.

19. DISPUTE RESOLUTION

In the event of a dispute arising between the parties regarding performance or interpretation of this AGREEMENT, the dispute shall be resolved by binding arbitration under the auspices of the Judicial Arbitration and Mediation Service (“JAMS”), or similar organization or entity conducting alternate dispute resolution services.

20. ATTORNEY'S FEES, COSTS AND NECESSARY DISBURSEMENTS

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 he may be entitled.

21. WARRANTY

CONSULTANT shall perform its services in accordance with generally accepted industry and professional standards. If, within the 12-month period following completion of its services, OC SAN informs CONSULTANT that any part of the services fails to meet those standards, CONSULTANT shall, within the time prescribed by OC SAN, take all such actions as are necessary to correct or complete the noted deficiency(ies).

22. INDEMNIFICATION

To the fullest extent permitted by law, CONSULTANT shall indemnify, defend (at CONSULTANT's sole cost and expense and with legal counsel approved by OC SAN, which approval shall not be unreasonably withheld), protect and hold harmless OC SAN and all of OC SAN's officers, directors, employees, CONSULTANT's, and agents (collectively the “Indemnified Parties”), from and against any and all claims, damages, liabilities, causes of action, suits, arbitration awards, losses, judgments, fines, penalties, costs and expenses (including, without limitation, attorneys' fees, disbursements and court costs, and all other professional, expert or CONSULTANT's fees and costs and OC SAN's general and administrative expenses; individually, a “Claim”; collectively, “Claims”) which may arise from or are in any manner related, directly or indirectly, to any work performed, or any operations, activities, or services provided by CONSULTANT in carrying out its obligations under this AGREEMENT to the extent of the negligent, recklessness and/or willful misconduct of CONSULTANT, its principals, officers, agents, employees, CONSULTANT's suppliers, CONSULTANT, Subconsultants, subcontractors, and/or anyone employed directly or indirectly by any of them, regardless

of any contributing negligence or strict liability of an Indemnified Party. Notwithstanding the foregoing, nothing herein shall be construed to require CONSULTANT to indemnify the Indemnified Parties from any Claim arising solely from:

- (A) the active negligence or willful misconduct of the Indemnified Parties; or
- (B) a natural disaster or other act of God, such as an earthquake; or
- (C) the independent action of a third party who is neither one of the Indemnified Parties nor the CONSULTANT, nor its principal, officer, agent, employee, nor CONSULTANT's supplier, CONSULTANT, Subconsultant, subcontractor, nor anyone employed directly or indirectly by any of them.

Exceptions (A) through (B) above shall not apply, and CONSULTANT shall, to the fullest extent permitted by law, indemnify the Indemnified Parties, from Claims arising from more than one cause if any such cause taken alone would otherwise result in the obligation to indemnify hereunder.

CONSULTANT's liability for indemnification hereunder is in addition to any liability CONSULTANT may have to OC SAN for a breach by CONSULTANT of any of the provisions of this AGREEMENT. Under no circumstances shall the insurance requirements and limits set forth in this AGREEMENT be construed to limit CONSULTANT's indemnification obligation or other liability hereunder. The terms of this AGREEMENT are contractual and the result of negotiation between the parties hereto. Accordingly, any rule of construction of contracts (including, without limitation, California Civil Code Section 1654) that ambiguities are to be construed against the drafting party, shall not be employed in the interpretation of this AGREEMENT.

23. DUTY TO DEFEND

The duty to defend hereunder is wholly independent of and separate from the duty to indemnify and such duty to defend shall exist regardless of any ultimate liability of CONSULTANT and shall be consistent with Civil Code section 2782.8. Such defense obligation shall arise immediately upon presentation of a Claim by any person if, without regard to the merit of the Claim, such Claim could potentially result in an obligation to indemnify one or more Indemnified Parties, and upon written notice of such Claim being provided to CONSULTANT. Payment to CONSULTANT by any Indemnified Party or the payment or advance of defense costs by any Indemnified Party shall not be a condition precedent to enforcing such Indemnified Party's rights to indemnification hereunder. In the event a final judgment, arbitration, award, order, settlement, or other final resolution expressly determines that the claim did not arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the CONSULTANT, to any extent, then OC SAN will reimburse CONSULTANT for the reasonable costs of defending the Indemnified Parties against such claims.

CONSULTANT's indemnification obligation hereunder shall survive the expiration or earlier termination of this AGREEMENT until such time as action against the Indemnified Parties for such matter indemnified hereunder is fully and finally barred by the applicable statute of limitations.

24. COMPLIANCE WITH OC SAN POLICIES AND PROCEDURES

CONSULTANT shall comply with all OC SAN policies and procedures including the Contractor Safety Standards, as applicable, all of which may be amended from time to time.

25. CLOSEOUT

When OC SAN determines that all Work authorized under the AGREEMENT is fully complete and that OC SAN requires no further work from CONSULTANT, or the AGREEMENT is otherwise terminated or expires in accordance with the terms of the AGREEMENT, OC SAN shall give the Consultant written notice that the AGREEMENT will be closed out. CONSULTANT shall submit all outstanding billings, work submittals, deliverables, reports or similarly related documents as required under the AGREEMENT within thirty (30) days of receipt of notice of AGREEMENT closeout.

Upon receipt of CONSULTANT's submittals, OC SAN shall commence a closeout audit of the AGREEMENT and will either:

- i. Give the CONSULTANT a final AGREEMENT Acceptance: or
- ii. Advise the CONSULTANT in writing of any outstanding item or items which must be furnished, completed, or corrected at the CONSULTANT's cost.

CONSULTANT shall be required to provide adequate resources to fully support any administrative closeout efforts identified in the AGREEMENT. Such support must be provided within the timeframe requested by OC SAN.

Notwithstanding the final AGREEMENT acceptance, the CONSULTANT will not be relieved of its obligations hereunder, nor will the CONSULTANT be relieved of its obligations to complete any portions of the work, the non-completion of which were not disclosed to OC SAN (regardless of whether such nondisclosures were fraudulent, negligent, or otherwise), and the CONSULTANT shall remain obligated under all those provisions of the AGREEMENT which expressly or by their nature extend beyond and survive final AGREEMENT Acceptance.

Any failure by OC SAN to reject the work or to reject the CONSULTANT's request for final AGREEMENT Acceptance as set forth above shall not be deemed to be acceptance of the work by OC SAN for any purpose nor imply acceptance of, or AGREEMENT with, the CONSULTANT's request for final AGREEMENT Acceptance.

26. ENTIRE AGREEMENT

This AGREEMENT constitutes the entire understanding and AGREEMENT between the Parties and supersedes all previous negotiations between them pertaining to the subject matter thereof.

IN WITNESS WHEREOF, this AGREEMENT has been executed in the name of OC SAN, by its officers thereunto duly authorized, and CONSULTANT as of the day and year first above written.

CONSULTANT: PSOMAS

By _____ Date _____

Printed Name & Title

ORANGE COUNTY SANITATION DISTRICT

By _____ Date _____
John B. Withers
Board Chairman

By _____ Date _____
Kelly A. Lore
Clerk of the Board

By _____ Date _____
Ruth Zintzun
Purchasing & Contracts Manager

- Attachments: Attachment "A" – Scope of Work
Attachment "B" – Not Attached
Attachment "C" – Not Attached
Attachment "D" – Fee Proposal
Attachment "E" – Not Attached
Attachment "F" – Not Attached
Attachment "G" – Not Attached
Attachment "H" – Not Used
Attachment "I" – Safety Declaration
Attachment "J" – Contractor Safety Standards
Attachment "K" - Allowable Direct Costs

CMM

ATTACHMENT “A”

SCOPE OF WORK

ATTACHMENT “A”

**SCOPE OF WORK
SURVEYING SERVICES**

**FOR THE ORANGE COUNTY SANITATION DISTRICT’S CAPITAL IMPROVEMENT
PROGRAM, FACILITIES ENGINEERING, OPERATIONS, AND MAINTENANCE PROJECTS**

PSA2022-002

I. PURPOSE

The selected CONSULTANT shall provide on-call surveying services as required in support of OC SAN’s Capital Improvement Program, Facilities Engineering, Operations, and Maintenance projects. The locations for this work include the two treatment plants and other facilities (pump stations and collections system) located throughout Orange County.

II. TYPICAL TASKS

PRELIMINARY ALIGNMENT: Provide preliminary stationing at intervals as required by the OC SAN Engineer.

CONSTRUCTION ALIGNMENT: Provide horizontal and vertical controls. Paint or flag centerline of sewer for collections projects when requested by the OC SAN Engineer.

CONTRACTOR'S STAKING: Provide one set of offset line-and-grade stakes for pipeline, manholes, structures, etc. at 25 to 50-foot intervals, or as required by the OC SAN Engineer along with cut sheets for contractor's use.

PIPE CASINGS/TUNNELS: Provide one set of offset stakes for each pit location and one set for horizontal and vertical control in pits, with cut sheets.
Provide line-and-grade checks inside casings.

PIPELINE HEADING CHECK: Provide line-and-grade checks daily or as required by the OC SAN Engineer.

STREET CENTERLINE TIES: Prior to construction, tie-out street centerline monumentation, and after construction, replace disturbed or destroyed street centerline ties.

PAVEMENT REPLACEMENT: At the locations requested by OC SAN, street cross sections will be surveyed prior to construction. For pavement replacement after construction, one set of paving and curb stakes will be provided at locations designated by OC SAN.

MISCELLANEOUS SURVEY: As requested by OC SAN, provide boundary and topographic surveys, monument replacement, aerial photography, settlement monitoring, easement review and preparation, and other miscellaneous items. Prepare base maps and exhibits using AutoCAD, latest version, record required documents with the County.

III. REQUIREMENTS

1. CONSULTANT shall be available to work the next day if scheduled by the end of the work day. OC SAN expects that the technician will arrive at the site with the correct equipment, calibrated to existing standards with documentation. OC SAN will not reimburse the CONSULTANT for the time required to obtain the correct equipment. Crews shall sign in/out with signatures by OC SAN representative and 3rd party crew.
2. Equipment that requires calibration shall be calibrated prior to the work. Calibration costs shall be included in the total hourly rate for field service fees.
3. CONSULTANT shall be experienced with tunnel and casing surveys.
4. Copies of all survey notes shall be furnished to OC SAN within 24 hours of survey or stakeout. Cut sheets and heading checks documents shall be provided the same day.
5. Survey work shall be documented in English Standard Units and/or Metric Units, as required by OC SAN.
6. CONSULTANT shall be available for occasional night work (4:30 p.m. to 7:00 a.m.) upon 24hour advance notice.
7. Survey party should consist of two or three persons per crew with a certified party chief, or equal.
8. Party chief or company representative should be available for the pre-construction meeting and other key meetings as the project progresses.
9. All supplies, such as, but not limited to, stakes, flagging, nails, spikes, ties, paint, etc. shall be included in the hourly rate.
10. All surveyors must be adequately insured for liability and property damage, and a copy of the policy must be forwarded to OC SAN. Vehicles shall bear the CONSULTANT's name.
11. CONSULTANT shall be able to provide proper traffic control in accordance with the Work Area Traffic Control Handbook (WATCH) Manual, Manual on Uniform Traffic Control Devices (MUTCD) or as required by the governing agency when carrying out their functions and duties.

12. At least one member of the party shall have a cell phone or other form of communication so as to be in contact with the home office in the event OC SAN requires immediate communication during normal working hours, and shall have means to be directly contacted in the field by OC SAN personnel via cell phone.
13. CONSULTANT must be able to recognize survey errors or omissions in the contract drawings, survey or stakeout, and alert OC SAN staff timely in order to mitigate production delays and costs.
14. CONSULTANT shall comply with OSHA requirements and OCSD Safety Standards.
15. On occasion, CONSULTANT will be required to enter confined spaces to perform work. Entrants shall be CAL-OSHA confined-space trained and certified. Certifications shall be submitted to OC SAN for review and approval at least 48 hours prior to commencement of work. Personnel will be entering under Contractor's confined-space entry permit.
16. Personal protective equipment (PPE), including lower explosive limit (LEL) personal monitors is required onsite for all personnel.
 - a. Personnel must be fall-protection trained and provide their own fall-protection PPE, when onsite.
17. OC SAN shall provide to the CONSULTANT a Task Order Number that will be used to track the work. The CONSULTANT will not begin any work without the Task Order Number. If the CONSULTANT receives direction from OC SAN to perform some type of work without a Task Order Number, the CONSULTANT shall contact the Inspection Supervisor to determine if the work is authorized and receive a Task Order Number if appropriate.
18. CONSULTANT will submit monthly statements, ***separately for each project or Task***, covering services and/or work performed no later than the second Wednesday of the following month and in the format required by OC SAN, to request payment. Such requests shall be based upon the amount and value of the work and services performed by CONSULTANT under this Agreement and shall be prepared by CONSULTANT and accompanied by such supporting data (including sign in/out sheets signed by CONSULTANT and OC SAN representative), including:
 - Task Order Number and Project Number and/or Project Description included on the statement.
 - Tasks completed, identified by the Task number assigned to each Task.
 - Detailed breakdown of all costs incurred per task performed, and all back-up documentation for each Task.
 - Copy of the daily notes or tasks including the signature of OC SAN's Inspector approving the day's work.
 - Running total of services billed, services paid, services billed but not paid, and the amount of the contract remaining.

OC SAN will not approve any task performed without the appropriate back-up documentation and may result in delayed or partial payment. Failure to submit monthly

statements no later than the second Wednesday of the following month may result in delayed payment.

19. If any conflict of interest occurs on a project, OC SAN shall be notified without delay of the conflict. OC SAN will evaluate conflict of interest on a case-by-case basis and advise as to whether it may be waived in each case.

PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT, is made and entered into to be effective the 1st day of May, 2022, by and between the ORANGE COUNTY SANITATION DISTRICT, hereinafter referred to as "OC SAN", and STANTEC CONSULTING SERVICES, INC., for purposes of this AGREEMENT hereinafter referred to as "CONSULTANT". OC SAN and CONSULTANT are referred to herein collectively as the "Parties" or individually as a "Party."

WITNESSETH:

WHEREAS, OC SAN desires to engage a consultant for surveying services for the OC SAN's Capital Improvement Program, Facilities Engineering, Operations, and Maintenance projects, PSA2022-002; and,

WHEREAS, CONSULTANT is qualified to provide the necessary services in connection with these requirements and has agreed to provide the necessary professional services; and,

WHEREAS, OC SAN has adopted procedures for the selection of professional services and has proceeded in accordance with said procedures to select a CONSULTANT to perform this work; and,

WHEREAS, at its regular meeting on March 23, 2022, the Board of Directors, by Minute Order, accepted the recommendation of the Operations Committee to approve this AGREEMENT between OC SAN and CONSULTANT.

NOW, THEREFORE, in consideration of the promises and mutual benefits, which will result to the parties in carrying out the terms of this AGREEMENT, it is mutually agreed as follows:

1. SCOPE OF WORK

CONSULTANT agrees to furnish necessary professional services to accomplish those project elements outlined in the Scope of Work attached hereto as "Attachment A", and by this reference made a part of this AGREEMENT.

- A. The CONSULTANT shall be responsible for the professional quality, technical accuracy, and completeness and coordination of the work and services furnished by the CONSULTANT under this AGREEMENT, including the work performed by its Subconsultants. Where approval by OC SAN is indicated, it is understood to be conceptual approval only and does not relieve the CONSULTANT of responsibility for complying with all applicable laws, regulations, codes, industry standards and liability for damages caused by errors, omissions, noncompliance with industry standards, and/or negligence on the part of the CONSULTANT or its Subconsultants.
- B. CONSULTANT is responsible for the quality of work prepared under this AGREEMENT and shall ensure that all work is performed to the highest industry standards for clarity, uniformity, and completeness. CONSULTANT shall timely respond to all comments, suggestions, and recommendations from OC SAN. All comments from OC SAN, or its agent, shall be incorporated into the work prior to

the next review deadline or addressed, in writing, as to why the comment(s) has/have not been incorporated. CONSULTANT shall ensure that each submittal is 100% accurate for the level of work submitted (i.e. correct references, terms, capitalization or equal status, spelling, punctuation, etc.).

- C. In the event that CONSULTANT's services and/or work product(s) is not to the satisfaction of OC SAN and/or does not conform to the requirements of this AGREEMENT or the applicable industry standards, the CONSULTANT shall, without additional compensation, promptly correct or revise any errors or deficiencies in its work product(s) within the timeframe specified by the Project Manager. OC SAN may charge to CONSULTANT all costs, expenses and damages associated with any such corrections or revisions.
- D. All professional services performed by the CONSULTANT, including, but not limited to, all drafts, data, correspondence, proposals, and reports compiled or composed by the CONSULTANT, pursuant to this AGREEMENT, are for the sole use of OC SAN, its agents and employees. Neither the documents nor their contents shall be released to any third party without the prior written consent of OC SAN. This provision does not apply to information that (a) was publicly known, or otherwise known to the CONSULTANT, at the time that it was disclosed to the CONSULTANT by OC SAN, or (b) subsequently becomes publicly known to the CONSULTANT other than through disclosure by OC SAN.

2. COMPENSATION

Total compensation shall be paid to CONSULTANT for services in accordance with the following provisions:

A. Total Compensation

Total compensation shall be in an amount not to exceed Two Hundred Thousand Dollars (\$200,000.00), over a three (3) year period.

OC SAN shall pay to CONSULTANT one total hourly rate set forth in Attachment "D" - Fee Proposal. The rate shall include all costs such as, but not necessarily limited to, technician labor, equipment, and overhead rates, report writing, office review and supervision, other miscellaneous charges. Drive time and mileage shall be included in the hourly rate and will not be allowed as additional costs.

B. Other Direct Costs

Other Direct Costs incurred by CONSULTANT and its Contractor due to modifications in scope of work resulting from field investigations and field work required by Contract. These items may include special equipment, test equipment and tooling and other materials and services not previously identified. Refer to attachment "K" Allowable Direct Costs for payment information.

3. PAYMENT

- A. Invoice: CONSULTANT shall include in its invoice, a detailed breakdown of costs associated with the performance of any corrections or revisions of the work for that invoicing period, in a format acceptable to OC SAN. CONSULTANT shall include copies of the daily notes or tasks including the signature of the OC SAN's Inspector approving the day's work for that invoicing period. CONSULTANT shall warrant and certify the accuracy of these costs and provide all support documentation required by OC SAN. CONSULTANT understands that submitted costs are subject to Audit Provisions as stated under this Agreement.
- B. CONSULTANT will submit statements covering services and/or work performed for payment for those items. The format must include, as a minimum: 1) current billing period invoicing, 2) current billing period "total percent invoiced to date", and 3) budget status and amount remaining. Such requests shall be accompanied by such supporting data as may be required by OC SAN.

Upon approval of such payment request by OC SAN, payment shall be made to CONSULTANT as soon as practicable of one hundred percent (100%) of the invoiced amount.

- C. Upon satisfactory completion of the work performed hereunder and prior to final payment under this AGREEMENT for such work, or prior settlement upon termination of this AGREEMENT, and as a condition precedent thereto, CONSULTANT shall execute and deliver to OC SAN a release of all claims against OC SAN arising under or by virtue of this AGREEMENT other than such claims, if any, as may be specifically exempted by CONSULTANT from the operation of the release in stated amounts to be set forth therein.
- D. Pursuant to the California False Claims Act (Government Code sections 12650-12655), any CONSULTANT that knowingly submits a false claim to OC SAN for compensation under the terms of this AGREEMENT may be held liable for treble damages and up to a \$10,000 civil penalty for each false claim submitted. This section shall also be binding on all Subconsultants.

A CONSULTANT or Subconsultant shall be deemed to have submitted a false claim when the CONSULTANT or Subconsultant: (a) knowingly presents or causes to be presented to an officer or employee of OC SAN a false claim or request for payment or approval; (b) knowingly makes, uses, or causes to be made or used a false record or statement to get a false claim paid or approved by OC SAN; (c) conspires to defraud OC SAN by getting a false claim allowed or paid by OC SAN; (d) knowingly makes, uses, or causes to be made or used a false record or statement to conceal, avoid, or decrease an obligation to OC SAN; or (e) is a beneficiary of an inadvertent submission of a false claim to OC SAN, and fails to disclose the false claim to OC SAN within a reasonable time after discovery of the false claim.

4. PREVAILING WAGES

To the extent CONSULTANT intends to utilize employees who will perform work during the contract, as more specifically defined under Labor Code Section 1720, CONSULTANT shall be subject to prevailing wage requirements with respect to such employees.

5. CALIFORNIA DEPARTMENT OF INDUSTRIAL RELATIONS (DIR) REGISTRATION AND RECORD OF WAGES

- A. To the extent CONSULTANT's employees and/or Subconsultants who will perform Work during the design and preconstruction phases of a construction contract for which Prevailing Wage Determinations have been issued by the DIR and as more specifically defined under Labor Code Section 1720 et seq, CONSULTANT and Subconsultants shall comply with the registration requirements of Labor Code Section 1725.5. Pursuant to Labor Code Section 1771.4, the Work is subject to compliance monitoring and enforcement by the DIR.
- B. The CONSULTANT and Subconsultants shall maintain accurate payroll records and shall comply with all the provisions of Labor Code Section 1776, and shall submit payroll records to the Labor Commissioner pursuant to Labor Code Section 1771.4(a)(3). Penalties for non-compliance with the requirements of Section 1776 may be deducted from progress payments per Section 1776.
- C. Pursuant to Labor Code Section 1776, the CONSULTANT and Subconsultants shall furnish a copy of all certified payroll records to OC SAN and/or general public upon request, provided the public request is made through OC SAN, the Division of Apprenticeship Standards or the Division of Labor Enforcement of the Department of Industrial Relations.
- D. The CONSULTANT and 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).

6. DOCUMENT OWNERSHIP – CONSULTANT PERFORMANCE

- A. Ownership of Documents for the Professional Services performed.

All documents in all forms (electronic, paper, etc.), including, but not limited to, studies, sketches, drawings, computer printouts, disk files, and electronic copies prepared in connection with or related to the Scope of Work or Professional Services, shall be the property of OC SAN. OC SAN's ownership of these documents includes use of, reproduction or reuse of and all incidental rights, whether or not the work for which they were prepared has been performed. OC SAN ownership entitlement arises upon payment or any partial payment for work performed and includes ownership of any and all work product completed prior to that payment. This Section shall apply whether the CONSULTANT's Professional Services are terminated: a) by the completion of the AGREEMENT, or b) in accordance with other provisions of this AGREEMENT. Notwithstanding

any other provision of this paragraph or AGREEMENT, the CONSULTANT shall have the right to make copies of all such plans, studies, sketches, drawings, computer printouts and disk files, and specifications.

- B. CONSULTANT shall not be responsible for damage caused by subsequent changes to or uses of the study or deliverable where the subsequent changes or uses are not authorized or approved by CONSULTANT, provided that the service rendered by CONSULTANT was not a proximate cause of the damage.

7. AGREEMENT TERM

The services provided under this AGREEMENT shall be for the period of three (3) years, commencing on May 1, 2022 and continuing through April 30, 2025.

8. INSURANCE

A. General

- i. Insurance shall be issued and underwritten by insurance companies acceptable to OC SAN.
- ii. Insurers must have an "A-" Policyholder's Rating, or better, and Financial Rating of at least Class VIII, or better, in accordance with the most current A.M. Best's Guide Rating. However, OC SAN will accept State Compensation Insurance Fund, for the required policy of Worker's Compensation Insurance subject to OC SAN's option to require a change in insurer in the event the State Fund financial rating is decreased below "B". Further, OC SAN will require CONSULTANT to substitute any insurer whose rating drops below the levels herein specified. Said substitution shall occur within twenty (20) days of written notice to CONSULTANT, by OC SAN or its agent.
- iii. Coverage shall be in effect prior to the commencement of any work under this AGREEMENT.

B. General Liability

The CONSULTANT shall maintain during the life of this AGREEMENT, including the period of warranty, Commercial General Liability Insurance written on an occurrence basis providing the following minimum limits of liability coverage: Two Million Dollars (\$2,000,000) per occurrence with Four Million Dollars (\$4,000,000) aggregate. Said insurance shall include coverage for the following hazards: Premises-Operations, blanket contractual liability (for this AGREEMENT), products liability/completed operations (including any product manufactured or assembled), broad form property damage, blanket contractual liability, independent contractors liability, personal and advertising injury, mobile equipment, owners and contractors protective liability, and cross liability and severability of interest clauses. A statement on an insurance certificate will not be

accepted in lieu of the actual additional insured endorsement(s). If requested by OC SAN and applicable, XCU coverage (Explosion, Collapse and Underground) and Riggers/On Hook Liability must be included in the General Liability policy and coverage must be reflected on the submitted Certificate of Insurance.

C. Umbrella Excess Liability

The minimum limits of general liability and Automotive Liability Insurance required, as set forth herein, shall be provided for through either a single policy of primary insurance or a combination of policies of primary and umbrella excess coverage. Umbrella excess liability coverage shall be issued with limits of liability which, when combined with the primary insurance, will equal the minimum limits for general liability and automotive liability.

D. Automotive/Vehicle liability Insurance

The CONSULTANT shall maintain a policy of Automotive Liability Insurance on a comprehensive form covering all owned, non-owned, and hired automobiles, trucks, and other vehicles providing the following minimum limits of liability coverage: Combined single limit of One Million Dollars (\$1,000,000). A statement on an insurance certificate will not be accepted in lieu of the actual additional insured endorsement.

E. Drone Liability Insurance

If a drone will be used, drone liability insurance must be maintained by CONSULTANT in the amount of One Million Dollars (\$1,000,000) in a form acceptable by OC SAN.

F. Worker's Compensation Insurance

The CONSULTANT shall provide such Workers' Compensation Insurance as required by the Labor Code of the State of California in the amount of the statutory limit, including Employer's Liability Insurance with a minimum limit of One Million Dollars (\$1,000,000) per occurrence. Such Worker's Compensation Insurance shall be endorsed to provide for a waiver of subrogation in favor of OC SAN. A statement on an insurance certificate will not be accepted in lieu of the actual endorsements unless the insurance carrier is State of California Insurance Fund and the identifier "SCIF" and endorsement numbers 2570 and 2065 are referenced on the certificate of insurance. If an exposure to Jones Act liability may exist, the insurance required herein shall include coverage for Jones Act claims.

G. Errors and Omissions/Professional Liability

CONSULTANT shall maintain in full force and effect, throughout the term of this AGREEMENT, standard industry form professional negligence errors and omissions insurance coverage in an amount of not less than One Million Dollars (\$1,000,000) with limits in accordance with the provisions of this Paragraph. If the policy of insurance is written on a "claims made" basis, said policy shall be

continued in full force and effect at all times during the term of this AGREEMENT, and for a period of five (5) years from the date of the completion of the services hereunder.

In the event of termination of said policy during this period, CONSULTANT shall obtain continuing insurance coverage for the prior acts or omissions of CONSULTANT during the course of performing services under the term of this AGREEMENT. Said coverage shall be evidenced by either a new policy evidencing no gap in coverage or by separate extended "tail" coverage with the present or new carrier.

In the event the present policy of insurance is written on an "occurrence" basis, said policy shall be continued in full force and effect during the term of this AGREEMENT or until completion of the services provided for in this AGREEMENT, whichever is later. In the event of termination of said policy during this period, new coverage shall be obtained for the required period to insure for the prior acts of CONSULTANT during the course of performing services under the term of this AGREEMENT.

CONSULTANT shall provide to OC SAN a certificate of insurance in a form acceptable to OC SAN indicating the deductible or self-retention amounts and the expiration date of said policy, and shall provide renewal certificates not less than ten (10) days prior to the expiration of each policy term.

H. Proof of Coverage

The CONSULTANT shall furnish OC SAN with original certificates and amendatory endorsements effecting coverage. Said policies and endorsements shall conform to the requirements herein stated. All certificates and endorsements are to be received and approved by OC SAN before work commences. OC SAN reserves the right to require complete, certified copies of all required insurance policies, including endorsements, effecting the coverage required, at any time. The following are approved forms that must be submitted as proof of coverage:

- Certificate of Insurance ACORD Form 25 (5/2010) or equivalent.
- Additional Insurance (General Liability) (ISO Form) CG2010 11 85 or
The combination of (ISO Forms)
CG 2010 10 01 and CG 2037 10 01
All other Additional Insured endorsements must be submitted for approval by OC SAN, and OC SAN may reject alternatives that provide different or less coverage to OC SAN.
- Additional Insured (Auto Liability) Submit endorsement provided by carrier for OC SAN approval.

- Waiver of Subrogation State Compensation Insurance Fund
Endorsement No. 2570 or equivalent.
- Cancellation Notice State Compensation Insurance Fund
Endorsement No. 2065 or equivalent.

I. Cancellation Notice

Each insurance policy required herein shall be endorsed to state that coverage shall not be cancelled by either party, except after thirty (30) days' prior written notice. The Cancellation Section of ACORD Form 25 (5/2010) shall state the required thirty (30) days' written notification. The policy shall not terminate, nor shall it be cancelled, nor the coverage reduced until thirty (30) days after written notice is given to OC SAN except for nonpayment of premium, which shall require not less than ten (10) days written notice to OC SAN. Should there be changes in coverage or an increase in deductible or SIR amounts, the CONSULTANT and its insurance broker/agent shall send to OC SAN a certified letter which includes a description of the changes in coverage and/or any increase in deductible or SIR amounts. The certified letter must be sent to the attention of Risk Management, and shall be received by OC SAN not less than thirty (30) days prior to the effective date of the change(s) if the change would reduce coverage or increase deductibles or SIR amounts or otherwise reduce or limit the scope of insurance coverage provided to OC SAN.

J. Primary Insurance

All liability policies shall contain a Primary and Non Contributory Clause. Any other insurance maintained by OC SAN shall be excess and not contributing with the insurance provided by CONSULTANT.

K. Separation of Insured

All liability policies shall contain a "Separation of Insureds" clause.

L. Non-Limiting (if applicable)

Nothing in this document shall be construed as limiting in any way, nor shall it limit the indemnification provision contained in this AGREEMENT, or the extent to which CONSULTANT may be held responsible for payment of damages to persons or property.

M. Deductibles and Self-Insured Retentions

Any deductible and/or self-insured retention must be declared to OC SAN on the Certificate of Insurance. All deductibles and/or self-insured retentions require approval by OC SAN. At the option of OC SAN, either: the insurer shall reduce or eliminate such deductible or self-insured retention as respects OC SAN; or the CONSULTANT shall provide a financial guarantee satisfactory to OC SAN guaranteeing payment of losses and related investigations, claim administration and defense expenses.

N. Defense Costs

Liability policies shall have a provision that defense costs for all insureds and additional insureds are paid in addition to and do not deplete any policy limits.

O. Subconsultants

The CONSULTANT shall be responsible to establish insurance requirements for any Subconsultant hired by the CONSULTANT. The insurance shall be in amounts and types reasonably sufficient to deal with the risk of loss involving the Subconsultant's operations and work.

P. Limits Are Minimums

If the CONSULTANT maintains higher limits than any minimums shown above, then OC SAN requires and shall be entitled to coverage for the higher limits maintained by CONSULTANT.

9. SCOPE CHANGES

In the event of a change in the Scope of Work or a change in the proposed Project, as requested by OC SAN, the Parties hereto shall execute an Amendment to this AGREEMENT setting forth with particularity all terms of the new AGREEMENT, including, but not limited to any additional CONSULTANT's fees.

10. PROJECT TEAM AND SUBCONSULTANTS

CONSULTANT shall provide to OC SAN, prior to execution of this AGREEMENT, the names and full description of all Subconsultants and CONSULTANT's project team members anticipated to be used on this Project under this AGREEMENT by CONSULTANT. CONSULTANT shall include a description of the work and services to be done by each Subconsultant and each of CONSULTANT's Project team member. CONSULTANT shall include the respective compensation amounts for CONSULTANT and each Subconsultant.

There shall be no substitution of the listed Subconsultants and CONSULTANT's project team members without prior written approval by OC SAN.

11. ENGINEERING REGISTRATION

The CONSULTANT's personnel and Subconsultants are comprised of a staff of specialists in each department. The firm itself is not a registered engineer but represents and agrees that wherever, in the performance of this AGREEMENT, the services of a registered engineer is required, such services hereunder will be performed under the direct supervision of registered engineers who are registered in California.

12. AUDIT PROVISIONS.

A. OC SAN retains the reasonable right to access, review, examine, and audit, any and all books, records, documents and any other evidence of procedures and

practices that OC SAN determines are necessary to discover and verify that the CONSULTANT is in compliance with all requirements under this AGREEMENT. The CONSULTANT shall include OC SAN's right as described above, in any and all of their subcontracts, and shall ensure that these rights are binding upon all Subconsultants.

- B. OC SAN retains the right to examine CONSULTANT's books, records, documents and any other evidence of procedures and practices that OC SAN determines are necessary to discover and verify all direct and indirect costs, of whatever nature, which are claimed to have been incurred, or anticipated to be incurred or to ensure CONSULTANT's compliance with all requirements under this AGREEMENT during the term of this AGREEMENT and for a period of three (3) years after its termination.
- C. CONSULTANT shall maintain complete and accurate records in accordance with generally accepted industry standard practices and OC SAN's policy. The CONSULTANT shall make available to OC SAN for review and audit, all project related accounting records and documents, and any other financial data within 15 days after receipt of notice from OC SAN. Upon OC SAN's request, the CONSULTANT shall submit exact duplicates of originals of all requested records to OC SAN. If an audit is performed, CONSULTANT shall ensure that a qualified employee of the CONSULTANT will be available to assist OC SAN's auditor in obtaining all Project related accounting records and documents, and any other financial data.

13. LEGAL RELATIONSHIP BETWEEN PARTIES

The legal relationship between the parties hereto is that of an independent contractor and nothing herein shall be deemed to transform CONSULTANT, its staff, independent contractors, or Subconsultants into employees of OC SAN. CONSULTANT'S staff performing services under the AGREEMENT shall at all times be employees and/or independent contractors of CONSULTANT. CONSULTANT shall monitor and control its staff and pay wages, salaries, and other amounts due directly to its staff in connection with the AGREEMENT. CONSULTANT shall be responsible for hiring, review, and termination of its staff and shall be accountable for all reports and obligations respecting them, such as social security, income tax withholding, unemployment compensation, workers' compensation and similar matters.

14. NOTICES

All notices hereunder and communications regarding the interpretation of the terms of this AGREEMENT, or changes thereto, shall be effected by delivery of said notices in person or by depositing said notices in the U.S. mail, registered or certified mail, return receipt requested, postage prepaid and addressed as follows:

ORANGE COUNTY SANITATION DISTRICT
10844 Ellis Avenue
Fountain Valley, CA 92708-7018
Attention: Clarice Marcin, Contracts Administration
Copy: William Gilbert and Rick Kwiecien, Project Managers

CONSULTANT:

STANTEC CONSULTING SERVICES, INC.

38 Technology Drive

Irvine, CA 92618

Attention: James O. Steines

Copy: Ray E. Mansur

All communication regarding the Scope of Work, will be addressed to the Project Manager. Direction from other OC SAN staff must be approved in writing by OC SAN's Project Manager prior to action from the CONSULTANT.

15. TERMINATION

OC SAN may terminate this AGREEMENT at any time, without cause, upon giving thirty (30) days written notice to CONSULTANT. In the event of such termination, CONSULTANT shall be entitled to compensation for work performed on a prorated basis through and including the effective date of termination.

CONSULTANT shall be permitted to terminate this AGREEMENT upon thirty (30) days written notice only if CONSULTANT is not compensated for billed amounts in accordance with the provisions of this AGREEMENT, when the same are due.

Notice of termination shall be mailed to OC SAN at the address listed in Section 14 - NOTICES.

16. DOCUMENTS AND STUDY MATERIALS

The documents and study materials for this Project shall become the property of OC SAN upon the termination or completion of the work. CONSULTANT agrees to furnish to OC SAN copies of all memoranda, correspondence, electronic materials, computation and study materials in its files pertaining to the work described in this AGREEMENT, which is requested in writing by OC SAN.

17. COMPLIANCE

A. Labor

CONSULTANT certifies by the execution of this AGREEMENT that it pays employees not less than the minimum wage as defined by law, and that it does not discriminate in its employment with regard to race, color, religion, sex or national origin; that it is in compliance with all federal, state and local directives and executive orders regarding non-discrimination in employment; and that it agrees to demonstrate positively and aggressively the principle of equal opportunity in employment.

B. Air Pollution

CONSULTANT and its Subconsultants and subcontractors shall comply with all applicable federal, state and local air pollution control laws and regulations.

18. AGREEMENT EXECUTION AUTHORIZATION

Both OC SAN and CONSULTANT do covenant that each individual executing this document by and on behalf of each Party is a person duly authorized to execute this AGREEMENT for that Party.

19. DISPUTE RESOLUTION

In the event of a dispute arising between the parties regarding performance or interpretation of this AGREEMENT, the dispute shall be resolved by binding arbitration under the auspices of the Judicial Arbitration and Mediation Service ("JAMS"), or similar organization or entity conducting alternate dispute resolution services.

20. ATTORNEY'S FEES, COSTS AND NECESSARY DISBURSEMENTS

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 he may be entitled.

21. WARRANTY

CONSULTANT shall perform its services in accordance with generally accepted industry and professional standards. If, within the 12-month period following completion of its services, OC SAN informs CONSULTANT that any part of the services fails to meet those standards, CONSULTANT shall, within the time prescribed by OC SAN, take all such actions as are necessary to correct or complete the noted deficiency(ies).

22. INDEMNIFICATION

To the fullest extent permitted by law, CONSULTANT shall indemnify, defend (at CONSULTANT's sole cost and expense and with legal counsel approved by OC SAN, which approval shall not be unreasonably withheld), protect and hold harmless OC SAN and all of OC SAN's officers, directors, employees, CONSULTANT's, and agents (collectively the "Indemnified Parties"), from and against any and all claims, damages, liabilities, causes of action, suits, arbitration awards, losses, judgments, fines, penalties, costs and expenses (including, without limitation, attorneys' fees, disbursements and court costs, and all other professional, expert or CONSULTANT's fees and costs and OC SAN's general and administrative expenses; individually, a "Claim"; collectively, "Claims") which may arise from or are in any manner related, directly or indirectly, to any work performed, or any operations, activities, or services provided by CONSULTANT in carrying out its obligations under this AGREEMENT to the extent of the negligent, recklessness and/or willful misconduct of CONSULTANT, its principals, officers, agents, employees, CONSULTANT's suppliers, CONSULTANT, Subconsultants, subcontractors, and/or anyone employed directly or indirectly by any of them, regardless of any contributing negligence or strict liability of an Indemnified Party. Notwithstanding the foregoing, nothing herein shall be construed to require CONSULTANT to indemnify the Indemnified Parties from any Claim arising solely from:

- (A) the active negligence or willful misconduct of the Indemnified Parties; or
- (B) a natural disaster or other act of God, such as an earthquake; or
- (C) the independent action of a third party who is neither one of the Indemnified Parties nor the CONSULTANT, nor its principal, officer, agent, employee, nor CONSULTANT's supplier, CONSULTANT, Subconsultant, subcontractor, nor anyone employed directly or indirectly by any of them.

Exceptions (A) through (B) above shall not apply, and CONSULTANT shall, to the fullest extent permitted by law, indemnify the Indemnified Parties, from Claims arising from more than one cause if any such cause taken alone would otherwise result in the obligation to indemnify hereunder.

CONSULTANT's liability for indemnification hereunder is in addition to any liability CONSULTANT may have to OC SAN for a breach by CONSULTANT of any of the provisions of this AGREEMENT. Under no circumstances shall the insurance requirements and limits set forth in this AGREEMENT be construed to limit CONSULTANT's indemnification obligation or other liability hereunder. The terms of this AGREEMENT are contractual and the result of negotiation between the parties hereto. Accordingly, any rule of construction of contracts (including, without limitation, California Civil Code Section 1654) that ambiguities are to be construed against the drafting party, shall not be employed in the interpretation of this AGREEMENT.

23. DUTY TO DEFEND

The duty to defend hereunder is wholly independent of and separate from the duty to indemnify and such duty to defend shall exist regardless of any ultimate liability of CONSULTANT and shall be consistent with Civil Code section 2782.8. Such defense obligation shall arise immediately upon presentation of a Claim by any person if, without regard to the merit of the Claim, such Claim could potentially result in an obligation to indemnify one or more Indemnified Parties, and upon written notice of such Claim being provided to CONSULTANT. Payment to CONSULTANT by any Indemnified Party or the payment or advance of defense costs by any Indemnified Party shall not be a condition precedent to enforcing such Indemnified Party's rights to indemnification hereunder. In the event a final judgment, arbitration, award, order, settlement, or other final resolution expressly determines that the claim did not arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the CONSULTANT, to any extent, then OC SAN will reimburse CONSULTANT for the reasonable costs of defending the Indemnified Parties against such claims.

CONSULTANT's indemnification obligation hereunder shall survive the expiration or earlier termination of this AGREEMENT until such time as action against the Indemnified Parties for such matter indemnified hereunder is fully and finally barred by the applicable statute of limitations.

24. COMPLIANCE WITH OC SAN POLICIES AND PROCEDURES

CONSULTANT shall comply with all OC SAN policies and procedures including the Contractor Safety Standards, as applicable, all of which may be amended from time to time.

25. CLOSEOUT

When OC SAN determines that all Work authorized under the AGREEMENT is fully complete and that OC SAN requires no further work from CONSULTANT, or the AGREEMENT is otherwise terminated or expires in accordance with the terms of the AGREEMENT, OC SAN shall give the Consultant written notice that the AGREEMENT will be closed out. CONSULTANT shall submit all outstanding billings, work submittals, deliverables, reports or similarly related documents as required under the AGREEMENT within thirty (30) days of receipt of notice of AGREEMENT closeout.

Upon receipt of CONSULTANT's submittals, OC SAN shall commence a closeout audit of the AGREEMENT and will either:

- i. Give the CONSULTANT a final AGREEMENT Acceptance: or
- ii. Advise the CONSULTANT in writing of any outstanding item or items which must be furnished, completed, or corrected at the CONSULTANT's cost.

CONSULTANT shall be required to provide adequate resources to fully support any administrative closeout efforts identified in the AGREEMENT. Such support must be provided within the timeframe requested by OC SAN.

Notwithstanding the final AGREEMENT acceptance, the CONSULTANT will not be relieved of its obligations hereunder, nor will the CONSULTANT be relieved of its obligations to complete any portions of the work, the non-completion of which were not disclosed to OC SAN (regardless of whether such nondisclosures were fraudulent, negligent, or otherwise), and the CONSULTANT shall remain obligated under all those provisions of the AGREEMENT which expressly or by their nature extend beyond and survive final AGREEMENT Acceptance.

Any failure by OC SAN to reject the work or to reject the CONSULTANT's request for final AGREEMENT Acceptance as set forth above shall not be deemed to be acceptance of the work by OC SAN for any purpose nor imply acceptance of, or AGREEMENT with, the CONSULTANT's request for final AGREEMENT Acceptance.

26. ENTIRE AGREEMENT

This AGREEMENT constitutes the entire understanding and AGREEMENT between the Parties and supersedes all previous negotiations between them pertaining to the subject matter thereof.

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

IN WITNESS WHEREOF, this AGREEMENT has been executed in the name of OC SAN, by its officers thereunto duly authorized, and CONSULTANT as of the day and year first above written.

CONSULTANT: STANTEC CONSULTING SERVICES, INC.

By _____ Date _____

Printed Name & Title

ORANGE COUNTY SANITATION DISTRICT

By _____ Date _____
John B. Withers
Board Chairman

By _____ Date _____
Kelly A. Lore
Clerk of the Board

By _____ Date _____
Ruth Zintzun
Purchasing & Contracts Manager

- Attachments: Attachment "A" – Scope of Work
Attachment "B" – Not Attached
Attachment "C" – Not Attached
Attachment "D" – Fee Proposal
Attachment "E" – Not Used
Attachment "F" – Not Attached
Attachment "G" – Not Attached
Attachment "H" – Not Used
Attachment "I" – Safety Declaration
Attachment "J" – Contractor Safety Standards
Attachment "K" - Allowable Direct Costs

CMM:yp

ATTACHMENT “A”

SCOPE OF WORK

ATTACHMENT “A”

**SCOPE OF WORK
SURVEYING SERVICES**

**FOR THE ORANGE COUNTY SANITATION DISTRICT’S CAPITAL IMPROVEMENT
PROGRAM, FACILITIES ENGINEERING, OPERATIONS, AND MAINTENANCE PROJECTS**

PSA2022-002

I. PURPOSE

The selected CONSULTANT shall provide on-call surveying services as required in support of OC SAN’s Capital Improvement Program, Facilities Engineering, Operations, and Maintenance projects. The locations for this work include the two treatment plants and other facilities (pump stations and collections system) located throughout Orange County.

II. TYPICAL TASKS

PRELIMINARY ALIGNMENT: Provide preliminary stationing at intervals as required by the OC SAN Engineer.

CONSTRUCTION ALIGNMENT: Provide horizontal and vertical controls. Paint or flag centerline of sewer for collections projects when requested by the OC SAN Engineer.

CONTRACTOR'S STAKING: Provide one set of offset line-and-grade stakes for pipeline, manholes, structures, etc. at 25 to 50-foot intervals, or as required by the OC SAN Engineer along with cut sheets for contractor's use.

PIPE CASINGS/TUNNELS: Provide one set of offset stakes for each pit location and one set for horizontal and vertical control in pits, with cut sheets.
Provide line-and-grade checks inside casings.

PIPELINE HEADING CHECK: Provide line-and-grade checks daily or as required by the OC SAN Engineer.

STREET CENTERLINE TIES: Prior to construction, tie-out street centerline monumentation, and after construction, replace disturbed or destroyed street centerline ties.

PAVEMENT REPLACEMENT: At the locations requested by OC SAN, street cross sections will be surveyed prior to construction. For pavement replacement after construction, one set of paving and curb stakes will be provided at locations designated by OC SAN.

MISCELLANEOUS SURVEY: As requested by OC SAN, provide boundary and topographic surveys, monument replacement, aerial photography, settlement monitoring, easement review and preparation, and other miscellaneous items. Prepare base maps and exhibits using AutoCAD, latest version, record required documents with the County.

III. REQUIREMENTS

1. CONSULTANT shall be available to work the next day if scheduled by the end of the work day. OC SAN expects that the technician will arrive at the site with the correct equipment, calibrated to existing standards with documentation. OC SAN will not reimburse the CONSULTANT for the time required to obtain the correct equipment. Crews shall sign in/out with signatures by OC SAN representative and 3rd party crew.
2. Equipment that requires calibration shall be calibrated prior to the work. Calibration costs shall be included in the total hourly rate for field service fees.
3. CONSULTANT shall be experienced with tunnel and casing surveys.
4. Copies of all survey notes shall be furnished to OC SAN within 24 hours of survey or stakeout. Cut sheets and heading checks documents shall be provided the same day.
5. Survey work shall be documented in English Standard Units and/or Metric Units, as required by OC SAN.
6. CONSULTANT shall be available for occasional night work (4:30 p.m. to 7:00 a.m.) upon 24hour advance notice.
7. Survey party should consist of two or three persons per crew with a certified party chief, or equal.
8. Party chief or company representative should be available for the pre-construction meeting and other key meetings as the project progresses.
9. All supplies, such as, but not limited to, stakes, flagging, nails, spikes, ties, paint, etc. shall be included in the hourly rate.
10. All surveyors must be adequately insured for liability and property damage, and a copy of the policy must be forwarded to OC SAN. Vehicles shall bear the CONSULTANT's name.
11. CONSULTANT shall be able to provide proper traffic control in accordance with the Work Area Traffic Control Handbook (WATCH) Manual, Manual on Uniform Traffic Control Devices (MUTCD) or as required by the governing agency when carrying out their functions and duties.

12. At least one member of the party shall have a cell phone or other form of communication so as to be in contact with the home office in the event OC SAN requires immediate communication during normal working hours, and shall have means to be directly contacted in the field by OC SAN personnel via cell phone.
13. CONSULTANT must be able to recognize survey errors or omissions in the contract drawings, survey or stakeout, and alert OC SAN staff timely in order to mitigate production delays and costs.
14. CONSULTANT shall comply with OSHA requirements and OCS D Safety Standards.
15. On occasion, CONSULTANT will be required to enter confined spaces to perform work. Entrants shall be CAL-OSHA confined-space trained and certified. Certifications shall be submitted to OC SAN for review and approval at least 48 hours prior to commencement of work. Personnel will be entering under Contractor's confined-space entry permit.
16. Personal protective equipment (PPE), including lower explosive limit (LEL) personal monitors is required onsite for all personnel.
 - a. Personnel must be fall-protection trained and provide their own fall-protection PPE, when onsite.
17. OC SAN shall provide to the CONSULTANT a Task Order Number that will be used to track the work. The CONSULTANT will not begin any work without the Task Order Number. If the CONSULTANT receives direction from OC SAN to perform some type of work without a Task Order Number, the CONSULTANT shall contact the Inspection Supervisor to determine if the work is authorized and receive a Task Order Number if appropriate.
18. CONSULTANT will submit monthly statements, ***separately for each project or Task***, covering services and/or work performed no later than the second Wednesday of the following month and in the format required by OC SAN, to request payment. Such requests shall be based upon the amount and value of the work and services performed by CONSULTANT under this Agreement and shall be prepared by CONSULTANT and accompanied by such supporting data (including sign in/out sheets signed by CONSULTANT and OC SAN representative), including:
 - Task Order Number and Project Number and/or Project Description included on the statement.
 - Tasks completed, identified by the Task number assigned to each Task.
 - Detailed breakdown of all costs incurred per task performed, and all back-up documentation for each Task.
 - Copy of the daily notes or tasks including the signature of OC SAN's Inspector approving the day's work.
 - Running total of services billed, services paid, services billed but not paid, and the amount of the contract remaining.

OC SAN will not approve any task performed without the appropriate back-up documentation and may result in delayed or partial payment. Failure to submit monthly

statements no later than the second Wednesday of the following month may result in delayed payment.

19. If any conflict of interest occurs on a project, OC SAN shall be notified without delay of the conflict. OC SAN will evaluate conflict of interest on a case-by-case basis and advise as to whether it may be waived in each case.



OPERATIONS COMMITTEE

Administration Building
10844 Ellis Avenue
Fountain Valley, CA 92708
(714) 593-7433

Agenda Report

File #: 2022-2106

Agenda Date: 3/16/2022

Agenda Item No: 5.

FROM: James D. Herberg, General Manager
Originator: Kathy Millea, Director of Engineering

SUBJECT:

COATING INSPECTION AND CORROSION TESTING SERVICES, PSA 2022-001

GENERAL MANAGER'S RECOMMENDATION

RECOMMENDATION: Recommend to the Board of Directors to:

Approve Professional Services Agreements to provide on-call Coating Inspection and other Corrosion Testing Services for Collection System and Treatment Plant projects, PSA2022-001, for a three-year period effective May 1, 2022, for an amount not to exceed \$300,000 per individual agreement (\$600,000 total) with the following two firms:

- CSI Services, Inc.
- Diversified Project Services International (DPSI)

BACKGROUND

The Orange County Sanitation District (OC San) uses outside specialty consultants for coating inspection and corrosion testing services in support of the Capital Improvement Program, Small Construction Projects, and Maintenance Projects during the planning, design, and construction of facilities both inside the plants and for the collection systems. These services are essential to ensure that contractors install coatings and corrosion control system per manufacturer and specification requirements.

RELEVANT STANDARDS

- Ensure the public's money is wisely spent
- 1, 5, 20-year planning horizons
- Comply with California Government Code §4526: Select the "best qualified firm" and "negotiate fair and equitable fees"

PROBLEM

The current on-call coating inspection and corrosion testing services contracts are expiring in April 2022. Without new contracts, OC San would not be able to ensure coating and corrosion control systems are properly installed.

PROPOSED SOLUTION

Award Professional Services Agreements to provide on-call coating inspection and other corrosion testing services for collection system and treatment plant projects.

The agreements will cover a three-year period. The recommended contract amounts are based on an average of the number and type of testing and inspections utilized over the past three years and the anticipated needs going forward for the next three years based on forecasted project workload. Staff will use these consultants on an as-needed basis only. The total agreement cost is not guaranteed, nor is it paid to the consultant if their services are not used.

TIMING CONCERNS

The current contracts will be expiring, and the budgets expended. Delaying the new contracts will prevent the use of these services to support Collection System and Treatment Plant projects.

RAMIFICATIONS OF NOT TAKING ACTION

Increased risk of construction quality and code compliance issues executing Capital Improvement Program, Small Construction Projects, and Maintenance Projects.

PRIOR COMMITTEE/BOARD ACTIONS

N/A

ADDITIONAL INFORMATION

On August 25, 2021, OC San issued a Notice to Prospective Proposers to over 1,600 vendors which outlined the timeline for the solicitation. On September 14, 2021, OC San requested and advertised for proposals. 23 companies identified themselves as potential bidders, so an adequate response was expected.

Two proposals were received on October 28, 2021. A post-proposal survey was conducted which provided a number of reasons companies did not propose. Responses were as follows: their safety record could not meet OC San's requirements, they proposed as a sub with another company, they could not bid as a prime, they plan to have an office in California in the near future but are not yet located in-State, and they do not have the NACE qualified staff. More than one said the Scope of Work does not align with their business services.

The two proposals were evaluated in accordance with the evaluation process set forth in OC San's Purchasing Ordinance by a pre-selected Evaluation Team consisting of OC San staff: two Construction Inspection Supervisors and two Construction Inspectors. The Evaluation Team also included two non-voting representatives from the Contracts Administration Division.

The following evaluation criteria were described in the Request for Proposals (RFP) and used to evaluate the proposals.

CRITERION	WEIGHT
Project Approach and Scope of Work Understanding	25%
Staff Qualifications	40%
Professional Registration and Experience	35%

The Evaluation Team scored the proposals on the established criteria as summarized in the table below:

Rank	Firm	Approach and Understanding (Max 25)	Staff Qualifications (Max 40)	Prof. Registr & Experience (Max 35)	Total Score (Max 100)
1	Diversified Project Services International (DPSI)	20	23	25	68
2	CSI Services, Inc.	11	28	21	60

Based on the evaluation, both firms were found to be qualified.

Review of Fee Proposal and Negotiations:

The fee proposals for the selected firms were opened on January 27, 2022 and the rates were reviewed for general conformance and found to be acceptable. Staff recommends award of the agreements to CSI Services, Inc. and Diversified Project Services International (DPSI).

CEQA

N/A

FINANCIAL CONSIDERATIONS

This request complies with authority levels of OC San's Purchasing Ordinance. The budgeted costs for the proposed Professional Service Agreements are contained within the approved CIP project budgets and no additional funding is necessary.

ATTACHMENT

The following attachment(s) may be viewed on-line at the OC San website (www.ocsan.gov) with the complete agenda package:

- Professional Services Agreements - Coating Inspection and Corrosion Testing Services

WG: jw

PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT, is made and entered into to be effective the 1st day of May, 2022, by and between the ORANGE COUNTY SANITATION DISTRICT, hereinafter referred to as "OC SAN", and CSI SERVICES, INC., for purposes of this AGREEMENT hereinafter referred to as "CONSULTANT". OC SAN and CONSULTANT are referred to herein collectively as the "Parties" or individually as a "Party."

WITNESSETH:

WHEREAS, OC SAN desires to engage a consultant for coating inspection and corrosion testing services to provide professional services and provide services for in support of the OC SAN's Capital Improvement Program, Facilities Engineering, Operations, and Maintenance projects, PSA2022-001; and,

WHEREAS, CONSULTANT is qualified to provide the necessary services in connection with these requirements and has agreed to provide the necessary professional services; and,

WHEREAS, OC SAN has adopted procedures for the selection of professional services and has proceeded in accordance with said procedures to select a CONSULTANT to perform this work; and,

WHEREAS, at its regular meeting on March 23, 2022, the Board of Directors, by Minute Order, accepted the recommendation of the Operations Committee to approve this AGREEMENT between OC SAN and CONSULTANT.

NOW, THEREFORE, in consideration of the promises and mutual benefits, which will result to the parties in carrying out the terms of this AGREEMENT, it is mutually agreed as follows:

1. SCOPE OF WORK

CONSULTANT agrees to furnish necessary professional services to accomplish those project elements outlined in the Scope of Work attached hereto as "Attachment A", and by this reference made a part of this AGREEMENT.

- A. The CONSULTANT shall be responsible for the professional quality, technical accuracy, and completeness and coordination of the work and services furnished by the CONSULTANT under this AGREEMENT, including the work performed by its Subconsultants. Where approval by OC SAN is indicated, it is understood to be conceptual approval only and does not relieve the CONSULTANT of responsibility for complying with all applicable laws, regulations, codes, industry standards and liability for damages caused by errors, omissions, noncompliance with industry standards, and/or negligence on the part of the CONSULTANT or its Subconsultants.
- B. CONSULTANT is responsible for the quality of work prepared under this AGREEMENT and shall ensure that all work is performed to the highest industry standards for clarity, uniformity, and completeness. CONSULTANT shall timely respond to all comments, suggestions, and recommendations from OC SAN. All

comments from OC SAN, or its agent, shall be incorporated into the work prior to the next review deadline or addressed, in writing, as to why the comment(s) has/have not been incorporated. CONSULTANT shall ensure that each submittal is 100% accurate for the level of work submitted (i.e. correct references, terms, capitalization or equal status, spelling, punctuation, etc.).

- C. In the event that CONSULTANT's services and/or work product(s) is not to the satisfaction of OC SAN and/or does not conform to the requirements of this AGREEMENT or the applicable industry standards, the CONSULTANT shall, without additional compensation, promptly correct or revise any errors or deficiencies in its work product(s) within the timeframe specified by the Project Manager. OC SAN may charge to CONSULTANT all costs, expenses and damages associated with any such corrections or revisions.
- D. All professional services performed by the CONSULTANT, including, but not limited to, all drafts, data, correspondence, proposals, and reports compiled or composed by the CONSULTANT, pursuant to this AGREEMENT, are for the sole use of OC SAN, its agents and employees. Neither the documents nor their contents shall be released to any third party without the prior written consent of OC SAN. This provision does not apply to information that (a) was publicly known, or otherwise known to the CONSULTANT, at the time that it was disclosed to the CONSULTANT by OC SAN, or (b) subsequently becomes publicly known to the CONSULTANT other than through disclosure by OC SAN.

2. COMPENSATION

Total compensation shall be paid to CONSULTANT for services in accordance with the following provisions:

A. Total Compensation

Total compensation shall be in an amount not to exceed Two Hundred Thousand Dollars (\$200,000.00), over a three (3) year period.

OC SAN shall pay to CONSULTANT one total hourly rate set forth in Attachment "D" - Fee Proposal. The rate shall include all costs such as, but not necessarily limited to, technician labor, equipment, and overhead rates, report writing, office review and supervision, other miscellaneous charges. Drive time and mileage shall be included in the hourly rate and will not be allowed as additional costs.

B. Other Direct Costs

Other Direct Costs incurred by CONSULTANT and its Contractor due to modifications in scope of work resulting from field investigations and field work required by Contract. These items may include special equipment, test equipment and tooling and other materials and services not previously identified. Refer to attachment "K" Allowable Direct Costs for payment information.

3. PAYMENT

- A. Invoice: CONSULTANT shall include in its invoice, a detailed breakdown of costs associated with the performance of any corrections or revisions of the work for that invoicing period, in a format acceptable to OC SAN. CONSULTANT shall include copies of the daily notes or tasks including the signature of the OC SAN's Inspector approving the day's work for that invoicing period. CONSULTANT shall warrant and certify the accuracy of these costs and provide all support documentation required by OC SAN. CONSULTANT understands that submitted costs are subject to Audit Provisions as stated under this Agreement.
- B. CONSULTANT will submit statements covering services and/or work performed for payment for those items. The format must include, as a minimum: 1) current billing period invoicing, 2) current billing period "total percent invoiced to date", and 3) budget status and amount remaining. Such requests shall be accompanied by such supporting data as may be required by OC SAN.

Upon approval of such payment request by OC SAN, payment shall be made to CONSULTANT as soon as practicable of one hundred percent (100%) of the invoiced amount.

- C. Upon satisfactory completion of the work performed hereunder and prior to final payment under this AGREEMENT for such work, or prior settlement upon termination of this AGREEMENT, and as a condition precedent thereto, CONSULTANT shall execute and deliver to OC SAN a release of all claims against OC SAN arising under or by virtue of this AGREEMENT other than such claims, if any, as may be specifically exempted by CONSULTANT from the operation of the release in stated amounts to be set forth therein.
- D. Pursuant to the California False Claims Act (Government Code sections 12650-12655), any CONSULTANT that knowingly submits a false claim to OC SAN for compensation under the terms of this AGREEMENT may be held liable for treble damages and up to a \$10,000 civil penalty for each false claim submitted. This section shall also be binding on all Subconsultants.

A CONSULTANT or Subconsultant shall be deemed to have submitted a false claim when the CONSULTANT or Subconsultant: (a) knowingly presents or causes to be presented to an officer or employee of OC SAN a false claim or request for payment or approval; (b) knowingly makes, uses, or causes to be made or used a false record or statement to get a false claim paid or approved by OC SAN; (c) conspires to defraud OC SAN by getting a false claim allowed or paid by OC SAN; (d) knowingly makes, uses, or causes to be made or used a false record or statement to conceal, avoid, or decrease an obligation to OC SAN; or (e) is a beneficiary of an inadvertent submission of a false claim to OC SAN, and fails to disclose the false claim to OC SAN within a reasonable time after discovery of the false claim.

4. PREVAILING WAGES

To the extent CONSULTANT intends to utilize employees who will perform work during the contract, as more specifically defined under Labor Code Section 1720, CONSULTANT shall be subject to prevailing wage requirements with respect to such employees.

5. CALIFORNIA DEPARTMENT OF INDUSTRIAL RELATIONS (DIR) REGISTRATION AND RECORD OF WAGES

- A. To the extent CONSULTANT's employees and/or Subconsultants who will perform Work during the design and preconstruction phases of a construction contract for which Prevailing Wage Determinations have been issued by the DIR and as more specifically defined under Labor Code Section 1720 et seq, CONSULTANT and Subconsultants shall comply with the registration requirements of Labor Code Section 1725.5. Pursuant to Labor Code Section 1771.4, the Work is subject to compliance monitoring and enforcement by the DIR.
- B. The CONSULTANT and Subconsultants shall maintain accurate payroll records and shall comply with all the provisions of Labor Code Section 1776, and shall submit payroll records to the Labor Commissioner pursuant to Labor Code Section 1771.4(a)(3). Penalties for non-compliance with the requirements of Section 1776 may be deducted from progress payments per Section 1776.
- C. Pursuant to Labor Code Section 1776, the CONSULTANT and Subconsultants shall furnish a copy of all certified payroll records to OC SAN and/or general public upon request, provided the public request is made through OC SAN, the Division of Apprenticeship Standards or the Division of Labor Enforcement of the Department of Industrial Relations.
- D. The CONSULTANT and 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).

6. DOCUMENT OWNERSHIP – CONSULTANT PERFORMANCE

- A. Ownership of Documents for the Professional Services performed.

All documents in all forms (electronic, paper, etc.), including, but not limited to, studies, sketches, drawings, computer printouts, disk files, and electronic copies prepared in connection with or related to the Scope of Work or Professional Services, shall be the property of OC SAN. OC SAN's ownership of these documents includes use of, reproduction or reuse of and all incidental rights, whether or not the work for which they were prepared has been performed. OC SAN ownership entitlement arises upon payment or any partial payment for work performed and includes ownership of any and all work product completed prior to that payment. This Section shall apply whether the CONSULTANT's Professional Services are terminated: a) by the completion of the AGREEMENT, or b) in accordance with other provisions of this AGREEMENT. Notwithstanding

any other provision of this paragraph or AGREEMENT, the CONSULTANT shall have the right to make copies of all such plans, studies, sketches, drawings, computer printouts and disk files, and specifications.

- B. CONSULTANT shall not be responsible for damage caused by subsequent changes to or uses of the study or deliverable where the subsequent changes or uses are not authorized or approved by CONSULTANT, provided that the service rendered by CONSULTANT was not a proximate cause of the damage.

7. AGREEMENT TERM

The services provided under this AGREEMENT shall be for the period of three (3) years, commencing on May 1, 2022 and continuing through April 30, 2025.

8. INSURANCE

A. General

- i. Insurance shall be issued and underwritten by insurance companies acceptable to OC SAN.
- ii. Insurers must have an "A-" Policyholder's Rating, or better, and Financial Rating of at least Class VIII, or better, in accordance with the most current A.M. Best's Guide Rating. However, OC SAN will accept State Compensation Insurance Fund, for the required policy of Worker's Compensation Insurance subject to OC SAN's option to require a change in insurer in the event the State Fund financial rating is decreased below "B". Further, OC SAN will require CONSULTANT to substitute any insurer whose rating drops below the levels herein specified. Said substitution shall occur within twenty (20) days of written notice to CONSULTANT, by OC SAN or its agent.
- iii. Coverage shall be in effect prior to the commencement of any work under this AGREEMENT.

B. General Liability

The CONSULTANT shall maintain during the life of this AGREEMENT, including the period of warranty, Commercial General Liability Insurance written on an occurrence basis providing the following minimum limits of liability coverage: Two Million Dollars (\$2,000,000) per occurrence with Four Million Dollars (\$4,000,000) aggregate. Said insurance shall include coverage for the following hazards: Premises-Operations, blanket contractual liability (for this AGREEMENT), products liability/completed operations (including any product manufactured or assembled), broad form property damage, blanket contractual liability, independent contractors liability, personal and advertising injury, mobile equipment, owners and contractors protective liability, and cross liability and severability of interest clauses. A statement on an insurance certificate will not be

accepted in lieu of the actual additional insured endorsement(s). If requested by OC SAN and applicable, XCU coverage (Explosion, Collapse and Underground) and Riggers/On Hook Liability must be included in the General Liability policy and coverage must be reflected on the submitted Certificate of Insurance.

C. Umbrella Excess Liability

The minimum limits of general liability and Automotive Liability Insurance required, as set forth herein, shall be provided for through either a single policy of primary insurance or a combination of policies of primary and umbrella excess coverage. Umbrella excess liability coverage shall be issued with limits of liability which, when combined with the primary insurance, will equal the minimum limits for general liability and automotive liability.

D. Automotive/Vehicle liability Insurance

The CONSULTANT shall maintain a policy of Automotive Liability Insurance on a comprehensive form covering all owned, non-owned, and hired automobiles, trucks, and other vehicles providing the following minimum limits of liability coverage: Combined single limit of One Million Dollars (\$1,000,000). A statement on an insurance certificate will not be accepted in lieu of the actual additional insured endorsement.

E. Drone Liability Insurance

If a drone will be used, drone liability insurance must be maintained by CONSULTANT in the amount of One Million Dollars (\$1,000,000) in a form acceptable by OC SAN.

F. Worker's Compensation Insurance

The CONSULTANT shall provide such Workers' Compensation Insurance as required by the Labor Code of the State of California in the amount of the statutory limit, including Employer's Liability Insurance with a minimum limit of One Million Dollars (\$1,000,000) per occurrence. Such Worker's Compensation Insurance shall be endorsed to provide for a waiver of subrogation in favor of OC SAN. A statement on an insurance certificate will not be accepted in lieu of the actual endorsements unless the insurance carrier is State of California Insurance Fund and the identifier "SCIF" and endorsement numbers 2570 and 2065 are referenced on the certificate of insurance. If an exposure to Jones Act liability may exist, the insurance required herein shall include coverage for Jones Act claims.

G. Errors and Omissions/Professional Liability

CONSULTANT shall maintain in full force and effect, throughout the term of this AGREEMENT, standard industry form professional negligence errors and omissions insurance coverage in an amount of not less than One Million Dollars (\$1,000,000) with limits in accordance with the provisions of this Paragraph. If the policy of insurance is written on a "claims made" basis, said policy shall be

continued in full force and effect at all times during the term of this AGREEMENT, and for a period of five (5) years from the date of the completion of the services hereunder.

In the event of termination of said policy during this period, CONSULTANT shall obtain continuing insurance coverage for the prior acts or omissions of CONSULTANT during the course of performing services under the term of this AGREEMENT. Said coverage shall be evidenced by either a new policy evidencing no gap in coverage or by separate extended "tail" coverage with the present or new carrier.

In the event the present policy of insurance is written on an "occurrence" basis, said policy shall be continued in full force and effect during the term of this AGREEMENT or until completion of the services provided for in this AGREEMENT, whichever is later. In the event of termination of said policy during this period, new coverage shall be obtained for the required period to insure for the prior acts of CONSULTANT during the course of performing services under the term of this AGREEMENT.

CONSULTANT shall provide to OC SAN a certificate of insurance in a form acceptable to OC SAN indicating the deductible or self-retention amounts and the expiration date of said policy, and shall provide renewal certificates not less than ten (10) days prior to the expiration of each policy term.

H. Proof of Coverage

The CONSULTANT shall furnish OC SAN with original certificates and amendatory endorsements effecting coverage. Said policies and endorsements shall conform to the requirements herein stated. All certificates and endorsements are to be received and approved by OC SAN before work commences. OC SAN reserves the right to require complete, certified copies of all required insurance policies, including endorsements, effecting the coverage required, at any time. The following are approved forms that must be submitted as proof of coverage:

- Certificate of Insurance ACORD Form 25 (5/2010) or equivalent.
- Additional Insurance (General Liability) (ISO Form) CG2010 11 85 or
The combination of (ISO Forms)
CG 2010 10 01 and CG 2037 10 01
All other Additional Insured endorsements must be submitted for approval by OC SAN, and OC SAN may reject alternatives that provide different or less coverage to OC SAN.
- Additional Insured (Auto Liability) Submit endorsement provided by carrier for OC SAN approval.

- Waiver of Subrogation State Compensation Insurance Fund Endorsement No. 2570 or equivalent.
- Cancellation Notice State Compensation Insurance Fund Endorsement No. 2065 or equivalent.

I. Cancellation Notice

Each insurance policy required herein shall be endorsed to state that coverage shall not be cancelled by either party, except after thirty (30) days' prior written notice. The Cancellation Section of ACORD Form 25 (5/2010) shall state the required thirty (30) days' written notification. The policy shall not terminate, nor shall it be cancelled, nor the coverage reduced until thirty (30) days after written notice is given to OC SAN except for nonpayment of premium, which shall require not less than ten (10) days written notice to OC SAN. Should there be changes in coverage or an increase in deductible or SIR amounts, the CONSULTANT and its insurance broker/agent shall send to OC SAN a certified letter which includes a description of the changes in coverage and/or any increase in deductible or SIR amounts. The certified letter must be sent to the attention of Risk Management, and shall be received by OC SAN not less than thirty (30) days prior to the effective date of the change(s) if the change would reduce coverage or increase deductibles or SIR amounts or otherwise reduce or limit the scope of insurance coverage provided to OC SAN.

J. Primary Insurance

All liability policies shall contain a Primary and Non Contributory Clause. Any other insurance maintained by OC SAN shall be excess and not contributing with the insurance provided by CONSULTANT.

K. Separation of Insured

All liability policies shall contain a "Separation of Insureds" clause.

L. Non-Limiting (if applicable)

Nothing in this document shall be construed as limiting in any way, nor shall it limit the indemnification provision contained in this AGREEMENT, or the extent to which CONSULTANT may be held responsible for payment of damages to persons or property.

M. Deductibles and Self-Insured Retentions

Any deductible and/or self-insured retention must be declared to OC SAN on the Certificate of Insurance. All deductibles and/or self-insured retentions require approval by OC SAN. At the option of OC SAN, either: the insurer shall reduce or eliminate such deductible or self-insured retention as respects OC SAN; or the CONSULTANT shall provide a financial guarantee satisfactory to OC SAN guaranteeing payment of losses and related investigations, claim administration and defense expenses.

N. Defense Costs

Liability policies shall have a provision that defense costs for all insureds and additional insureds are paid in addition to and do not deplete any policy limits.

O. Subconsultants

The CONSULTANT shall be responsible to establish insurance requirements for any Subconsultant hired by the CONSULTANT. The insurance shall be in amounts and types reasonably sufficient to deal with the risk of loss involving the Subconsultant's operations and work.

P. Limits Are Minimums

If the CONSULTANT maintains higher limits than any minimums shown above, then OC SAN requires and shall be entitled to coverage for the higher limits maintained by CONSULTANT.

9. SCOPE CHANGES

In the event of a change in the Scope of Work or a change in the proposed Project, as requested by OC SAN, the Parties hereto shall execute an Amendment to this AGREEMENT setting forth with particularity all terms of the new AGREEMENT, including, but not limited to any additional CONSULTANT's fees.

10. PROJECT TEAM AND SUBCONSULTANTS

CONSULTANT shall provide to OC SAN, prior to execution of this AGREEMENT, the names and full description of all Subconsultants and CONSULTANT's project team members anticipated to be used on this Project under this AGREEMENT by CONSULTANT. CONSULTANT shall include a description of the work and services to be done by each Subconsultant and each of CONSULTANT's Project team member. CONSULTANT shall include the respective compensation amounts for CONSULTANT and each Subconsultant.

There shall be no substitution of the listed Subconsultants and CONSULTANT's project team members without prior written approval by OC SAN.

11. ENGINEERING REGISTRATION

The CONSULTANT's personnel and Subconsultants are comprised of a staff of specialists in each department. The firm itself is not a registered engineer but represents and agrees that wherever, in the performance of this AGREEMENT, the services of a registered engineer is required, such services hereunder will be performed under the direct supervision of registered engineers who are registered in California.

12. AUDIT PROVISIONS.

A. OC SAN retains the reasonable right to access, review, examine, and audit, any and all books, records, documents and any other evidence of procedures and

practices that OC SAN determines are necessary to discover and verify that the CONSULTANT is in compliance with all requirements under this AGREEMENT. The CONSULTANT shall include OC SAN's right as described above, in any and all of their subcontracts, and shall ensure that these rights are binding upon all Subconsultants.

- B. OC SAN retains the right to examine CONSULTANT's books, records, documents and any other evidence of procedures and practices that OC SAN determines are necessary to discover and verify all direct and indirect costs, of whatever nature, which are claimed to have been incurred, or anticipated to be incurred or to ensure CONSULTANT's compliance with all requirements under this AGREEMENT during the term of this AGREEMENT and for a period of three (3) years after its termination.
- C. CONSULTANT shall maintain complete and accurate records in accordance with generally accepted industry standard practices and OC SAN's policy. The CONSULTANT shall make available to OC SAN for review and audit, all project related accounting records and documents, and any other financial data within 15 days after receipt of notice from OC SAN. Upon OC SAN's request, the CONSULTANT shall submit exact duplicates of originals of all requested records to OC SAN. If an audit is performed, CONSULTANT shall ensure that a qualified employee of the CONSULTANT will be available to assist OC SAN's auditor in obtaining all Project related accounting records and documents, and any other financial data.

13. LEGAL RELATIONSHIP BETWEEN PARTIES

The legal relationship between the parties hereto is that of an independent contractor and nothing herein shall be deemed to transform CONSULTANT, its staff, independent contractors, or Subconsultants into employees of OC SAN. CONSULTANT'S staff performing services under the AGREEMENT shall at all times be employees and/or independent contractors of CONSULTANT. CONSULTANT shall monitor and control its staff and pay wages, salaries, and other amounts due directly to its staff in connection with the AGREEMENT. CONSULTANT shall be responsible for hiring, review, and termination of its staff and shall be accountable for all reports and obligations respecting them, such as social security, income tax withholding, unemployment compensation, workers' compensation and similar matters.

14. NOTICES

All notices hereunder and communications regarding the interpretation of the terms of this AGREEMENT, or changes thereto, shall be effected by delivery of said notices in person or by depositing said notices in the U.S. mail, registered or certified mail, return receipt requested, postage prepaid and addressed as follows:

ORANGE COUNTY SANITATION DISTRICT
10844 Ellis Avenue
Fountain Valley, CA 92708-7018
Attention: Clarice Marcin, Contracts Administration
Copy: William Gilbert and Rick Kwiecien, Project Managers

CONSULTANT:

CSI SERVICES, INC.

P.O. Box 371

Sonoma, CA 95467

Attention: Patrick Sweeney

All communication regarding the Scope of Work, will be addressed to the Project Manager. Direction from other OC SAN staff must be approved in writing by OC SAN's Project Manager prior to action from the CONSULTANT.

15. TERMINATION

OC SAN may terminate this AGREEMENT at any time, without cause, upon giving thirty (30) days written notice to CONSULTANT. In the event of such termination, CONSULTANT shall be entitled to compensation for work performed on a prorated basis through and including the effective date of termination.

CONSULTANT shall be permitted to terminate this AGREEMENT upon thirty (30) days written notice only if CONSULTANT is not compensated for billed amounts in accordance with the provisions of this AGREEMENT, when the same are due.

Notice of termination shall be mailed to OC SAN at the address listed in Section 14 - NOTICES.

16. DOCUMENTS AND STUDY MATERIALS

The documents and study materials for this Project shall become the property of OC SAN upon the termination or completion of the work. CONSULTANT agrees to furnish to OC SAN copies of all memoranda, correspondence, electronic materials, computation and study materials in its files pertaining to the work described in this AGREEMENT, which is requested in writing by OC SAN.

17. COMPLIANCE

A. Labor

CONSULTANT certifies by the execution of this AGREEMENT that it pays employees not less than the minimum wage as defined by law, and that it does not discriminate in its employment with regard to race, color, religion, sex or national origin; that it is in compliance with all federal, state and local directives and executive orders regarding non-discrimination in employment; and that it agrees to demonstrate positively and aggressively the principle of equal opportunity in employment.

B. Air Pollution

CONSULTANT and its Subconsultants and subcontractors shall comply with all applicable federal, state and local air pollution control laws and regulations.

18. AGREEMENT EXECUTION AUTHORIZATION

Both OC SAN and CONSULTANT do covenant that each individual executing this document by and on behalf of each Party is a person duly authorized to execute this AGREEMENT for that Party.

19. DISPUTE RESOLUTION

In the event of a dispute arising between the parties regarding performance or interpretation of this AGREEMENT, the dispute shall be resolved by binding arbitration under the auspices of the Judicial Arbitration and Mediation Service (“JAMS”), or similar organization or entity conducting alternate dispute resolution services.

20. ATTORNEY'S FEES, COSTS AND NECESSARY DISBURSEMENTS

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 he may be entitled.

21. WARRANTY

CONSULTANT shall perform its services in accordance with generally accepted industry and professional standards. If, within the 12-month period following completion of its services, OC SAN informs CONSULTANT that any part of the services fails to meet those standards, CONSULTANT shall, within the time prescribed by OC SAN, take all such actions as are necessary to correct or complete the noted deficiency(ies).

22. INDEMNIFICATION

To the fullest extent permitted by law, CONSULTANT shall indemnify, defend (at CONSULTANT's sole cost and expense and with legal counsel approved by OC SAN, which approval shall not be unreasonably withheld), protect and hold harmless OC SAN and all of OC SAN's officers, directors, employees, CONSULTANT's, and agents (collectively the “Indemnified Parties”), from and against any and all claims, damages, liabilities, causes of action, suits, arbitration awards, losses, judgments, fines, penalties, costs and expenses (including, without limitation, attorneys' fees, disbursements and court costs, and all other professional, expert or CONSULTANT's fees and costs and OC SAN's general and administrative expenses; individually, a “Claim”; collectively, “Claims”) which may arise from or are in any manner related, directly or indirectly, to any work performed, or any operations, activities, or services provided by CONSULTANT in carrying out its obligations under this AGREEMENT to the extent of the negligent, recklessness and/or willful misconduct of CONSULTANT, its principals, officers, agents, employees, CONSULTANT's suppliers, CONSULTANT, Subconsultants, subcontractors, and/or anyone employed directly or indirectly by any of them, regardless of any contributing negligence or strict liability of an Indemnified Party. Notwithstanding the foregoing, nothing herein shall be construed to require CONSULTANT to indemnify the Indemnified Parties from any Claim arising solely from:

- (A) the active negligence or willful misconduct of the Indemnified Parties; or
- (B) a natural disaster or other act of God, such as an earthquake; or
- (C) the independent action of a third party who is neither one of the Indemnified Parties nor the CONSULTANT, nor its principal, officer, agent, employee, nor CONSULTANT's supplier, CONSULTANT, Subconsultant, subcontractor, nor anyone employed directly or indirectly by any of them.

Exceptions (A) through (B) above shall not apply, and CONSULTANT shall, to the fullest extent permitted by law, indemnify the Indemnified Parties, from Claims arising from more than one cause if any such cause taken alone would otherwise result in the obligation to indemnify hereunder.

CONSULTANT's liability for indemnification hereunder is in addition to any liability CONSULTANT may have to OC SAN for a breach by CONSULTANT of any of the provisions of this AGREEMENT. Under no circumstances shall the insurance requirements and limits set forth in this AGREEMENT be construed to limit CONSULTANT's indemnification obligation or other liability hereunder. The terms of this AGREEMENT are contractual and the result of negotiation between the parties hereto. Accordingly, any rule of construction of contracts (including, without limitation, California Civil Code Section 1654) that ambiguities are to be construed against the drafting party, shall not be employed in the interpretation of this AGREEMENT.

23. DUTY TO DEFEND

The duty to defend hereunder is wholly independent of and separate from the duty to indemnify and such duty to defend shall exist regardless of any ultimate liability of CONSULTANT and shall be consistent with Civil Code section 2782.8. Such defense obligation shall arise immediately upon presentation of a Claim by any person if, without regard to the merit of the Claim, such Claim could potentially result in an obligation to indemnify one or more Indemnified Parties, and upon written notice of such Claim being provided to CONSULTANT. Payment to CONSULTANT by any Indemnified Party or the payment or advance of defense costs by any Indemnified Party shall not be a condition precedent to enforcing such Indemnified Party's rights to indemnification hereunder. In the event a final judgment, arbitration, award, order, settlement, or other final resolution expressly determines that the claim did not arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the CONSULTANT, to any extent, then OC SAN will reimburse CONSULTANT for the reasonable costs of defending the Indemnified Parties against such claims.

CONSULTANT's indemnification obligation hereunder shall survive the expiration or earlier termination of this AGREEMENT until such time as action against the Indemnified Parties for such matter indemnified hereunder is fully and finally barred by the applicable statute of limitations.

24. COMPLIANCE WITH OC SAN POLICIES AND PROCEDURES

CONSULTANT shall comply with all OC SAN policies and procedures including the Contractor Safety Standards, as applicable, all of which may be amended from time to time.

25. CLOSEOUT

When OC SAN determines that all Work authorized under the AGREEMENT is fully complete and that OC SAN requires no further work from CONSULTANT, or the AGREEMENT is otherwise terminated or expires in accordance with the terms of the AGREEMENT, OC SAN shall give the Consultant written notice that the AGREEMENT will be closed out. CONSULTANT shall submit all outstanding billings, work submittals, deliverables, reports or similarly related documents as required under the AGREEMENT within thirty (30) days of receipt of notice of AGREEMENT closeout.

Upon receipt of CONSULTANT's submittals, OC SAN shall commence a closeout audit of the AGREEMENT and will either:

- i. Give the CONSULTANT a final AGREEMENT Acceptance: or
- ii. Advise the CONSULTANT in writing of any outstanding item or items which must be furnished, completed, or corrected at the CONSULTANT's cost.

CONSULTANT shall be required to provide adequate resources to fully support any administrative closeout efforts identified in the AGREEMENT. Such support must be provided within the timeframe requested by OC SAN.

Notwithstanding the final AGREEMENT acceptance, the CONSULTANT will not be relieved of its obligations hereunder, nor will the CONSULTANT be relieved of its obligations to complete any portions of the work, the non-completion of which were not disclosed to OC SAN (regardless of whether such nondisclosures were fraudulent, negligent, or otherwise), and the CONSULTANT shall remain obligated under all those provisions of the AGREEMENT which expressly or by their nature extend beyond and survive final AGREEMENT Acceptance.

Any failure by OC SAN to reject the work or to reject the CONSULTANT's request for final AGREEMENT Acceptance as set forth above shall not be deemed to be acceptance of the work by OC SAN for any purpose nor imply acceptance of, or AGREEMENT with, the CONSULTANT's request for final AGREEMENT Acceptance.

26. ENTIRE AGREEMENT

This AGREEMENT constitutes the entire understanding and AGREEMENT between the Parties and supersedes all previous negotiations between them pertaining to the subject matter thereof.

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

IN WITNESS WHEREOF, this AGREEMENT has been executed in the name of OC SAN, by its officers thereunto duly authorized, and CONSULTANT as of the day and year first above written.

CONSULTANT: CSI SERVICES, INC.

By _____ Date _____

Printed Name & Title

ORANGE COUNTY SANITATION DISTRICT

By _____ Date _____
John B. Withers
Board Chairman

By _____ Date _____
Kelly A. Lore
Clerk of the Board

By _____ Date _____
Ruth Zintzun
Purchasing & Contracts Manager

- Attachments: Attachment "A" – Scope of Work
Attachment "B" – Not Attached
Attachment "C" – Not Attached
Attachment "D" – Fee Proposal
Attachment "E" – Not Used
Attachment "F" – Not Attached
Attachment "G" – Not Attached
Attachment "H" – Not Used
Attachment "I" – Safety Declaration
Attachment "J" – Contractor Safety Standards
Attachment "K" - Allowable Direct Costs

CMM:yp

ATTACHMENT “A”

SCOPE OF WORK

ATTACHMENT “A”

SCOPE OF WORK

COATING INSPECTION AND CORROSION TESTING SERVICES FOR THE OC SAN’S CAPITAL IMPROVEMENT PROGRAM, FACILITIES ENGINEERING, OPERATIONS, AND MAINTENANCE PROJECTS

PSA2022-001

I. PURPOSE

The selected CONSULTANT shall provide on-call coating inspection and corrosion testing services as required in support of OC SAN's Capital Improvement Program, Facilities Engineering, Operations, and Maintenance projects. The locations for this work include the two treatment plants and other facilities (pump stations and collections system, fabrication shops and manufacturers) located throughout Orange County.

II. TYPICAL TASKS

PROJECT SUPPORT ACTIVITIES:

Participate in project start-up meetings, weekly job meetings, and other special interest meetings as required to discuss procedures, progress, problems, or outstanding issues. CONSULTANT shall maintain orderly files for all correspondence, reports, job conferences, drawings, submissions, reproductions, and original contract documents including all addenda, supplemental drawings, records of materials and all other project-related documents. The files shall be maintained and turned over to the OC SAN in a summary report.

CONTRACT COMPLIANCE:

Ensure that the requirements of project contract documents and Manufacturer's Technical Data Sheets for the various materials and coating systems are strictly followed. ASTM D3276, Standard Guide for Painting Inspectors (Metal Substrates), shall be used as a guideline for proper procedures. All NACE International, SSPC, ASTM, ICRI, and ACI standards and guidelines shall be used where applicable including, but not limited to, those detailed herein.

COATINGS INSPECTION:

Verifications of the Contractor's compliance with the specifications shall be accomplished by performing and making record of the following tasks in accordance with the contract documents, with applicable cited standards, and with the appropriate calibrated instruments for each, including, but not limited to:

1. Job Hazard Analysis (JHA) – Conduct JHA with Contractor and OC SAN Safety Representative and monitor and maintain safe work practices. The Coating Inspector shall have the authority to stop work if on-site personnel are in perceived danger.
2. Submittal Review – CONSULTANT may be called upon to review and comment on shop drawings and material submittals, as well as review and comment on request-for-information submittals from the Contractor.
3. Pre-Surface Preparation – Inspect the surfaces to be prepared to assure that salts, grease and oil, and other contaminants, have been removed, fins, and sharp edges are removed as specified, and that, for concrete, any defects such as spalling, unsound concrete, exposed/corroding rebar, and/or leaks have been corrected.
4. Protective Coverings – Examine the protective coverings to assure placement that will prevent contamination of other surfaces not to be subjected to overblast or overspray.
5. Ambient Conditions – Monitor the air and surface temperatures, relative humidity, and dew point periodically each day to assure that the work is done under proper environmental conditions.
6. Compressed Air Cleanliness – Check all quality operations requiring compressed air such as for blast cleaning or substrate blowing down to assure that the air supply is adequately free of moisture and oil contaminants.
7. Surface Preparation – Initially, examine the surface preparation hydroblasting and/or abrasive blasting equipment for adequacy to do the work, as specified. Verify that the proper degree of cleaning (e.g., salts, acids, etc.) and surface profile (anchor pattern or roughness) has been achieved, and shall identify areas of insufficient or inadequate cleaning for repair and rework prior to the application of any resurfacing mortar or linings. Concrete substrates shall be evaluated for efflorescence, laitance, crazing, cracks, crevices, bugholes, weeping, leaks, form release agents, and any other uncoatable conditions. The surfaces to be coated shall be evaluated for pH, moisture content, cleanliness, substrate cure, and time between coats, prior to coating, where applicable.
8. Coating and Substrate Repair Material Mixing – Observe the mixing of coatings and substrate repair material to assure that all components are added and proportioned correctly and that equipment metering devices are functioning properly. Verify that any materials used are approved and that they are not used when the pot or shelf life have been exceeded.
9. Coating and Substrate Repair Material Application – Examine the application equipment for cleanliness and adequacy to do the work, consisting of complete monitoring of the Contractor's plural component or airless equipment including temperatures, metering, stroke cycles, and material drum temperatures. Observe application techniques to assure proper coverage without detrimental runs, sags, pinholes, or other visually evident deficiencies. In addition to verifying proper preparation and resurfacing assure that the various quality control considerations during the application of coating to concrete, steel, or other substrates, are also

completed by the Contractor (i.e., pH, salts, surface moisture content, out-gassing, back-rolling, ambient temperature, surface temperature, dew point, profile, cleanliness, etc).

10. Wet Film Thickness – Make spot checks of the wet film thickness so that corrections to the amount of material being applied can be made at the time of application to minimize the amount of rework after the coating has dried or cured. Wet film thickness measurements shall be made in accordance with ASTM D4414-95(2007) Standard Practice for Measurement of Wet Film Thickness by Notch Gages, and in compliance with contract documents.
11. Dry Film Thickness – Determine the dry film thickness of each coat to assure that it complies with the contract document requirements and Manufacturer's instructions. Film thicknesses shall be estimated through a combination of visual, WFT (wet film thickness), theoretical coverage calculation techniques, and electronic measuring devices in accordance with SSPC-PA 2, Measurement of Dry Coating Thickness with Magnetic Gages, and SSPC-PA 9, Measurement of Dry Coating Thickness on Cementitious Substrates Using Ultrasonic Gages, as applicable. Gauges shall be calibrated prior to each use and have a capable range of 1 to 200 mils, or as required for the coating system.
12. Holiday Detection – Verify operability of Contractor's high-and low-voltage holiday detection equipment and shall witness, or conduct where necessary, 100 percent holiday detection by Contractor in accordance with NACE International SP0188-2006 (formerly RP0188), Discontinuity (Holiday) Testing of New Protective Coatings on Conductive Substrates, and the contract document requirements.
13. Coating Repair – Witness and monitor repairs of coatings, including those identified through holiday testing, to insure that surface preparation, coating mixing, and application are in compliance with manufacturer's published information, or manufacturer's representative.
14. Adhesion Testing – Install dollies, perform scoring when required, and perform adhesion testing of the cured system in accordance with ASTM D4541-09 Standard Test Method for Pull-Off Strength of Coating using Portable Adhesion Tester, ASTM D7234 – 12 Standard Test Method for Pull-Off Adhesion Strength of Coatings on Concrete Using Portable Pull-Off Adhesion Testers, ASTM C1583-04 Standard Test Method for Tensile Strength of Concrete Surfaces and the Bond Strength or Tensile Strength of Concrete Repair and Overlay Materials by Direct Tension (Pull-off Method), and in conformance with contract document requirements.
15. Cure Evaluation – Evaluate the final cure of the applied coating or lining in accordance with the Manufacture's recommended procedures.
16. Failure Analysis – In cases where there are anomalies or deficiencies noted in coating application or procedures, provide assistance to the OC SAN through testing, visual inspections, interviews with Contractor, Manufacturer, and OC SAN Staff, and through research in determining the cause or causes of the coating system failure, as well as making specific recommendations when requested for remediation of the problem.

17. Daily Journal – Daily journal and QA/QC reports shall be used to clearly document and flow-chart the coating operations and occurrences for verification of compliance with contract documents. At a minimum, the verifications noted above shall be recorded. Digital photographs of each day's activities shall also be recorded. When observed, an NCN (non-compliance notice) shall be written and delivered to the OC SAN's representative. The daily journal and QA/QC reports shall be submitted to the OC SAN for review and comment within 24 hours after the day's work. A draft copy of the day's work with hours onsite (or hard copy sign in/out sheet) shall be signed by the OC SAN's representative and 3rd party inspection, prior to leaving the work site.
18. Final Report – Upon completion, prepare a Final Report. The report shall summarize the daily inspection reports, make an evaluation of the quality of work that was done and witnessed, the type and quality of the surface preparation and coating application achieved, final testing summaries, inspection and monitoring equipment used, specialized testing required, and any approved deviations from the original contract documents
19. Coating Specification Development and Review – Develop and provide coating specifications in OC SAN format, as well as providing review and comment on project-specific specifications.

CORROSION TESTING:

Corrosion testing is required for the OC SAN facilities during design to insure compliance with project contract documents during construction, and to evaluate corrosion of existing facilities. Corrosion engineering services shall be provided by the Corrosion Engineer as follows:

1. Corrosion Soil and Water Testing – Corrosion laboratory soil and water testing shall be provided for samples collected and delivered by the OC SAN or collected by the CONSULTANT. Soil testing shall include at a minimum: resistivity in ohm-cm (as-received and saturated), electrical conductivity in mS/cm, pH, cations in mg/kg (calcium, magnesium, sodium, potassium, potassium), anions in mg/kg (carbonate, bicarbonate, fluoride, chloride, sulfate, phosphate), and other tests (ammonium in mg/kg, nitrate in mg/kg, sulfide qualitatively, Redox in mV). Water testing shall include, as a minimum: total alkalinity, ammonia, calcium, carbonate, bicarbonate, carbon dioxide, chloride, dissolved oxygen, fluoride, phosphate, magnesium, nitrate, nitrite, orthophosphate, potassium, pH, Puckorius Index, resistivity, Ryznar Index, sodium, conductivity, sulfate, total dissolved solids, Langelier Index, and Larson's Ratio. For each test or procedure, the appropriate ASTM or other standard or published reference shall be listed in the test data table.
2. Cathodic Protection System Testing – Cathodic protection system testing is required by the OC SAN to verify proper installation in accordance with contract specifications, to insure compliance with NACE SP0169-2007, and to trouble-shoot system deficiencies. Pipe locating, electrical short locating, and electrical continuity testing using circulating current method, shall be required.
3. Soil Resistivity Testing – Testing of in-situ soil resistivity shall be by ASTM G-57 – 95a Standard Test Method for Field Measurement of Soil Resistivity Using the Wenner Four-Electrode Method at depth of 2.5, 5.0, 7.5, 10.0, and 15.0 foot intervals

using equal potential and current probe spacing. In some cases, deeper resistivity measurements may be required.

4. Ultrasonic Thickness Testing – Ultrasonic thickness A-Scan testing is required by the OC SAN to determine wall thickness on steel, ductile- and cast-iron, aluminum, and copper pipelines and enclosures. A-Scan UT equipment must be capable of displaying wave-form and be echo-to-echo through-coating enabled. In some cases B-Scan testing services may also be required. Ancillary testing will include pit-depth measurements to within 1 mil, as well as material thickness measurements using micrometer calipers. Data shall be provided both in both tabular and graphical form.
5. X-ray Fluorescence Analysis – Field and laboratory X-ray fluorescence analysis is required in limited cases by the OC SAN to determine material composition.
6. Failure Analysis – In cases where material corrosion is found or suspected, assistance shall provide assistance to the OC SAN through testing, visual inspections, interviews with personal, and through research in determining the cause or causes of the corrosion failure, as well as making specific recommendations when requested for remediation.

III. REQUIREMENTS

1. CONSULTANT shall be available to work the next day if scheduled by the end of the work day, and up to three Coating Inspectors shall be available based upon OC SAN workload requirements. The OC SAN expects the CONSULTANT will arrive at the site with the correct equipment, calibrated to existing standards with documentation. The OC SAN will not reimburse the CONSULTANT for the time required to obtain the correct equipment.
2. Equipment that requires calibration shall be calibrated prior to the work. Calibration costs shall be included in the total hourly rate for field service fees.
3. All test results shall be clearly summarized in a standardized report format and submitted to the OC SAN for review and comment. Coatings reports shall be co-signed by a NACE International Level III Coating Inspector, or by a registered professional engineer with applicable coatings and linings experience.
4. CONSULTANT shall provide a detailed daily report for each day of field testing and observation. Reports shall be delivered to the OC SAN within 24 hours after the day's work. All defects shall be marked with a suitable marker and documented. All production or lack of production and causes shall be noted. All accepted areas shall be noted with a suitable marker. Plans shall also be noted where accepted.
5. All testing work shall be documented in English Standard Units and/or Metric Units, as required by the OC SAN.
6. Coating Inspectors shall be experienced with the various types of industrial coatings and linings applied to concrete, steel, aluminum, and other substrates for waste water applications.

7. CONSULTANT shall be available for occasional night work (4:30 p.m. to 7:00 a.m.) upon 24-hour advance notice.
8. Coating Inspectors shall be minimum NACE International Level I for steel surfaces and Level 2 for steel and concrete surfaces, and shall work under the direct supervision of either a NACE International Level III Coating Inspector or registered professional engineer with applicable coatings and linings experience. NACE certification and/or professional registration shall be provided at least 48 hours prior to commencement of work, as well as documentation of applicable experience not less than five years.
9. For work requiring plastic sheet liner application or inspection, Coating Inspectors shall be certified for plastic sheet liner installation. Certificates shall be provided at least 48 hours prior to commencement of work. Coatings Inspectors shall probe all PVC welds in addition to conducting holiday testing and/or witnessing testing by the Contractor.
10. CONSULTANT must be able to recognize errors or omissions in the contract documents and specifications, and alert OC SAN staff timely in order to mitigate production delays and costs.
11. CONSULTANT shall be available to attend pre-construction meetings and other key meetings as the project progresses.
12. All supplies, such as, but not limited to, coatings test equipment, marking paints, PPE (personal protective equipment), multi-gas (H₂S, O₂, CO, LEL) personal monitors and ANSI-approved body safety harnesses with lanyard for confined-space entry shall be included in the hourly rate.
13. CONSULTANT must be adequately insured for liability and property damage, and a copy of the policy must be forwarded to the OC SAN. Vehicles shall bear the CONSULTANT's name.
14. CONSULTANT shall have a cell phone or other form of communication so as to be in contact with the home office in the event the OC SAN requires immediate communication during normal working hours, and shall have means to be directly contacted in the field by OC SAN personnel via their cell phone.
15. To accommodate cases where shop-applied or other off-site coating inspection is required, CONSULTANT shall, when requested by the OC SAN, locate and subcontract local, qualified, coating inspectors who can satisfy requirements for inspection and testing, and shall direct the work of the subcontracted coating inspector(s). Billing rates for subcontracted Coating Inspector shall not exceed submitted rates for this proposal, plus a 15% overhead mark up.
16. CONSULTANT shall comply with OSHA requirements and OCSD Safety Standards.
17. All personnel shall be CAL-OSHA confined-space trained and certified including, when necessary, training and certification for SCBA (self-contained breathing apparatus) and supplied- air confined-space entries. Certifications shall be submitted to the OC SAN for review and approval at least 48 hours prior to commencement of work. Personnel will be entering under Contractor's confined-space entry permit. Consultant shall provide all their own safety equipment.

18. Personal protective equipment (PPE), including lower explosive limit (LEL) personal monitors is required onsite for all personnel.
 - a. Personnel must be fall-protection trained and provide their own fall-protection PPE, when onsite.
19. Personnel shall be, or work under the direction of, a NACE Cathodic Protection Specialist, or a registered professional engineer with applicable cathodic protection system design and testing experience.
20. Corrosion engineering personnel performing soil and water testing, soil resistivity testing, UT testing, x-ray fluorescence analysis, and corrosion failure analysis shall be, or work under the direction of, a NACE Corrosion Specialist, or a registered professional engineer with applicable corrosion engineering evaluation and testing experience.
21. The OC SAN shall provide to the CONSULTANT a Task Order Number that will be used to track the work. The CONSULTANT will not begin any work without the Task Order Number. If the CONSULTANT receives direction from the OC SAN to perform some type of work without a Task Order Number, the CONSULTANT shall contact the Inspection Supervisor to determine if the work is authorized and receive a Task Order Number if appropriate.
22. CONSULTANT will submit monthly statements, separately for each project or Task, covering services and/or work performed no later than the second Wednesday of the following month and in the format required by the OC SAN, to request payment. Such requests shall be based upon the amount and value of the work and services performed by CONSULTANT under this Agreement and shall be prepared by CONSULTANT and accompanied by such supporting data (including sign in/out sheets signed by CONSULTANT and OC SAN representative), including:
 - Task Order Number and Project Number and/or Project Description included on the statement.
 - Tasks completed, identified by the Task number assigned to each Task.
 - Detailed breakdown of all costs incurred per task performed, and all back-up documentation for each Task.
 - Copy of the daily notes or tasks including the signature of the OC SAN's Inspector approving the day's work.
 - Running total of services billed, services paid, services billed but not paid, and the amount of the contract remaining.

The OC SAN will not approve any task performed without the appropriate back-up documentation and may result in delayed or partial payment. Failure to submit monthly statements no later than the second Wednesday of the following month may result in delayed payment.

23. If any conflict of interest occurs on a project, the OC SAN shall be notified without delay of the conflict. The OC SAN will evaluate conflict of interest on a case-by-case basis and advise as to whether it may be waived in each case.

PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT, is made and entered into to be effective the 1st day of May, 2022, by and between the ORANGE COUNTY SANITATION DISTRICT, hereinafter referred to as "OC SAN", and DIVERSIFIED PROJECT SERVICES INTERNATIONAL, INC., for purposes of this AGREEMENT hereinafter referred to as "CONSULTANT". OC SAN and CONSULTANT are referred to herein collectively as the "Parties" or individually as a "Party."

WITNESSETH:

WHEREAS, OC SAN desires to engage a consultant for coating inspection and corrosion testing services to provide professional services and provide services for in support of the OC SAN's Capital Improvement Program, Facilities Engineering, Operations, and Maintenance projects, PSA2022-001; and,

WHEREAS, CONSULTANT is qualified to provide the necessary services in connection with these requirements and has agreed to provide the necessary professional services; and,

WHEREAS, OC SAN has adopted procedures for the selection of professional services and has proceeded in accordance with said procedures to select a CONSULTANT to perform this work; and,

WHEREAS, at its regular meeting on March 23, 2022, the Board of Directors, by Minute Order, accepted the recommendation of the Operations Committee to approve this AGREEMENT between OC SAN and CONSULTANT.

NOW, THEREFORE, in consideration of the promises and mutual benefits, which will result to the parties in carrying out the terms of this AGREEMENT, it is mutually agreed as follows:

1. SCOPE OF WORK

CONSULTANT agrees to furnish necessary professional services to accomplish those project elements outlined in the Scope of Work attached hereto as "Attachment A", and by this reference made a part of this AGREEMENT.

- A. The CONSULTANT shall be responsible for the professional quality, technical accuracy, and completeness and coordination of the work and services furnished by the CONSULTANT under this AGREEMENT, including the work performed by its Subconsultants. Where approval by OC SAN is indicated, it is understood to be conceptual approval only and does not relieve the CONSULTANT of responsibility for complying with all applicable laws, regulations, codes, industry standards and liability for damages caused by errors, omissions, noncompliance with industry standards, and/or negligence on the part of the CONSULTANT or its Subconsultants.
- B. CONSULTANT is responsible for the quality of work prepared under this AGREEMENT and shall ensure that all work is performed to the highest industry standards for clarity, uniformity, and completeness. CONSULTANT shall timely respond to all comments, suggestions, and recommendations from OC SAN. All

comments from OC SAN, or its agent, shall be incorporated into the work prior to the next review deadline or addressed, in writing, as to why the comment(s) has/have not been incorporated. CONSULTANT shall ensure that each submittal is 100% accurate for the level of work submitted (i.e. correct references, terms, capitalization or equal status, spelling, punctuation, etc.).

- C. In the event that CONSULTANT's services and/or work product(s) is not to the satisfaction of OC SAN and/or does not conform to the requirements of this AGREEMENT or the applicable industry standards, the CONSULTANT shall, without additional compensation, promptly correct or revise any errors or deficiencies in its work product(s) within the timeframe specified by the Project Manager. OC SAN may charge to CONSULTANT all costs, expenses and damages associated with any such corrections or revisions.
- D. All professional services performed by the CONSULTANT, including, but not limited to, all drafts, data, correspondence, proposals, and reports compiled or composed by the CONSULTANT, pursuant to this AGREEMENT, are for the sole use of OC SAN, its agents and employees. Neither the documents nor their contents shall be released to any third party without the prior written consent of OC SAN. This provision does not apply to information that (a) was publicly known, or otherwise known to the CONSULTANT, at the time that it was disclosed to the CONSULTANT by OC SAN, or (b) subsequently becomes publicly known to the CONSULTANT other than through disclosure by OC SAN.

2. COMPENSATION

Total compensation shall be paid to CONSULTANT for services in accordance with the following provisions:

A. Total Compensation

Total compensation shall be in an amount not to exceed Two Hundred Thousand Dollars (\$200,000.00), over a three (3) year period.

OC SAN shall pay to CONSULTANT one total hourly rate set forth in Attachment "D" - Fee Proposal. The rate shall include all costs such as, but not necessarily limited to, technician labor, equipment, and overhead rates, report writing, office review and supervision, other miscellaneous charges. Drive time and mileage shall be included in the hourly rate and will not be allowed as additional costs.

B. Other Direct Costs

Other Direct Costs incurred by CONSULTANT and its Contractor due to modifications in scope of work resulting from field investigations and field work required by Contract. These items may include special equipment, test equipment and tooling and other materials and services not previously identified. Refer to attachment "K" Allowable Direct Costs for payment information.

3. PAYMENT

- A. Invoice: CONSULTANT shall include in its invoice, a detailed breakdown of costs associated with the performance of any corrections or revisions of the work for that invoicing period, in a format acceptable to OC SAN. CONSULTANT shall include copies of the daily notes or tasks including the signature of the OC SAN's Inspector approving the day's work for that invoicing period. CONSULTANT shall warrant and certify the accuracy of these costs and provide all support documentation required by OC SAN. CONSULTANT understands that submitted costs are subject to Audit Provisions as stated under this Agreement.
- B. CONSULTANT will submit statements covering services and/or work performed for payment for those items. The format must include, as a minimum: 1) current billing period invoicing, 2) current billing period "total percent invoiced to date", and 3) budget status and amount remaining. Such requests shall be accompanied by such supporting data as may be required by OC SAN.

Upon approval of such payment request by OC SAN, payment shall be made to CONSULTANT as soon as practicable of one hundred percent (100%) of the invoiced amount.

- C. Upon satisfactory completion of the work performed hereunder and prior to final payment under this AGREEMENT for such work, or prior settlement upon termination of this AGREEMENT, and as a condition precedent thereto, CONSULTANT shall execute and deliver to OC SAN a release of all claims against OC SAN arising under or by virtue of this AGREEMENT other than such claims, if any, as may be specifically exempted by CONSULTANT from the operation of the release in stated amounts to be set forth therein.
- D. Pursuant to the California False Claims Act (Government Code sections 12650-12655), any CONSULTANT that knowingly submits a false claim to OC SAN for compensation under the terms of this AGREEMENT may be held liable for treble damages and up to a \$10,000 civil penalty for each false claim submitted. This section shall also be binding on all Subconsultants.

A CONSULTANT or Subconsultant shall be deemed to have submitted a false claim when the CONSULTANT or Subconsultant: (a) knowingly presents or causes to be presented to an officer or employee of OC SAN a false claim or request for payment or approval; (b) knowingly makes, uses, or causes to be made or used a false record or statement to get a false claim paid or approved by OC SAN; (c) conspires to defraud OC SAN by getting a false claim allowed or paid by OC SAN; (d) knowingly makes, uses, or causes to be made or used a false record or statement to conceal, avoid, or decrease an obligation to OC SAN; or (e) is a beneficiary of an inadvertent submission of a false claim to OC SAN, and fails to disclose the false claim to OC SAN within a reasonable time after discovery of the false claim.

4. PREVAILING WAGES

To the extent CONSULTANT intends to utilize employees who will perform work during the contract, as more specifically defined under Labor Code Section 1720, CONSULTANT shall be subject to prevailing wage requirements with respect to such employees.

5. CALIFORNIA DEPARTMENT OF INDUSTRIAL RELATIONS (DIR) REGISTRATION AND RECORD OF WAGES

- A. To the extent CONSULTANT's employees and/or Subconsultants who will perform Work during the design and preconstruction phases of a construction contract for which Prevailing Wage Determinations have been issued by the DIR and as more specifically defined under Labor Code Section 1720 et seq, CONSULTANT and Subconsultants shall comply with the registration requirements of Labor Code Section 1725.5. Pursuant to Labor Code Section 1771.4, the Work is subject to compliance monitoring and enforcement by the DIR.
- B. The CONSULTANT and Subconsultants shall maintain accurate payroll records and shall comply with all the provisions of Labor Code Section 1776, and shall submit payroll records to the Labor Commissioner pursuant to Labor Code Section 1771.4(a)(3). Penalties for non-compliance with the requirements of Section 1776 may be deducted from progress payments per Section 1776.
- C. Pursuant to Labor Code Section 1776, the CONSULTANT and Subconsultants shall furnish a copy of all certified payroll records to OC SAN and/or general public upon request, provided the public request is made through OC SAN, the Division of Apprenticeship Standards or the Division of Labor Enforcement of the Department of Industrial Relations.
- D. The CONSULTANT and 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).

6. DOCUMENT OWNERSHIP – CONSULTANT PERFORMANCE

- A. Ownership of Documents for the Professional Services performed.

All documents in all forms (electronic, paper, etc.), including, but not limited to, studies, sketches, drawings, computer printouts, disk files, and electronic copies prepared in connection with or related to the Scope of Work or Professional Services, shall be the property of OC SAN. OC SAN's ownership of these documents includes use of, reproduction or reuse of and all incidental rights, whether or not the work for which they were prepared has been performed. OC SAN ownership entitlement arises upon payment or any partial payment for work performed and includes ownership of any and all work product completed prior to that payment. This Section shall apply whether the CONSULTANT's Professional Services are terminated: a) by the completion of the AGREEMENT, or b) in accordance with other provisions of this AGREEMENT. Notwithstanding

any other provision of this paragraph or AGREEMENT, the CONSULTANT shall have the right to make copies of all such plans, studies, sketches, drawings, computer printouts and disk files, and specifications.

- B. CONSULTANT shall not be responsible for damage caused by subsequent changes to or uses of the study or deliverable where the subsequent changes or uses are not authorized or approved by CONSULTANT, provided that the service rendered by CONSULTANT was not a proximate cause of the damage.

7. AGREEMENT TERM

The services provided under this AGREEMENT shall be for the period of three (3) years, commencing on May 1, 2022 and continuing through April 30, 2025.

8. INSURANCE

A. General

- i. Insurance shall be issued and underwritten by insurance companies acceptable to OC SAN.
- ii. Insurers must have an "A-" Policyholder's Rating, or better, and Financial Rating of at least Class VIII, or better, in accordance with the most current A.M. Best's Guide Rating. However, OC SAN will accept State Compensation Insurance Fund, for the required policy of Worker's Compensation Insurance subject to OC SAN's option to require a change in insurer in the event the State Fund financial rating is decreased below "B". Further, OC SAN will require CONSULTANT to substitute any insurer whose rating drops below the levels herein specified. Said substitution shall occur within twenty (20) days of written notice to CONSULTANT, by OC SAN or its agent.
- iii. Coverage shall be in effect prior to the commencement of any work under this AGREEMENT.

B. General Liability

The CONSULTANT shall maintain during the life of this AGREEMENT, including the period of warranty, Commercial General Liability Insurance written on an occurrence basis providing the following minimum limits of liability coverage: Two Million Dollars (\$2,000,000) per occurrence with Four Million Dollars (\$4,000,000) aggregate. Said insurance shall include coverage for the following hazards: Premises-Operations, blanket contractual liability (for this AGREEMENT), products liability/completed operations (including any product manufactured or assembled), broad form property damage, blanket contractual liability, independent contractors liability, personal and advertising injury, mobile equipment, owners and contractors protective liability, and cross liability and severability of interest clauses. A statement on an insurance certificate will not be

accepted in lieu of the actual additional insured endorsement(s). If requested by OC SAN and applicable, XCU coverage (Explosion, Collapse and Underground) and Riggers/On Hook Liability must be included in the General Liability policy and coverage must be reflected on the submitted Certificate of Insurance.

C. Umbrella Excess Liability

The minimum limits of general liability and Automotive Liability Insurance required, as set forth herein, shall be provided for through either a single policy of primary insurance or a combination of policies of primary and umbrella excess coverage. Umbrella excess liability coverage shall be issued with limits of liability which, when combined with the primary insurance, will equal the minimum limits for general liability and automotive liability.

D. Automotive/Vehicle liability Insurance

The CONSULTANT shall maintain a policy of Automotive Liability Insurance on a comprehensive form covering all owned, non-owned, and hired automobiles, trucks, and other vehicles providing the following minimum limits of liability coverage: Combined single limit of One Million Dollars (\$1,000,000). A statement on an insurance certificate will not be accepted in lieu of the actual additional insured endorsement.

E. Drone Liability Insurance

If a drone will be used, drone liability insurance must be maintained by CONSULTANT in the amount of One Million Dollars (\$1,000,000) in a form acceptable by OC SAN.

F. Worker's Compensation Insurance

The CONSULTANT shall provide such Workers' Compensation Insurance as required by the Labor Code of the State of California in the amount of the statutory limit, including Employer's Liability Insurance with a minimum limit of One Million Dollars (\$1,000,000) per occurrence. Such Worker's Compensation Insurance shall be endorsed to provide for a waiver of subrogation in favor of OC SAN. A statement on an insurance certificate will not be accepted in lieu of the actual endorsements unless the insurance carrier is State of California Insurance Fund and the identifier "SCIF" and endorsement numbers 2570 and 2065 are referenced on the certificate of insurance. If an exposure to Jones Act liability may exist, the insurance required herein shall include coverage for Jones Act claims.

G. Errors and Omissions/Professional Liability

CONSULTANT shall maintain in full force and effect, throughout the term of this AGREEMENT, standard industry form professional negligence errors and omissions insurance coverage in an amount of not less than One Million Dollars (\$1,000,000) with limits in accordance with the provisions of this Paragraph. If the policy of insurance is written on a "claims made" basis, said policy shall be

continued in full force and effect at all times during the term of this AGREEMENT, and for a period of five (5) years from the date of the completion of the services hereunder.

In the event of termination of said policy during this period, CONSULTANT shall obtain continuing insurance coverage for the prior acts or omissions of CONSULTANT during the course of performing services under the term of this AGREEMENT. Said coverage shall be evidenced by either a new policy evidencing no gap in coverage or by separate extended "tail" coverage with the present or new carrier.

In the event the present policy of insurance is written on an "occurrence" basis, said policy shall be continued in full force and effect during the term of this AGREEMENT or until completion of the services provided for in this AGREEMENT, whichever is later. In the event of termination of said policy during this period, new coverage shall be obtained for the required period to insure for the prior acts of CONSULTANT during the course of performing services under the term of this AGREEMENT.

CONSULTANT shall provide to OC SAN a certificate of insurance in a form acceptable to OC SAN indicating the deductible or self-retention amounts and the expiration date of said policy, and shall provide renewal certificates not less than ten (10) days prior to the expiration of each policy term.

H. Proof of Coverage

The CONSULTANT shall furnish OC SAN with original certificates and amendatory endorsements effecting coverage. Said policies and endorsements shall conform to the requirements herein stated. All certificates and endorsements are to be received and approved by OC SAN before work commences. OC SAN reserves the right to require complete, certified copies of all required insurance policies, including endorsements, effecting the coverage required, at any time. The following are approved forms that must be submitted as proof of coverage:

- Certificate of Insurance ACORD Form 25 (5/2010) or equivalent.
- Additional Insurance (General Liability) (ISO Form) CG2010 11 85 or
The combination of (ISO Forms)
CG 2010 10 01 and CG 2037 10 01
All other Additional Insured endorsements must be submitted for approval by OC SAN, and OC SAN may reject alternatives that provide different or less coverage to OC SAN.
- Additional Insured (Auto Liability) Submit endorsement provided by carrier for OC SAN approval.

- Waiver of Subrogation State Compensation Insurance Fund Endorsement No. 2570 or equivalent.
- Cancellation Notice State Compensation Insurance Fund Endorsement No. 2065 or equivalent.

I. Cancellation Notice

Each insurance policy required herein shall be endorsed to state that coverage shall not be cancelled by either party, except after thirty (30) days' prior written notice. The Cancellation Section of ACORD Form 25 (5/2010) shall state the required thirty (30) days' written notification. The policy shall not terminate, nor shall it be cancelled, nor the coverage reduced until thirty (30) days after written notice is given to OC SAN except for nonpayment of premium, which shall require not less than ten (10) days written notice to OC SAN. Should there be changes in coverage or an increase in deductible or SIR amounts, the CONSULTANT and its insurance broker/agent shall send to OC SAN a certified letter which includes a description of the changes in coverage and/or any increase in deductible or SIR amounts. The certified letter must be sent to the attention of Risk Management, and shall be received by OC SAN not less than thirty (30) days prior to the effective date of the change(s) if the change would reduce coverage or increase deductibles or SIR amounts or otherwise reduce or limit the scope of insurance coverage provided to OC SAN.

J. Primary Insurance

All liability policies shall contain a Primary and Non Contributory Clause. Any other insurance maintained by OC SAN shall be excess and not contributing with the insurance provided by CONSULTANT.

K. Separation of Insured

All liability policies shall contain a "Separation of Insureds" clause.

L. Non-Limiting (if applicable)

Nothing in this document shall be construed as limiting in any way, nor shall it limit the indemnification provision contained in this AGREEMENT, or the extent to which CONSULTANT may be held responsible for payment of damages to persons or property.

M. Deductibles and Self-Insured Retentions

Any deductible and/or self-insured retention must be declared to OC SAN on the Certificate of Insurance. All deductibles and/or self-insured retentions require approval by OC SAN. At the option of OC SAN, either: the insurer shall reduce or eliminate such deductible or self-insured retention as respects OC SAN; or the CONSULTANT shall provide a financial guarantee satisfactory to OC SAN guaranteeing payment of losses and related investigations, claim administration and defense expenses.

N. Defense Costs

Liability policies shall have a provision that defense costs for all insureds and additional insureds are paid in addition to and do not deplete any policy limits.

O. Subconsultants

The CONSULTANT shall be responsible to establish insurance requirements for any Subconsultant hired by the CONSULTANT. The insurance shall be in amounts and types reasonably sufficient to deal with the risk of loss involving the Subconsultant's operations and work.

P. Limits Are Minimums

If the CONSULTANT maintains higher limits than any minimums shown above, then OC SAN requires and shall be entitled to coverage for the higher limits maintained by CONSULTANT.

9. SCOPE CHANGES

In the event of a change in the Scope of Work or a change in the proposed Project, as requested by OC SAN, the Parties hereto shall execute an Amendment to this AGREEMENT setting forth with particularity all terms of the new AGREEMENT, including, but not limited to any additional CONSULTANT's fees.

10. PROJECT TEAM AND SUBCONSULTANTS

CONSULTANT shall provide to OC SAN, prior to execution of this AGREEMENT, the names and full description of all Subconsultants and CONSULTANT's project team members anticipated to be used on this Project under this AGREEMENT by CONSULTANT. CONSULTANT shall include a description of the work and services to be done by each Subconsultant and each of CONSULTANT's Project team member. CONSULTANT shall include the respective compensation amounts for CONSULTANT and each Subconsultant.

There shall be no substitution of the listed Subconsultants and CONSULTANT's project team members without prior written approval by OC SAN.

11. ENGINEERING REGISTRATION

The CONSULTANT's personnel and Subconsultants are comprised of a staff of specialists in each department. The firm itself is not a registered engineer but represents and agrees that wherever, in the performance of this AGREEMENT, the services of a registered engineer is required, such services hereunder will be performed under the direct supervision of registered engineers who are registered in California.

12. AUDIT PROVISIONS.

A. OC SAN retains the reasonable right to access, review, examine, and audit, any and all books, records, documents and any other evidence of procedures and

practices that OC SAN determines are necessary to discover and verify that the CONSULTANT is in compliance with all requirements under this AGREEMENT. The CONSULTANT shall include OC SAN's right as described above, in any and all of their subcontracts, and shall ensure that these rights are binding upon all Subconsultants.

- B. OC SAN retains the right to examine CONSULTANT's books, records, documents and any other evidence of procedures and practices that OC SAN determines are necessary to discover and verify all direct and indirect costs, of whatever nature, which are claimed to have been incurred, or anticipated to be incurred or to ensure CONSULTANT's compliance with all requirements under this AGREEMENT during the term of this AGREEMENT and for a period of three (3) years after its termination.
- C. CONSULTANT shall maintain complete and accurate records in accordance with generally accepted industry standard practices and OC SAN's policy. The CONSULTANT shall make available to OC SAN for review and audit, all project related accounting records and documents, and any other financial data within 15 days after receipt of notice from OC SAN. Upon OC SAN's request, the CONSULTANT shall submit exact duplicates of originals of all requested records to OC SAN. If an audit is performed, CONSULTANT shall ensure that a qualified employee of the CONSULTANT will be available to assist OC SAN's auditor in obtaining all Project related accounting records and documents, and any other financial data.

13. LEGAL RELATIONSHIP BETWEEN PARTIES

The legal relationship between the parties hereto is that of an independent contractor and nothing herein shall be deemed to transform CONSULTANT, its staff, independent contractors, or Subconsultants into employees of OC SAN. CONSULTANT'S staff performing services under the AGREEMENT shall at all times be employees and/or independent contractors of CONSULTANT. CONSULTANT shall monitor and control its staff and pay wages, salaries, and other amounts due directly to its staff in connection with the AGREEMENT. CONSULTANT shall be responsible for hiring, review, and termination of its staff and shall be accountable for all reports and obligations respecting them, such as social security, income tax withholding, unemployment compensation, workers' compensation and similar matters.

14. NOTICES

All notices hereunder and communications regarding the interpretation of the terms of this AGREEMENT, or changes thereto, shall be effected by delivery of said notices in person or by depositing said notices in the U.S. mail, registered or certified mail, return receipt requested, postage prepaid and addressed as follows:

ORANGE COUNTY SANITATION DISTRICT
10844 Ellis Avenue
Fountain Valley, CA 92708-7018
Attention: Clarice Marcin, Contracts Administration
Copy: William Gilbert and Rick Kwiecien, Project Managers

CONSULTANT:

DIVERSIFIED PROJECT SERVICES INTERNATIONAL, INC.
5351 Olive Drive, Suite 100
Bakersfield, CA 93308
Attention: Brian Wilson

All communication regarding the Scope of Work, will be addressed to the Project Manager. Direction from other OC SAN staff must be approved in writing by OC SAN's Project Manager prior to action from the CONSULTANT.

15. TERMINATION

OC SAN may terminate this AGREEMENT at any time, without cause, upon giving thirty (30) days written notice to CONSULTANT. In the event of such termination, CONSULTANT shall be entitled to compensation for work performed on a prorated basis through and including the effective date of termination.

CONSULTANT shall be permitted to terminate this AGREEMENT upon thirty (30) days written notice only if CONSULTANT is not compensated for billed amounts in accordance with the provisions of this AGREEMENT, when the same are due.

Notice of termination shall be mailed to OC SAN at the address listed in Section 14 - NOTICES.

16. DOCUMENTS AND STUDY MATERIALS

The documents and study materials for this Project shall become the property of OC SAN upon the termination or completion of the work. CONSULTANT agrees to furnish to OC SAN copies of all memoranda, correspondence, electronic materials, computation and study materials in its files pertaining to the work described in this AGREEMENT, which is requested in writing by OC SAN.

17. COMPLIANCE

A. Labor

CONSULTANT certifies by the execution of this AGREEMENT that it pays employees not less than the minimum wage as defined by law, and that it does not discriminate in its employment with regard to race, color, religion, sex or national origin; that it is in compliance with all federal, state and local directives and executive orders regarding non-discrimination in employment; and that it agrees to demonstrate positively and aggressively the principle of equal opportunity in employment.

B. Air Pollution

CONSULTANT and its Subconsultants and subcontractors shall comply with all applicable federal, state and local air pollution control laws and regulations.

18. AGREEMENT EXECUTION AUTHORIZATION

Both OC SAN and CONSULTANT do covenant that each individual executing this document by and on behalf of each Party is a person duly authorized to execute this AGREEMENT for that Party.

19. DISPUTE RESOLUTION

In the event of a dispute arising between the parties regarding performance or interpretation of this AGREEMENT, the dispute shall be resolved by binding arbitration under the auspices of the Judicial Arbitration and Mediation Service (“JAMS”), or similar organization or entity conducting alternate dispute resolution services.

20. ATTORNEY'S FEES, COSTS AND NECESSARY DISBURSEMENTS

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 he may be entitled.

21. WARRANTY

CONSULTANT shall perform its services in accordance with generally accepted industry and professional standards. If, within the 12-month period following completion of its services, OC SAN informs CONSULTANT that any part of the services fails to meet those standards, CONSULTANT shall, within the time prescribed by OC SAN, take all such actions as are necessary to correct or complete the noted deficiency(ies).

22. INDEMNIFICATION

To the fullest extent permitted by law, CONSULTANT shall indemnify, defend (at CONSULTANT's sole cost and expense and with legal counsel approved by OC SAN, which approval shall not be unreasonably withheld), protect and hold harmless OC SAN and all of OC SAN's officers, directors, employees, CONSULTANT's, and agents (collectively the “Indemnified Parties”), from and against any and all claims, damages, liabilities, causes of action, suits, arbitration awards, losses, judgments, fines, penalties, costs and expenses (including, without limitation, attorneys' fees, disbursements and court costs, and all other professional, expert or CONSULTANT's fees and costs and OC SAN's general and administrative expenses; individually, a “Claim”; collectively, “Claims”) which may arise from or are in any manner related, directly or indirectly, to any work performed, or any operations, activities, or services provided by CONSULTANT in carrying out its obligations under this AGREEMENT to the extent of the negligent, recklessness and/or willful misconduct of CONSULTANT, its principals, officers, agents, employees, CONSULTANT's suppliers, CONSULTANT, Subconsultants, subcontractors, and/or anyone employed directly or indirectly by any of them, regardless of any contributing negligence or strict liability of an Indemnified Party. Notwithstanding the foregoing, nothing herein shall be construed to require CONSULTANT to indemnify the Indemnified Parties from any Claim arising solely from:

- (A) the active negligence or willful misconduct of the Indemnified Parties; or
- (B) a natural disaster or other act of God, such as an earthquake; or
- (C) the independent action of a third party who is neither one of the Indemnified Parties nor the CONSULTANT, nor its principal, officer, agent, employee, nor CONSULTANT's supplier, CONSULTANT, Subconsultant, subcontractor, nor anyone employed directly or indirectly by any of them.

Exceptions (A) through (B) above shall not apply, and CONSULTANT shall, to the fullest extent permitted by law, indemnify the Indemnified Parties, from Claims arising from more than one cause if any such cause taken alone would otherwise result in the obligation to indemnify hereunder.

CONSULTANT's liability for indemnification hereunder is in addition to any liability CONSULTANT may have to OC SAN for a breach by CONSULTANT of any of the provisions of this AGREEMENT. Under no circumstances shall the insurance requirements and limits set forth in this AGREEMENT be construed to limit CONSULTANT's indemnification obligation or other liability hereunder. The terms of this AGREEMENT are contractual and the result of negotiation between the parties hereto. Accordingly, any rule of construction of contracts (including, without limitation, California Civil Code Section 1654) that ambiguities are to be construed against the drafting party, shall not be employed in the interpretation of this AGREEMENT.

23. DUTY TO DEFEND

The duty to defend hereunder is wholly independent of and separate from the duty to indemnify and such duty to defend shall exist regardless of any ultimate liability of CONSULTANT and shall be consistent with Civil Code section 2782.8. Such defense obligation shall arise immediately upon presentation of a Claim by any person if, without regard to the merit of the Claim, such Claim could potentially result in an obligation to indemnify one or more Indemnified Parties, and upon written notice of such Claim being provided to CONSULTANT. Payment to CONSULTANT by any Indemnified Party or the payment or advance of defense costs by any Indemnified Party shall not be a condition precedent to enforcing such Indemnified Party's rights to indemnification hereunder. In the event a final judgment, arbitration, award, order, settlement, or other final resolution expressly determines that the claim did not arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the CONSULTANT, to any extent, then OC SAN will reimburse CONSULTANT for the reasonable costs of defending the Indemnified Parties against such claims.

CONSULTANT's indemnification obligation hereunder shall survive the expiration or earlier termination of this AGREEMENT until such time as action against the Indemnified Parties for such matter indemnified hereunder is fully and finally barred by the applicable statute of limitations.

24. COMPLIANCE WITH OC SAN POLICIES AND PROCEDURES

CONSULTANT shall comply with all OC SAN policies and procedures including the Contractor Safety Standards, as applicable, all of which may be amended from time to time.

25. CLOSEOUT

When OC SAN determines that all Work authorized under the AGREEMENT is fully complete and that OC SAN requires no further work from CONSULTANT, or the AGREEMENT is otherwise terminated or expires in accordance with the terms of the AGREEMENT, OC SAN shall give the Consultant written notice that the AGREEMENT will be closed out. CONSULTANT shall submit all outstanding billings, work submittals, deliverables, reports or similarly related documents as required under the AGREEMENT within thirty (30) days of receipt of notice of AGREEMENT closeout.

Upon receipt of CONSULTANT's submittals, OC SAN shall commence a closeout audit of the AGREEMENT and will either:

- i. Give the CONSULTANT a final AGREEMENT Acceptance: or
- ii. Advise the CONSULTANT in writing of any outstanding item or items which must be furnished, completed, or corrected at the CONSULTANT's cost.

CONSULTANT shall be required to provide adequate resources to fully support any administrative closeout efforts identified in the AGREEMENT. Such support must be provided within the timeframe requested by OC SAN.

Notwithstanding the final AGREEMENT acceptance, the CONSULTANT will not be relieved of its obligations hereunder, nor will the CONSULTANT be relieved of its obligations to complete any portions of the work, the non-completion of which were not disclosed to OC SAN (regardless of whether such nondisclosures were fraudulent, negligent, or otherwise), and the CONSULTANT shall remain obligated under all those provisions of the AGREEMENT which expressly or by their nature extend beyond and survive final AGREEMENT Acceptance.

Any failure by OC SAN to reject the work or to reject the CONSULTANT's request for final AGREEMENT Acceptance as set forth above shall not be deemed to be acceptance of the work by OC SAN for any purpose nor imply acceptance of, or AGREEMENT with, the CONSULTANT's request for final AGREEMENT Acceptance.

26. ENTIRE AGREEMENT

This AGREEMENT constitutes the entire understanding and AGREEMENT between the Parties and supersedes all previous negotiations between them pertaining to the subject matter thereof.

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

IN WITNESS WHEREOF, this AGREEMENT has been executed in the name of OC SAN, by its officers thereunto duly authorized, and CONSULTANT as of the day and year first above written.

CONSULTANT: DIVERSIFIED PROJECT SERVICES INTERNATIONAL, INC. (DPSI)

By _____ Date _____

Printed Name & Title

ORANGE COUNTY SANITATION DISTRICT

By _____ Date _____
John B. Withers
Board Chairman

By _____ Date _____
Kelly A. Lore
Clerk of the Board

By _____ Date _____
Ruth Zintzun
Purchasing & Contracts Manager

- Attachments: Attachment "A" – Scope of Work
Attachment "B" – Not Attached
Attachment "C" – Not Attached
Attachment "D" – Fee Proposal
Attachment "E" – Not Used
Attachment "F" – Not Attached
Attachment "G" – Not Attached
Attachment "H" – Not Used
Attachment "I" – Safety Declaration
Attachment "J" – Contractor Safety Standards
Attachment "K" - Allowable Direct Costs

CMM:yp

ATTACHMENT “A”

SCOPE OF WORK

ATTACHMENT “A”

SCOPE OF WORK

COATING INSPECTION AND CORROSION TESTING SERVICES FOR THE OC SAN’S CAPITAL IMPROVEMENT PROGRAM, FACILITIES ENGINEERING, OPERATIONS, AND MAINTENANCE PROJECTS

PSA2022-001

I. PURPOSE

The selected CONSULTANT shall provide on-call coating inspection and corrosion testing services as required in support of OC SAN's Capital Improvement Program, Facilities Engineering, Operations, and Maintenance projects. The locations for this work include the two treatment plants and other facilities (pump stations and collections system, fabrication shops and manufacturers) located throughout Orange County.

II. TYPICAL TASKS

PROJECT SUPPORT ACTIVITIES:

Participate in project start-up meetings, weekly job meetings, and other special interest meetings as required to discuss procedures, progress, problems, or outstanding issues. CONSULTANT shall maintain orderly files for all correspondence, reports, job conferences, drawings, submissions, reproductions, and original contract documents including all addenda, supplemental drawings, records of materials and all other project-related documents. The files shall be maintained and turned over to the OC SAN in a summary report.

CONTRACT COMPLIANCE:

Ensure that the requirements of project contract documents and Manufacturer's Technical Data Sheets for the various materials and coating systems are strictly followed. ASTM D3276, Standard Guide for Painting Inspectors (Metal Substrates), shall be used as a guideline for proper procedures. All NACE International, SSPC, ASTM, ICRI, and ACI standards and guidelines shall be used where applicable including, but not limited to, those detailed herein.

COATINGS INSPECTION:

Verifications of the Contractor's compliance with the specifications shall be accomplished by performing and making record of the following tasks in accordance with the contract documents, with applicable cited standards, and with the appropriate calibrated instruments for each, including, but not limited to:

1. Job Hazard Analysis (JHA) – Conduct JHA with Contractor and OC SAN Safety Representative and monitor and maintain safe work practices. The Coating Inspector shall have the authority to stop work if on-site personnel are in perceived danger.
2. Submittal Review – CONSULTANT may be called upon to review and comment on shop drawings and material submittals, as well as review and comment on request-for-information submittals from the Contractor.
3. Pre-Surface Preparation – Inspect the surfaces to be prepared to assure that salts, grease and oil, and other contaminants, have been removed, fins, and sharp edges are removed as specified, and that, for concrete, any defects such as spalling, unsound concrete, exposed/corroding rebar, and/or leaks have been corrected.
4. Protective Coverings – Examine the protective coverings to assure placement that will prevent contamination of other surfaces not to be subjected to overblast or overspray.
5. Ambient Conditions – Monitor the air and surface temperatures, relative humidity, and dew point periodically each day to assure that the work is done under proper environmental conditions.
6. Compressed Air Cleanliness – Check all quality operations requiring compressed air such as for blast cleaning or substrate blowing down to assure that the air supply is adequately free of moisture and oil contaminants.
7. Surface Preparation – Initially, examine the surface preparation hydroblasting and/or abrasive blasting equipment for adequacy to do the work, as specified. Verify that the proper degree of cleaning (e.g., salts, acids, etc.) and surface profile (anchor pattern or roughness) has been achieved, and shall identify areas of insufficient or inadequate cleaning for repair and rework prior to the application of any resurfacing mortar or linings. Concrete substrates shall be evaluated for efflorescence, laitance, crazing, cracks, crevices, bugholes, weeping, leaks, form release agents, and any other uncoatable conditions. The surfaces to be coated shall be evaluated for pH, moisture content, cleanliness, substrate cure, and time between coats, prior to coating, where applicable.
8. Coating and Substrate Repair Material Mixing – Observe the mixing of coatings and substrate repair material to assure that all components are added and proportioned correctly and that equipment metering devices are functioning properly. Verify that any materials used are approved and that they are not used when the pot or shelf life have been exceeded.
9. Coating and Substrate Repair Material Application – Examine the application equipment for cleanliness and adequacy to do the work, consisting of complete monitoring of the Contractor's plural component or airless equipment including temperatures, metering, stroke cycles, and material drum temperatures. Observe application techniques to assure proper coverage without detrimental runs, sags, pinholes, or other visually evident deficiencies. In addition to verifying proper preparation and resurfacing assure that the various quality control considerations during the application of coating to concrete, steel, or other substrates, are also

completed by the Contractor (i.e., pH, salts, surface moisture content, out-gassing, back-rolling, ambient temperature, surface temperature, dew point, profile, cleanliness, etc).

10. Wet Film Thickness – Make spot checks of the wet film thickness so that corrections to the amount of material being applied can be made at the time of application to minimize the amount of rework after the coating has dried or cured. Wet film thickness measurements shall be made in accordance with ASTM D4414-95(2007) Standard Practice for Measurement of Wet Film Thickness by Notch Gages, and in compliance with contract documents.
11. Dry Film Thickness – Determine the dry film thickness of each coat to assure that it complies with the contract document requirements and Manufacturer's instructions. Film thicknesses shall be estimated through a combination of visual, WFT (wet film thickness), theoretical coverage calculation techniques, and electronic measuring devices in accordance with SSPC-PA 2, Measurement of Dry Coating Thickness with Magnetic Gages, and SSPC-PA 9, Measurement of Dry Coating Thickness on Cementitious Substrates Using Ultrasonic Gages, as applicable. Gauges shall be calibrated prior to each use and have a capable range of 1 to 200 mils, or as required for the coating system.
12. Holiday Detection – Verify operability of Contractor's high-and low-voltage holiday detection equipment and shall witness, or conduct where necessary, 100 percent holiday detection by Contractor in accordance with NACE International SP0188-2006 (formerly RP0188), Discontinuity (Holiday) Testing of New Protective Coatings on Conductive Substrates, and the contract document requirements.
13. Coating Repair – Witness and monitor repairs of coatings, including those identified through holiday testing, to insure that surface preparation, coating mixing, and application are in compliance with manufacturer's published information, or manufacturer's representative.
14. Adhesion Testing – Install dollies, perform scoring when required, and perform adhesion testing of the cured system in accordance with ASTM D4541-09 Standard Test Method for Pull-Off Strength of Coating using Portable Adhesion Tester, ASTM D7234 – 12 Standard Test Method for Pull-Off Adhesion Strength of Coatings on Concrete Using Portable Pull-Off Adhesion Testers, ASTM C1583-04 Standard Test Method for Tensile Strength of Concrete Surfaces and the Bond Strength or Tensile Strength of Concrete Repair and Overlay Materials by Direct Tension (Pull-off Method), and in conformance with contract document requirements.
15. Cure Evaluation – Evaluate the final cure of the applied coating or lining in accordance with the Manufacture's recommended procedures.
16. Failure Analysis – In cases where there are anomalies or deficiencies noted in coating application or procedures, provide assistance to the OC SAN through testing, visual inspections, interviews with Contractor, Manufacturer, and OC SAN Staff, and through research in determining the cause or causes of the coating system failure, as well as making specific recommendations when requested for remediation of the problem.

17. Daily Journal – Daily journal and QA/QC reports shall be used to clearly document and flow-chart the coating operations and occurrences for verification of compliance with contract documents. At a minimum, the verifications noted above shall be recorded. Digital photographs of each day's activities shall also be recorded. When observed, an NCN (non-compliance notice) shall be written and delivered to the OC SAN's representative. The daily journal and QA/QC reports shall be submitted to the OC SAN for review and comment within 24 hours after the day's work. A draft copy of the day's work with hours onsite (or hard copy sign in/out sheet) shall be signed by the OC SAN's representative and 3rd party inspection, prior to leaving the work site.
18. Final Report – Upon completion, prepare a Final Report. The report shall summarize the daily inspection reports, make an evaluation of the quality of work that was done and witnessed, the type and quality of the surface preparation and coating application achieved, final testing summaries, inspection and monitoring equipment used, specialized testing required, and any approved deviations from the original contract documents
19. Coating Specification Development and Review – Develop and provide coating specifications in OC SAN format, as well as providing review and comment on project-specific specifications.

CORROSION TESTING:

Corrosion testing is required for the OC SAN facilities during design to insure compliance with project contract documents during construction, and to evaluate corrosion of existing facilities. Corrosion engineering services shall be provided by the Corrosion Engineer as follows:

1. Corrosion Soil and Water Testing – Corrosion laboratory soil and water testing shall be provided for samples collected and delivered by the OC SAN or collected by the CONSULTANT. Soil testing shall include at a minimum: resistivity in ohm-cm (as-received and saturated), electrical conductivity in mS/cm, pH, cations in mg/kg (calcium, magnesium, sodium, potassium, potassium), anions in mg/kg (carbonate, bicarbonate, fluoride, chloride, sulfate, phosphate), and other tests (ammonium in mg/kg, nitrate in mg/kg, sulfide qualitatively, Redox in mV). Water testing shall include, as a minimum: total alkalinity, ammonia, calcium, carbonate, bicarbonate, carbon dioxide, chloride, dissolved oxygen, fluoride, phosphate, magnesium, nitrate, nitrite, orthophosphate, potassium, pH, Puckorius Index, resistivity, Ryznar Index, sodium, conductivity, sulfate, total dissolved solids, Langelier Index, and Larson's Ratio. For each test or procedure, the appropriate ASTM or other standard or published reference shall be listed in the test data table.
2. Cathodic Protection System Testing – Cathodic protection system testing is required by the OC SAN to verify proper installation in accordance with contract specifications, to insure compliance with NACE SP0169-2007, and to trouble-shoot system deficiencies. Pipe locating, electrical short locating, and electrical continuity testing using circulating current method, shall be required.
3. Soil Resistivity Testing – Testing of in-situ soil resistivity shall be by ASTM G-57 – 95a Standard Test Method for Field Measurement of Soil Resistivity Using the Wenner Four-Electrode Method at depth of 2.5, 5.0, 7.5, 10.0, and 15.0 foot intervals

using equal potential and current probe spacing. In some cases, deeper resistivity measurements may be required.

4. Ultrasonic Thickness Testing – Ultrasonic thickness A-Scan testing is required by the OC SAN to determine wall thickness on steel, ductile- and cast-iron, aluminum, and copper pipelines and enclosures. A-Scan UT equipment must be capable of displaying wave-form and be echo-to-echo through-coating enabled. In some cases B-Scan testing services may also be required. Ancillary testing will include pit-depth measurements to within 1 mil, as well as material thickness measurements using micrometer calipers. Data shall be provided both in both tabular and graphical form.
5. X-ray Fluorescence Analysis – Field and laboratory X-ray fluorescence analysis is required in limited cases by the OC SAN to determine material composition.
6. Failure Analysis – In cases where material corrosion is found or suspected, assistance shall provide assistance to the OC SAN through testing, visual inspections, interviews with personal, and through research in determining the cause or causes of the corrosion failure, as well as making specific recommendations when requested for remediation.

III. REQUIREMENTS

1. CONSULTANT shall be available to work the next day if scheduled by the end of the work day, and up to three Coating Inspectors shall be available based upon OC SAN workload requirements. The OC SAN expects the CONSULTANT will arrive at the site with the correct equipment, calibrated to existing standards with documentation. The OC SAN will not reimburse the CONSULTANT for the time required to obtain the correct equipment.
2. Equipment that requires calibration shall be calibrated prior to the work. Calibration costs shall be included in the total hourly rate for field service fees.
3. All test results shall be clearly summarized in a standardized report format and submitted to the OC SAN for review and comment. Coatings reports shall be co-signed by a NACE International Level III Coating Inspector, or by a registered professional engineer with applicable coatings and linings experience.
4. CONSULTANT shall provide a detailed daily report for each day of field testing and observation. Reports shall be delivered to the OC SAN within 24 hours after the day's work. All defects shall be marked with a suitable marker and documented. All production or lack of production and causes shall be noted. All accepted areas shall be noted with a suitable marker. Plans shall also be noted where accepted.
5. All testing work shall be documented in English Standard Units and/or Metric Units, as required by the OC SAN.
6. Coating Inspectors shall be experienced with the various types of industrial coatings and linings applied to concrete, steel, aluminum, and other substrates for waste water applications.

7. CONSULTANT shall be available for occasional night work (4:30 p.m. to 7:00 a.m.) upon 24-hour advance notice.
8. Coating Inspectors shall be minimum NACE International Level I for steel surfaces and Level 2 for steel and concrete surfaces, and shall work under the direct supervision of either a NACE International Level III Coating Inspector or registered professional engineer with applicable coatings and linings experience. NACE certification and/or professional registration shall be provided at least 48 hours prior to commencement of work, as well as documentation of applicable experience not less than five years.
9. For work requiring plastic sheet liner application or inspection, Coating Inspectors shall be certified for plastic sheet liner installation. Certificates shall be provided at least 48 hours prior to commencement of work. Coatings Inspectors shall probe all PVC welds in addition to conducting holiday testing and/or witnessing testing by the Contractor.
10. CONSULTANT must be able to recognize errors or omissions in the contract documents and specifications, and alert OC SAN staff timely in order to mitigate production delays and costs.
11. CONSULTANT shall be available to attend pre-construction meetings and other key meetings as the project progresses.
12. All supplies, such as, but not limited to, coatings test equipment, marking paints, PPE (personal protective equipment), multi-gas (H₂S, O₂, CO, LEL) personal monitors and ANSI-approved body safety harnesses with lanyard for confined-space entry shall be included in the hourly rate.
13. CONSULTANT must be adequately insured for liability and property damage, and a copy of the policy must be forwarded to the OC SAN. Vehicles shall bear the CONSULTANT's name.
14. CONSULTANT shall have a cell phone or other form of communication so as to be in contact with the home office in the event the OC SAN requires immediate communication during normal working hours, and shall have means to be directly contacted in the field by OC SAN personnel via their cell phone.
15. To accommodate cases where shop-applied or other off-site coating inspection is required, CONSULTANT shall, when requested by the OC SAN, locate and subcontract local, qualified, coating inspectors who can satisfy requirements for inspection and testing, and shall direct the work of the subcontracted coating inspector(s). Billing rates for subcontracted Coating Inspector shall not exceed submitted rates for this proposal, plus a 15% overhead mark up.
16. CONSULTANT shall comply with OSHA requirements and OCSD Safety Standards.
17. All personnel shall be CAL-OSHA confined-space trained and certified including, when necessary, training and certification for SCBA (self-contained breathing apparatus) and supplied- air confined-space entries. Certifications shall be submitted to the OC SAN for review and approval at least 48 hours prior to commencement of work. Personnel will be entering under Contractor's confined-space entry permit. Consultant shall provide all their own safety equipment.

18. Personal protective equipment (PPE), including lower explosive limit (LEL) personal monitors is required onsite for all personnel.
 - a. Personnel must be fall-protection trained and provide their own fall-protection PPE, when onsite.
19. Personnel shall be, or work under the direction of, a NACE Cathodic Protection Specialist, or a registered professional engineer with applicable cathodic protection system design and testing experience.
20. Corrosion engineering personnel performing soil and water testing, soil resistivity testing, UT testing, x-ray fluorescence analysis, and corrosion failure analysis shall be, or work under the direction of, a NACE Corrosion Specialist, or a registered professional engineer with applicable corrosion engineering evaluation and testing experience.
21. The OC SAN shall provide to the CONSULTANT a Task Order Number that will be used to track the work. The CONSULTANT will not begin any work without the Task Order Number. If the CONSULTANT receives direction from the OC SAN to perform some type of work without a Task Order Number, the CONSULTANT shall contact the Inspection Supervisor to determine if the work is authorized and receive a Task Order Number if appropriate.
22. CONSULTANT will submit monthly statements, separately for each project or Task, covering services and/or work performed no later than the second Wednesday of the following month and in the format required by the OC SAN, to request payment. Such requests shall be based upon the amount and value of the work and services performed by CONSULTANT under this Agreement and shall be prepared by CONSULTANT and accompanied by such supporting data (including sign in/out sheets signed by CONSULTANT and OC SAN representative), including:
 - Task Order Number and Project Number and/or Project Description included on the statement.
 - Tasks completed, identified by the Task number assigned to each Task.
 - Detailed breakdown of all costs incurred per task performed, and all back-up documentation for each Task.
 - Copy of the daily notes or tasks including the signature of the OC SAN's Inspector approving the day's work.
 - Running total of services billed, services paid, services billed but not paid, and the amount of the contract remaining.

The OC SAN will not approve any task performed without the appropriate back-up documentation and may result in delayed or partial payment. Failure to submit monthly statements no later than the second Wednesday of the following month may result in delayed payment.

23. If any conflict of interest occurs on a project, the OC SAN shall be notified without delay of the conflict. The OC SAN will evaluate conflict of interest on a case-by-case basis and advise as to whether it may be waived in each case.



OPERATIONS COMMITTEE

Administration Building
10844 Ellis Avenue
Fountain Valley, CA 92708
(714) 593-7433

Agenda Report

File #: 2022-2119

Agenda Date: 3/16/2022

Agenda Item No: 6.

FROM: James D. Herberg, General Manager
Originator: Kathy Millea, Director of Engineering

SUBJECT:

MATERIALS TESTING, INSPECTION, AND OTHER GEOTECHNICAL TESTING SERVICES, PSA2022-003

GENERAL MANAGER'S RECOMMENDATION

RECOMMENDATION: Recommend to the Board of Directors to:

Approve a Professional Services Agreement to provide on-call Materials Testing, Inspection, and Other Geotechnical Testing Services for Collection System and Treatment Plant Projects, PSA2022-003, for a three-year period effective May 1, 2022, for an amount not to exceed \$400,000 per individual agreement (\$1,600,000 total) with the following four firms:

- Atlas Technical Consultants LLC
- Aesco Technologies
- MTGL, Inc.
- Koury Engineering and Testing, Inc.

BACKGROUND

The Orange County Sanitation District (OC San) uses outside specialty Consultants for materials testing, inspection, and other geotechnical testing services in support of the Capital Improvement Program, Small Construction Projects, and Maintenance Projects during the planning, design, and construction of facilities both inside the plants and for the collection system.

RELEVANT STANDARDS

- Ensure the public's money is wisely spent
- 1, 5, 20-year planning horizons
- Comply with California Government Code §4526: Select the "best qualified firm" and "negotiate fair and equitable fees"

PROBLEM

The current on-call materials testing, inspection, and geotechnical testing services contracts are expiring in April 2022. Without new contracts, OC San would not have access to these services to

support the Capital Improvement Program, Small Construction Projects, and Maintenance Projects.

PROPOSED SOLUTION

Approve Professional Services Agreements to provide on-call materials testing, inspection, and geotechnical testing services.

The agreements will cover a three-year period. The recommended contract amounts are based on an average of the number and type of services utilized over the past three years, and the anticipated needs going forward for the next three years based on forecasted project workload. Staff will use these Consultants on an as-needed basis only. The total agreement cost is not guaranteed, nor is it paid to the Consultant if their services are not used.

TIMING CONCERNS

The current contracts will be expiring and the budgets expended. Delaying the new contracts will prevent the use of these services to support collection system and treatment plant projects.

RAMIFICATIONS OF NOT TAKING ACTION

Increased risk of construction quality and code compliance problems in supporting the Capital Improvement Program, Small Construction Projects, and Maintenance Projects.

PRIOR COMMITTEE/BOARD ACTIONS

N/A

ADDITIONAL INFORMATION

On August 25, 2021, OC San issued a Notice to Prospective Proposers to over 1,600 vendors, which outlined the timeline for the solicitation. On September 14, 2021, OC San requested and advertised for proposals. 46 companies identified themselves as potential bidders.

Eleven proposals were received on October 28, 2021 and evaluated in accordance with the evaluation process set forth in OC San's Purchasing Ordinance by a pre-selected Evaluation Team consisting of OC San staff: two Construction Inspection Supervisors and two Construction Inspectors. The Evaluation Team also included two non-voting representatives from the Contracts Administration Division.

The following evaluation criteria were described in the Request for Proposals (RFP) and used to evaluate the proposals.

CRITERION	WEIGHT
Project Approach and Scope of Work Understanding	25%
Staff Qualifications	40%
Professional Registration and Experience	35%

The Evaluation Team scored the proposals on the established criteria as summarized in the table below:

Rank	Firm	Approach and Understanding (Max 25)	Staff Qualifications (Max 40)	Prof. Registr & Experience (Max 35)	Total Score (Max 100)
1	Atlas Technical Consultants LLC	24	40	35	99
2	AESCO TECHNOLOGIES	23	39	34	96
3	MTGL, Inc.	23	36	32	91
4	Koury Engineering & Testing, Inc.	18	36	35	89
5	NV5 West, Inc.	13	36	19	68
6	Fenagh, LLC	16	26	24	66
7	Southwest Inspection and Testing Inc.	18	18	28	64
8	Geo-Advantec, Inc.	16	24	22	62
9	Wood Environment & Infrastructure Solutions, Inc.	14	17	23	54
10	G3 Quality, Inc.				Non-responsive
11	RMA Group				Non-responsive

Two of the submitted proposals (G3 Quality, Inc. and RMA Group) were determined to be non-responsive as their submitted Safety Declaration and accompanying OSHA Logs indicated an Accident Frequency Factor that exceeded the OC San limitation of 1.25.

Based on this scoring, staff recommends award of agreements to the top four ranked firms. The Proposers recommended for award generally had a better approach to meeting OC San's needs in combination with highly qualified staff and demonstrated experience performing the type of inspections and testing needed for OC San's projected work over the contract period. Lower scoring Proposers generally did not address all of the requirements of the RFP.

The fee proposals for the recommended firms were opened on January 27, 2022 and the rates were reviewed for general conformance and found to be acceptable.

CEQA

N/A

FINANCIAL CONSIDERATIONS

This request complies with authority levels of OC San's Purchasing Ordinance. The budgeted costs for the proposed Professional Service Agreements are contained within the approved CIP project budgets and no additional funding is necessary.

ATTACHMENT

The following attachment(s) may be viewed on-line at the OC San website (www.ocsan.gov) with the complete agenda package:

- Draft Professional Services Agreements

DF:jw

PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT, is made and entered into to be effective the 1st day of May, 2022, by and between the ORANGE COUNTY SANITATION DISTRICT, hereinafter referred to as "OC SAN", and AESCO TECHNOLOGIES, for purposes of this AGREEMENT hereinafter referred to as "CONSULTANT". OC SAN and CONSULTANT are referred to herein collectively as the "Parties" or individually as a "Party."

WITNESSETH:

WHEREAS, OC SAN desires to engage a consultant for materials testing, inspection, and other geotechnical testing services in support of the OC SAN's Capital Improvement Program, Facilities Engineering, Operations, and Maintenance projects, PSA2022-003; and,

WHEREAS, CONSULTANT is qualified to provide the necessary services in connection with these requirements and has agreed to provide the necessary professional services; and,

WHEREAS, OC SAN has adopted procedures for the selection of professional services and has proceeded in accordance with said procedures to select a CONSULTANT to perform this work; and,

WHEREAS, at its regular meeting on March 23, 2022, the Board of Directors, by Minute Order, accepted the recommendation of the Operations Committee to approve this AGREEMENT between OC SAN and CONSULTANT.

NOW, THEREFORE, in consideration of the promises and mutual benefits, which will result to the parties in carrying out the terms of this AGREEMENT, it is mutually agreed as follows:

1. SCOPE OF WORK

CONSULTANT agrees to furnish necessary professional services to accomplish those project elements outlined in the Scope of Work attached hereto as "Attachment A", and by this reference made a part of this AGREEMENT.

- A. The CONSULTANT shall be responsible for the professional quality, technical accuracy, and completeness and coordination of the work and services furnished by the CONSULTANT under this AGREEMENT, including the work performed by its Subconsultants. Where approval by OC SAN is indicated, it is understood to be conceptual approval only and does not relieve the CONSULTANT of responsibility for complying with all applicable laws, regulations, codes, industry standards and liability for damages caused by errors, omissions, noncompliance with industry standards, and/or negligence on the part of the CONSULTANT or its Subconsultants.
- B. CONSULTANT is responsible for the quality of work prepared under this AGREEMENT and shall ensure that all work is performed to the highest industry standards for clarity, uniformity, and completeness. CONSULTANT shall timely respond to all comments, suggestions, and recommendations from OC SAN. All comments from OC SAN, or its agent, shall be incorporated into the work prior to

the next review deadline or addressed, in writing, as to why the comment(s) has/have not been incorporated. CONSULTANT shall ensure that each submittal is 100% accurate for the level of work submitted (i.e. correct references, terms, capitalization or equal status, spelling, punctuation, etc.).

- C. In the event that CONSULTANT's services and/or work product(s) is not to the satisfaction of OC SAN and/or does not conform to the requirements of this AGREEMENT or the applicable industry standards, the CONSULTANT shall, without additional compensation, promptly correct or revise any errors or deficiencies in its work product(s) within the timeframe specified by the Project Manager. OC SAN may charge to CONSULTANT all costs, expenses and damages associated with any such corrections or revisions.
- D. All professional services performed by the CONSULTANT, including, but not limited to, all drafts, data, correspondence, proposals, and reports compiled or composed by the CONSULTANT, pursuant to this AGREEMENT, are for the sole use of OC SAN, its agents and employees. Neither the documents nor their contents shall be released to any third party without the prior written consent of OC SAN. This provision does not apply to information that (a) was publicly known, or otherwise known to the CONSULTANT, at the time that it was disclosed to the CONSULTANT by OC SAN, or (b) subsequently becomes publicly known to the CONSULTANT other than through disclosure by OC SAN.

2. COMPENSATION

Total compensation shall be paid to CONSULTANT for services in accordance with the following provisions:

A. Total Compensation

Total compensation shall be in an amount not to exceed Four Hundred Thousand Dollars (\$400,000.00), over a three (3) year period.

OC SAN shall pay to CONSULTANT one total hourly rate set forth in Attachment "D" - Fee Proposal. The rate shall include all costs such as, but not necessarily limited to, technician labor, equipment, and overhead rates, report writing, office review and supervision, other miscellaneous charges. Drive time and mileage shall be included in the hourly rate and will not be allowed as additional costs.

B. Other Direct Costs

Other Direct Costs incurred by CONSULTANT and its Contractor due to modifications in scope of work resulting from field investigations and field work required by Contract. These items may include special equipment, test equipment and tooling and other materials and services not previously identified. Refer to attachment "K" Allowable Direct Costs for payment information.

3. PAYMENT

A. Invoice: CONSULTANT shall include in its invoice, a detailed breakdown of costs associated with the performance of any corrections or revisions of the work for that invoicing period, in a format acceptable to OC SAN. CONSULTANT shall include copies of the daily notes or tasks including the signature of the OC SAN's Inspector approving the day's work for that invoicing period. CONSULTANT shall warrant and certify the accuracy of these costs and provide all support documentation required by OC SAN. CONSULTANT understands that submitted costs are subject to Audit Provisions as stated under this Agreement.

B. CONSULTANT will submit statements covering services and/or work performed for payment for those items. The format must include, as a minimum: 1) current billing period invoicing, 2) current billing period "total percent invoiced to date", and 3) budget status and amount remaining. Such requests shall be accompanied by such supporting data as may be required by OC SAN.

Upon approval of such payment request by OC SAN, payment shall be made to CONSULTANT as soon as practicable of one hundred percent (100%) of the invoiced amount.

C. Upon satisfactory completion of the work performed hereunder and prior to final payment under this AGREEMENT for such work, or prior settlement upon termination of this AGREEMENT, and as a condition precedent thereto, CONSULTANT shall execute and deliver to OC SAN a release of all claims against OC SAN arising under or by virtue of this AGREEMENT other than such claims, if any, as may be specifically exempted by CONSULTANT from the operation of the release in stated amounts to be set forth therein.

D. Pursuant to the California False Claims Act (Government Code sections 12650-12655), any CONSULTANT that knowingly submits a false claim to OC SAN for compensation under the terms of this AGREEMENT may be held liable for treble damages and up to a \$10,000 civil penalty for each false claim submitted. This section shall also be binding on all Subconsultants.

A CONSULTANT or Subconsultant shall be deemed to have submitted a false claim when the CONSULTANT or Subconsultant: (a) knowingly presents or causes to be presented to an officer or employee of OC SAN a false claim or request for payment or approval; (b) knowingly makes, uses, or causes to be made or used a false record or statement to get a false claim paid or approved by OC SAN; (c) conspires to defraud OC SAN by getting a false claim allowed or paid by OC SAN; (d) knowingly makes, uses, or causes to be made or used a false record or statement to conceal, avoid, or decrease an obligation to OC SAN; or (e) is a beneficiary of an inadvertent submission of a false claim to OC SAN, and fails to disclose the false claim to OC SAN within a reasonable time after discovery of the false claim.

4. PREVAILING WAGES

To the extent CONSULTANT intends to utilize employees who will perform work during the contract, as more specifically defined under Labor Code Section 1720,

CONSULTANT shall be subject to prevailing wage requirements with respect to such employees.

5. CALIFORNIA DEPARTMENT OF INDUSTRIAL RELATIONS (DIR) REGISTRATION AND RECORD OF WAGES

- A. To the extent CONSULTANT's employees and/or Subconsultants who will perform Work during the design and preconstruction phases of a construction contract for which Prevailing Wage Determinations have been issued by the DIR and as more specifically defined under Labor Code Section 1720 et seq, CONSULTANT and Subconsultants shall comply with the registration requirements of Labor Code Section 1725.5. Pursuant to Labor Code Section 1771.4, the Work is subject to compliance monitoring and enforcement by the DIR.
- B. The CONSULTANT and Subconsultants shall maintain accurate payroll records and shall comply with all the provisions of Labor Code Section 1776, and shall submit payroll records to the Labor Commissioner pursuant to Labor Code Section 1771.4(a)(3). Penalties for non-compliance with the requirements of Section 1776 may be deducted from progress payments per Section 1776.
- C. Pursuant to Labor Code Section 1776, the CONSULTANT and Subconsultants shall furnish a copy of all certified payroll records to OC SAN and/or general public upon request, provided the public request is made through OC SAN, the Division of Apprenticeship Standards or the Division of Labor Enforcement of the Department of Industrial Relations.
- D. The CONSULTANT and 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).

6. DOCUMENT OWNERSHIP – CONSULTANT PERFORMANCE

- A. Ownership of Documents for the Professional Services performed.

All documents in all forms (electronic, paper, etc.), including, but not limited to, studies, sketches, drawings, computer printouts, disk files, and electronic copies prepared in connection with or related to the Scope of Work or Professional Services, shall be the property of OC SAN. OC SAN's ownership of these documents includes use of, reproduction or reuse of and all incidental rights, whether or not the work for which they were prepared has been performed. OC SAN ownership entitlement arises upon payment or any partial payment for work performed and includes ownership of any and all work product completed prior to that payment. This Section shall apply whether the CONSULTANT's Professional Services are terminated: a) by the completion of the AGREEMENT, or b) in accordance with other provisions of this AGREEMENT. Notwithstanding any other provision of this paragraph or AGREEMENT, the CONSULTANT shall have the right to make copies of all such plans, studies, sketches, drawings, computer printouts and disk files, and specifications.

- B. CONSULTANT shall not be responsible for damage caused by subsequent changes to or uses of the study or deliverable where the subsequent changes or uses are not authorized or approved by CONSULTANT, provided that the service rendered by CONSULTANT was not a proximate cause of the damage.

7. AGREEMENT TERM

The services provided under this AGREEMENT shall be for the period of three (3) years, commencing on May 1, 2022 and continuing through April 30, 2025.

8. INSURANCE

A. General

- i. Insurance shall be issued and underwritten by insurance companies acceptable to OC SAN.
- ii. Insurers must have an "A-" Policyholder's Rating, or better, and Financial Rating of at least Class VIII, or better, in accordance with the most current A.M. Best's Guide Rating. However, OC SAN will accept State Compensation Insurance Fund, for the required policy of Worker's Compensation Insurance subject to OC SAN's option to require a change in insurer in the event the State Fund financial rating is decreased below "B". Further, OC SAN will require CONSULTANT to substitute any insurer whose rating drops below the levels herein specified. Said substitution shall occur within twenty (20) days of written notice to CONSULTANT, by OC SAN or its agent.
- iii. Coverage shall be in effect prior to the commencement of any work under this AGREEMENT.

B. General Liability

The CONSULTANT shall maintain during the life of this AGREEMENT, including the period of warranty, Commercial General Liability Insurance written on an occurrence basis providing the following minimum limits of liability coverage: Two Million Dollars (\$2,000,000) per occurrence with Four Million Dollars (\$4,000,000) aggregate. Said insurance shall include coverage for the following hazards: Premises-Operations, blanket contractual liability (for this AGREEMENT), products liability/completed operations (including any product manufactured or assembled), broad form property damage, blanket contractual liability, independent contractors liability, personal and advertising injury, mobile equipment, owners and contractors protective liability, and cross liability and severability of interest clauses. A statement on an insurance certificate will not be accepted in lieu of the actual additional insured endorsement(s). If requested by OC SAN and applicable, XCU coverage (Explosion, Collapse and Underground) and Riggers/On Hook Liability must be included in the General Liability policy and coverage must be reflected on the submitted Certificate of Insurance.

C. Umbrella Excess Liability

The minimum limits of general liability and Automotive Liability Insurance required, as set forth herein, shall be provided for through either a single policy of primary insurance or a combination of policies of primary and umbrella excess coverage. Umbrella excess liability coverage shall be issued with limits of liability which, when combined with the primary insurance, will equal the minimum limits for general liability and automotive liability.

D. Automotive/Vehicle liability Insurance

The CONSULTANT shall maintain a policy of Automotive Liability Insurance on a comprehensive form covering all owned, non-owned, and hired automobiles, trucks, and other vehicles providing the following minimum limits of liability coverage: Combined single limit of One Million Dollars (\$1,000,000). A statement on an insurance certificate will not be accepted in lieu of the actual additional insured endorsement.

E. Drone Liability Insurance

If a drone will be used, drone liability insurance must be maintained by CONSULTANT in the amount of One Million Dollars (\$1,000,000) in a form acceptable by OC SAN.

F. Worker's Compensation Insurance

The CONSULTANT shall provide such Workers' Compensation Insurance as required by the Labor Code of the State of California in the amount of the statutory limit, including Employer's Liability Insurance with a minimum limit of One Million Dollars (\$1,000,000) per occurrence. Such Worker's Compensation Insurance shall be endorsed to provide for a waiver of subrogation in favor of OC SAN. A statement on an insurance certificate will not be accepted in lieu of the actual endorsements unless the insurance carrier is State of California Insurance Fund and the identifier "SCIF" and endorsement numbers 2570 and 2065 are referenced on the certificate of insurance. If an exposure to Jones Act liability may exist, the insurance required herein shall include coverage for Jones Act claims.

G. Errors and Omissions/Professional Liability

CONSULTANT shall maintain in full force and effect, throughout the term of this AGREEMENT, standard industry form professional negligence errors and omissions insurance coverage in an amount of not less than One Million Dollars (\$1,000,000) with limits in accordance with the provisions of this Paragraph. If the policy of insurance is written on a "claims made" basis, said policy shall be continued in full force and effect at all times during the term of this AGREEMENT, and for a period of five (5) years from the date of the completion of the services hereunder.

In the event of termination of said policy during this period, CONSULTANT shall obtain continuing insurance coverage for the prior acts or omissions of CONSULTANT during the course of performing services under the term of this AGREEMENT. Said coverage shall be evidenced by either a new policy evidencing no gap in coverage or by separate extended "tail" coverage with the present or new carrier.

In the event the present policy of insurance is written on an "occurrence" basis, said policy shall be continued in full force and effect during the term of this AGREEMENT or until completion of the services provided for in this AGREEMENT, whichever is later. In the event of termination of said policy during this period, new coverage shall be obtained for the required period to insure for the prior acts of CONSULTANT during the course of performing services under the term of this AGREEMENT.

CONSULTANT shall provide to OC SAN a certificate of insurance in a form acceptable to OC SAN indicating the deductible or self-retention amounts and the expiration date of said policy, and shall provide renewal certificates not less than ten (10) days prior to the expiration of each policy term.

H. Proof of Coverage

The CONSULTANT shall furnish OC SAN with original certificates and amendatory endorsements effecting coverage. Said policies and endorsements shall conform to the requirements herein stated. All certificates and endorsements are to be received and approved by OC SAN before work commences. OC SAN reserves the right to require complete, certified copies of all required insurance policies, including endorsements, effecting the coverage required, at any time. The following are approved forms that must be submitted as proof of coverage:

- Certificate of Insurance ACORD Form 25 (5/2010) or equivalent.

- Additional Insurance (General Liability) (ISO Form) CG2010 11 85 or
The combination of (ISO Forms)
CG 2010 10 01 and CG 2037 10 01

All other Additional Insured endorsements must be submitted for approval by OC SAN, and OC SAN may reject alternatives that provide different or less coverage to OC SAN.

- Additional Insured (Auto Liability) Submit endorsement provided by carrier for OC SAN approval.
- Waiver of Subrogation State Compensation Insurance Fund Endorsement No. 2570 or equivalent.

- Cancellation Notice State Compensation Insurance Fund Endorsement No. 2065 or equivalent.

I. Cancellation Notice

Each insurance policy required herein shall be endorsed to state that coverage shall not be cancelled by either party, except after thirty (30) days' prior written notice. The Cancellation Section of ACORD Form 25 (5/2010) shall state the required thirty (30) days' written notification. The policy shall not terminate, nor shall it be cancelled, nor the coverage reduced until thirty (30) days after written notice is given to OC SAN except for nonpayment of premium, which shall require not less than ten (10) days written notice to OC SAN. Should there be changes in coverage or an increase in deductible or SIR amounts, the CONSULTANT and its insurance broker/agent shall send to OC SAN a certified letter which includes a description of the changes in coverage and/or any increase in deductible or SIR amounts. The certified letter must be sent to the attention of Risk Management, and shall be received by OC SAN not less than thirty (30) days prior to the effective date of the change(s) if the change would reduce coverage or increase deductibles or SIR amounts or otherwise reduce or limit the scope of insurance coverage provided to OC SAN.

J. Primary Insurance

All liability policies shall contain a Primary and Non Contributory Clause. Any other insurance maintained by OC SAN shall be excess and not contributing with the insurance provided by CONSULTANT.

K. Separation of Insured

All liability policies shall contain a "Separation of Insureds" clause.

L. Non-Limiting (if applicable)

Nothing in this document shall be construed as limiting in any way, nor shall it limit the indemnification provision contained in this AGREEMENT, or the extent to which CONSULTANT may be held responsible for payment of damages to persons or property.

M. Deductibles and Self-Insured Retentions

Any deductible and/or self-insured retention must be declared to OC SAN on the Certificate of Insurance. All deductibles and/or self-insured retentions require approval by OC SAN. At the option of OC SAN, either: the insurer shall reduce or eliminate such deductible or self-insured retention as respects OC SAN; or the CONSULTANT shall provide a financial guarantee satisfactory to OC SAN guaranteeing payment of losses and related investigations, claim administration and defense expenses.

N. Defense Costs

Liability policies shall have a provision that defense costs for all insureds and additional insureds are paid in addition to and do not deplete any policy limits.

O. Subconsultants

The CONSULTANT shall be responsible to establish insurance requirements for any Subconsultant hired by the CONSULTANT. The insurance shall be in amounts and types reasonably sufficient to deal with the risk of loss involving the Subconsultant's operations and work.

P. Limits Are Minimums

If the CONSULTANT maintains higher limits than any minimums shown above, then OC SAN requires and shall be entitled to coverage for the higher limits maintained by CONSULTANT.

9. SCOPE CHANGES

In the event of a change in the Scope of Work or a change in the proposed Project, as requested by OC SAN, the Parties hereto shall execute an Amendment to this AGREEMENT setting forth with particularity all terms of the new AGREEMENT, including, but not limited to any additional CONSULTANT's fees.

10. PROJECT TEAM AND SUBCONSULTANTS

CONSULTANT shall provide to OC SAN, prior to execution of this AGREEMENT, the names and full description of all Subconsultants and CONSULTANT's project team members anticipated to be used on this Project under this AGREEMENT by CONSULTANT. CONSULTANT shall include a description of the work and services to be done by each Subconsultant and each of CONSULTANT's Project team member. CONSULTANT shall include the respective compensation amounts for CONSULTANT and each Subconsultant.

There shall be no substitution of the listed Subconsultants and CONSULTANT's project team members without prior written approval by OC SAN.

11. ENGINEERING REGISTRATION

The CONSULTANT's personnel and Subconsultants are comprised of a staff of specialists in each department. The firm itself is not a registered engineer but represents and agrees that wherever, in the performance of this AGREEMENT, the services of a registered engineer is required, such services hereunder will be performed under the direct supervision of registered engineers who are registered in California.

12. AUDIT PROVISIONS.

A. OC SAN retains the reasonable right to access, review, examine, and audit, any and all books, records, documents and any other evidence of procedures and

practices that OC SAN determines are necessary to discover and verify that the CONSULTANT is in compliance with all requirements under this AGREEMENT. The CONSULTANT shall include OC SAN's right as described above, in any and all of their subcontracts, and shall ensure that these rights are binding upon all Subconsultants.

- B. OC SAN retains the right to examine CONSULTANT's books, records, documents and any other evidence of procedures and practices that OC SAN determines are necessary to discover and verify all direct and indirect costs, of whatever nature, which are claimed to have been incurred, or anticipated to be incurred or to ensure CONSULTANT's compliance with all requirements under this AGREEMENT during the term of this AGREEMENT and for a period of three (3) years after its termination.
- C. CONSULTANT shall maintain complete and accurate records in accordance with generally accepted industry standard practices and OC SAN's policy. The CONSULTANT shall make available to OC SAN for review and audit, all project related accounting records and documents, and any other financial data within 15 days after receipt of notice from OC SAN. Upon OC SAN's request, the CONSULTANT shall submit exact duplicates of originals of all requested records to OC SAN. If an audit is performed, CONSULTANT shall ensure that a qualified employee of the CONSULTANT will be available to assist OC SAN's auditor in obtaining all Project related accounting records and documents, and any other financial data.

13. LEGAL RELATIONSHIP BETWEEN PARTIES

The legal relationship between the parties hereto is that of an independent contractor and nothing herein shall be deemed to transform CONSULTANT, its staff, independent contractors, or Subconsultants into employees of OC SAN. CONSULTANT'S staff performing services under the AGREEMENT shall at all times be employees and/or independent contractors of CONSULTANT. CONSULTANT shall monitor and control its staff and pay wages, salaries, and other amounts due directly to its staff in connection with the AGREEMENT. CONSULTANT shall be responsible for hiring, review, and termination of its staff and shall be accountable for all reports and obligations respecting them, such as social security, income tax withholding, unemployment compensation, workers' compensation and similar matters.

14. NOTICES

All notices hereunder and communications regarding the interpretation of the terms of this AGREEMENT, or changes thereto, shall be effected by delivery of said notices in person or by depositing said notices in the U.S. mail, registered or certified mail, return receipt requested, postage prepaid and addressed as follows:

ORANGE COUNTY SANITATION DISTRICT
10844 Ellis Avenue
Fountain Valley, CA 92708-7018
Attention: Clarice Marcin, Contracts Administration
Copy: William Gilbert and Rick Kwiecien, Project Managers

CONSULTANT:

«Company»
«ConsultantsName»
«Address»
«CityStateZip»

All communication regarding the Scope of Work, will be addressed to the Project Manager. Direction from other OC SAN staff must be approved in writing by OC SAN's Project Manager prior to action from the CONSULTANT.

15. TERMINATION

OC SAN may terminate this AGREEMENT at any time, without cause, upon giving thirty (30) days written notice to CONSULTANT. In the event of such termination, CONSULTANT shall be entitled to compensation for work performed on a prorated basis through and including the effective date of termination.

CONSULTANT shall be permitted to terminate this AGREEMENT upon thirty (30) days written notice only if CONSULTANT is not compensated for billed amounts in accordance with the provisions of this AGREEMENT, when the same are due.

Notice of termination shall be mailed to OC SAN at the address listed in Section 14 - NOTICES.

16. DOCUMENTS AND STUDY MATERIALS

The documents and study materials for this Project shall become the property of OC SAN upon the termination or completion of the work. CONSULTANT agrees to furnish to OC SAN copies of all memoranda, correspondence, electronic materials, computation and study materials in its files pertaining to the work described in this AGREEMENT, which is requested in writing by OC SAN.

17. COMPLIANCE

A. Labor

CONSULTANT certifies by the execution of this AGREEMENT that it pays employees not less than the minimum wage as defined by law, and that it does not discriminate in its employment with regard to race, color, religion, sex or national origin; that it is in compliance with all federal, state and local directives and executive orders regarding non-discrimination in employment; and that it agrees to demonstrate positively and aggressively the principle of equal opportunity in employment.

B. Air Pollution

CONSULTANT and its Subconsultants and subcontractors shall comply with all applicable federal, state and local air pollution control laws and regulations.

18. AGREEMENT EXECUTION AUTHORIZATION

Both OC SAN and CONSULTANT do covenant that each individual executing this document by and on behalf of each Party is a person duly authorized to execute this AGREEMENT for that Party.

19. DISPUTE RESOLUTION

In the event of a dispute arising between the parties regarding performance or interpretation of this AGREEMENT, the dispute shall be resolved by binding arbitration under the auspices of the Judicial Arbitration and Mediation Service ("JAMS"), or similar organization or entity conducting alternate dispute resolution services.

20. ATTORNEY'S FEES, COSTS AND NECESSARY DISBURSEMENTS

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 he may be entitled.

21. WARRANTY

CONSULTANT shall perform its services in accordance with generally accepted industry and professional standards. If, within the 12-month period following completion of its services, OC SAN informs CONSULTANT that any part of the services fails to meet those standards, CONSULTANT shall, within the time prescribed by OC SAN, take all such actions as are necessary to correct or complete the noted deficiency(ies).

22. INDEMNIFICATION

To the fullest extent permitted by law, CONSULTANT shall indemnify, defend (at CONSULTANT's sole cost and expense and with legal counsel approved by OC SAN, which approval shall not be unreasonably withheld), protect and hold harmless OC SAN and all of OC SAN's officers, directors, employees, CONSULTANT's, and agents (collectively the "Indemnified Parties"), from and against any and all claims, damages, liabilities, causes of action, suits, arbitration awards, losses, judgments, fines, penalties, costs and expenses (including, without limitation, attorneys' fees, disbursements and court costs, and all other professional, expert or CONSULTANT's fees and costs and OC SAN's general and administrative expenses; individually, a "Claim"; collectively, "Claims") which may arise from or are in any manner related, directly or indirectly, to any work performed, or any operations, activities, or services provided by CONSULTANT in carrying out its obligations under this AGREEMENT to the extent of the negligent, recklessness and/or willful misconduct of CONSULTANT, its principals, officers, agents, employees, CONSULTANT's suppliers, CONSULTANT, Subconsultants, subcontractors, and/or anyone employed directly or indirectly by any of them, regardless of any contributing negligence or strict liability of an Indemnified Party. Notwithstanding the foregoing, nothing herein shall be construed to require CONSULTANT to indemnify the Indemnified Parties from any Claim arising solely from:

(A) the active negligence or willful misconduct of the Indemnified Parties; or

(B) a natural disaster or other act of God, such as an earthquake; or

(C) the independent action of a third party who is neither one of the Indemnified Parties nor the CONSULTANT, nor its principal, officer, agent, employee, nor CONSULTANT's supplier, CONSULTANT, Subconsultant, subcontractor, nor anyone employed directly or indirectly by any of them.

Exceptions (A) through (B) above shall not apply, and CONSULTANT shall, to the fullest extent permitted by law, indemnify the Indemnified Parties, from Claims arising from more than one cause if any such cause taken alone would otherwise result in the obligation to indemnify hereunder.

CONSULTANT's liability for indemnification hereunder is in addition to any liability CONSULTANT may have to OC SAN for a breach by CONSULTANT of any of the provisions of this AGREEMENT. Under no circumstances shall the insurance requirements and limits set forth in this AGREEMENT be construed to limit CONSULTANT's indemnification obligation or other liability hereunder. The terms of this AGREEMENT are contractual and the result of negotiation between the parties hereto. Accordingly, any rule of construction of contracts (including, without limitation, California Civil Code Section 1654) that ambiguities are to be construed against the drafting party, shall not be employed in the interpretation of this AGREEMENT.

23. DUTY TO DEFEND

The duty to defend hereunder is wholly independent of and separate from the duty to indemnify and such duty to defend shall exist regardless of any ultimate liability of CONSULTANT and shall be consistent with Civil Code section 2782.8. Such defense obligation shall arise immediately upon presentation of a Claim by any person if, without regard to the merit of the Claim, such Claim could potentially result in an obligation to indemnify one or more Indemnified Parties, and upon written notice of such Claim being provided to CONSULTANT. Payment to CONSULTANT by any Indemnified Party or the payment or advance of defense costs by any Indemnified Party shall not be a condition precedent to enforcing such Indemnified Party's rights to indemnification hereunder. In the event a final judgment, arbitration, award, order, settlement, or other final resolution expressly determines that the claim did not arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the CONSULTANT, to any extent, then OC SAN will reimburse CONSULTANT for the reasonable costs of defending the Indemnified Parties against such claims.

CONSULTANT's indemnification obligation hereunder shall survive the expiration or earlier termination of this AGREEMENT until such time as action against the Indemnified Parties for such matter indemnified hereunder is fully and finally barred by the applicable statute of limitations.

24. COMPLIANCE WITH OC SAN POLICIES AND PROCEDURES

CONSULTANT shall comply with all OC SAN policies and procedures including the Contractor Safety Standards, as applicable, all of which may be amended from time to time.

25. CLOSEOUT

When OC SAN determines that all Work authorized under the AGREEMENT is fully complete and that OC SAN requires no further work from CONSULTANT, or the AGREEMENT is otherwise terminated or expires in accordance with the terms of the AGREEMENT, OC SAN shall give the Consultant written notice that the AGREEMENT will be closed out. CONSULTANT shall submit all outstanding billings, work submittals, deliverables, reports or similarly related documents as required under the AGREEMENT within thirty (30) days of receipt of notice of AGREEMENT closeout.

Upon receipt of CONSULTANT's submittals, OC SAN shall commence a closeout audit of the AGREEMENT and will either:

- i. Give the CONSULTANT a final AGREEMENT Acceptance: or
- ii. Advise the CONSULTANT in writing of any outstanding item or items which must be furnished, completed, or corrected at the CONSULTANT's cost.

CONSULTANT shall be required to provide adequate resources to fully support any administrative closeout efforts identified in the AGREEMENT. Such support must be provided within the timeframe requested by OC SAN.

Notwithstanding the final AGREEMENT acceptance, the CONSULTANT will not be relieved of its obligations hereunder, nor will the CONSULTANT be relieved of its obligations to complete any portions of the work, the non-completion of which were not disclosed to OC SAN (regardless of whether such nondisclosures were fraudulent, negligent, or otherwise), and the CONSULTANT shall remain obligated under all those provisions of the AGREEMENT which expressly or by their nature extend beyond and survive final AGREEMENT Acceptance.

Any failure by OC SAN to reject the work or to reject the CONSULTANT's request for final AGREEMENT Acceptance as set forth above shall not be deemed to be acceptance of the work by OC SAN for any purpose nor imply acceptance of, or AGREEMENT with, the CONSULTANT's request for final AGREEMENT Acceptance.

26. ENTIRE AGREEMENT

This AGREEMENT constitutes the entire understanding and AGREEMENT between the Parties and supersedes all previous negotiations between them pertaining to the subject matter thereof.

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

IN WITNESS WHEREOF, this AGREEMENT has been executed in the name of OC SAN, by its officers thereunto duly authorized, and CONSULTANT as of the day and year first above written.

CONSULTANT: AESCO TECHNOLOGIES

By _____ Date _____

Printed Name & Title

ORANGE COUNTY SANITATION DISTRICT

By _____ Date _____
John B. Withers
Board Chairman

By _____ Date _____
Kelly A. Lore
Clerk of the Board

By _____ Date _____
Ruth Zintzun
Purchasing & Contracts Manager

- Attachments: Attachment "A" – Scope of Work
Attachment "B" – Not Attached
Attachment "C" – Not Attached
Attachment "D" – Fee Proposal
Attachment "E" – Not Attached
Attachment "F" – Not Attached
Attachment "G" – Not Attached
Attachment "H" – Not Used
Attachment "I" – Safety Declaration
Attachment "J" – Contractor Safety Standards
Attachment "K" - Allowable Direct Costs

CMM

ATTACHMENT “A”

SCOPE OF WORK

ATTACHMENT "A"

SCOPE OF WORK

MATERIALS TESTING, INSPECTION, AND OTHER GEOTECHNICAL TESTING SERVICES FOR THE ORANGE COUNTY SANITATION DISTRICT'S CAPITAL IMPROVEMENT PROGRAM, FACILITIES ENGINEERING, OPERATIONS, AND MAINTENANCE PROJECTS

PSA2022-003

I. PURPOSE

The selected CONSULTANT shall provide on-call materials testing, inspection and other geotechnical testing services as required in support of OC SAN's Capital Improvement Program, Facilities Engineering, Operations, and Maintenance projects. The locations for this work include the two treatment plants and other facilities (pump stations and collections system) located throughout Orange County and offsite facilities as required for testing and observation.

II. TYPICAL TASKS

- SOILS:** Provide lab testing for maximum density, sieve analysis, gradation and soil identification. Field-test compacted soil using nuclear density meter methods. Inspect compaction efforts by contractors to achieve specification-required densities. On a less frequent basis, be prepared to conduct soil sampling to depths as required.
- CONCRETE/MASONRY:** Provide concrete, mortar and grout cylinder compressive testing, masonry prism test, and shear test on brick cores. Pick up test specimen sets from construction sites. Provide concrete and masonry construction inspection as needed.
- WELDING INSPECTION:** Provide certified welding inspection for pipelines, welded connections, or as directed by OC SAN. The inspections shall include non-destructive testing and destructive testing as needed. Some welding inspection may occur outside of California and fees will be negotiated on a case-by-case basis.
- ASPHALT:** Provide field density testing and sample collection and lab testing. Inspect compaction efforts by contractors to achieve specification-required densities.
- METALS:** Provide tensile strength lab testing. Provide field testing for welds and inspect welding operations. As needed, provide materials analysis to determine the type of steel with destructive testing as required. Provide Positive Material Identification utilizing an XRF analyzer, Niton XLT 898 or equal.

MATERIALS: Provide material testing services for determining the chemical composition of various metals including but not limited to cast iron, cast steel, ductile iron, FRP, stainless steel castings (fittings), stainless steel piping, steel pipe, aluminum, copper alloy or as directed. Service may include destructive and non-destructive testing and opinion as to the grade, type, or ASTM equivalent.

III. REQUIREMENTS

1. CONSULTANT shall be available to work the next day if scheduled by the end of the work day. OC SAN expects that the technician will arrive at the site with the correct equipment, calibrated to existing standards with documentation. OC SAN will not reimburse the CONSULTANT for the time required to obtain the correct equipment.
2. Equipment that requires calibration shall be calibrated prior to the work. Calibration costs and equipment shall be included in the total hourly rate for field service fees.
3. All test results shall be clearly summarized in a standardized report format and submitted to OC SAN for review and comment.
4. CONSULTANT shall provide a detailed daily report for each day of field testing and observation with reported hours within 24 hours. The report can be non-carbon or photo copied reproduction. CONSULTANT shall sign in and out daily with the OC SAN representative.
5. CONSULTANT shall be available for night work (4:30 p.m. to 7:00 a.m.) upon 24-hour advance notice.
6. CONSULTANT shall be available to attend a pre-construction meeting and other key meetings as the project progresses.
7. All technicians must be adequately insured for liability and property damage, and a copy of the policy must be forwarded to OC SAN. Vehicles shall bear the CONSULTANT's name.
8. At least one member in the field shall have a cell phone or other form of communication so as to be in contact with the home office in the event the OC SAN requires immediate communication during normal working hours, and shall have means to be directly contacted in the field by OC SAN personnel via cell phone.
9. CONSULTANT must be able to recognize errors or omissions in the contract documents and specifications, and alert OC SAN staff timely in order to mitigate production delays and costs.
10. CONSULTANT shall comply with OSHA requirements and OCSD Safety Standards.
11. On occasion, CONSULTANT will be required to enter confined spaces to perform work. Entrants shall be CAL-OSHA confined-space trained and certified. Certifications shall be submitted to OC SAN for review and approval at least 48

hours prior to commencement of work. Personnel will be entering under Contractor's confined-space entry permit.

12. Personal protective equipment (PPE), including lower explosive limit (LEL) personal monitors is required onsite for all personnel.
 - a. Personnel must be fall-protection trained and provide their own fall-protection PPE, when onsite.
13. OC SAN shall provide to the CONSULTANT a Task Order Number that will be used to track the work. The CONSULTANT will not begin any work without the Task Order Number. If the CONSULTANT receives direction from OC SAN to perform some type of work without a Task Order Number, the CONSULTANT shall contact the Inspection Supervisor to determine if the work is authorized and receive a Task Order Number if appropriate.
14. CONSULTANT will submit monthly statements, ***separately for each project or Task***, covering services and/or work performed no later than the second Wednesday of the following month and in the format required by OC SAN, to request payment. Such requests shall be based upon the amount and value of the work and services performed by CONSULTANT under this Agreement and shall be prepared by CONSULTANT and accompanied by such supporting data (including sign in/out sheets signed by CONSULTANT and OC SAN representative), including:
 - Task Order Number and Project Number and/or Project Description included on the statement.
 - Tasks completed, identified by the Task number assigned to each Task.
 - Detailed breakdown of all costs incurred per task performed, and all back-up documentation for each Task.
 - Copy of the daily notes or tasks including the signature of OC SAN's Inspector approving the day's work.
 - Running total of services billed, services paid, services billed but not paid, and the amount of the contract remaining.

OC SAN will not approve any task performed without the appropriate back-up documentation and may result in delayed or partial payment. Failure to submit monthly statements no later than the second Wednesday of the following month may result in delayed payment.

15. If any conflict of interest occurs on a project, OC SAN shall be notified without delay of the conflict. OC SAN will evaluate conflict of interest on a case-by-case basis and advise as to whether it may be waived in each case.
16. To accommodate cases where other materials testing services are required, CONSULTANT shall, when requested by OC SAN, locate and subcontract local, qualified inspectors who can satisfy requirements for inspection and/or testing, and shall direct the work of the subcontractor(s). Billing rates for subcontractor(s) shall not exceed submitted rates for this proposal, plus a 15% overhead mark up.

PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT, is made and entered into to be effective the 1st day of May, 2022, by and between the ORANGE COUNTY SANITATION DISTRICT, hereinafter referred to as "OC SAN", and ATLAS TECHNICAL CONSULTANTS LLC, for purposes of this AGREEMENT hereinafter referred to as "CONSULTANT". OC SAN and CONSULTANT are referred to herein collectively as the "Parties" or individually as a "Party."

WITNESSETH:

WHEREAS, OC SAN desires to engage a consultant for materials testing, inspection, and other geotechnical testing services in support of the OC SAN's Capital Improvement Program, Facilities Engineering, Operations, and Maintenance projects, PSA2022-003; and,

WHEREAS, CONSULTANT is qualified to provide the necessary services in connection with these requirements and has agreed to provide the necessary professional services; and,

WHEREAS, OC SAN has adopted procedures for the selection of professional services and has proceeded in accordance with said procedures to select a CONSULTANT to perform this work; and,

WHEREAS, at its regular meeting on March 23, 2022, the Board of Directors, by Minute Order, accepted the recommendation of the Operations Committee to approve this AGREEMENT between OC SAN and CONSULTANT.

NOW, THEREFORE, in consideration of the promises and mutual benefits, which will result to the parties in carrying out the terms of this AGREEMENT, it is mutually agreed as follows:

1. SCOPE OF WORK

CONSULTANT agrees to furnish necessary professional services to accomplish those project elements outlined in the Scope of Work attached hereto as "Attachment A", and by this reference made a part of this AGREEMENT.

- A. The CONSULTANT shall be responsible for the professional quality, technical accuracy, and completeness and coordination of the work and services furnished by the CONSULTANT under this AGREEMENT, including the work performed by its Subconsultants. Where approval by OC SAN is indicated, it is understood to be conceptual approval only and does not relieve the CONSULTANT of responsibility for complying with all applicable laws, regulations, codes, industry standards and liability for damages caused by errors, omissions, noncompliance with industry standards, and/or negligence on the part of the CONSULTANT or its Subconsultants.
- B. CONSULTANT is responsible for the quality of work prepared under this AGREEMENT and shall ensure that all work is performed to the highest industry standards for clarity, uniformity, and completeness. CONSULTANT shall timely respond to all comments, suggestions, and recommendations from OC SAN. All comments from OC SAN, or its agent, shall be incorporated into the work prior to

the next review deadline or addressed, in writing, as to why the comment(s) has/have not been incorporated. CONSULTANT shall ensure that each submittal is 100% accurate for the level of work submitted (i.e. correct references, terms, capitalization or equal status, spelling, punctuation, etc.).

- C. In the event that CONSULTANT's services and/or work product(s) is not to the satisfaction of OC SAN and/or does not conform to the requirements of this AGREEMENT or the applicable industry standards, the CONSULTANT shall, without additional compensation, promptly correct or revise any errors or deficiencies in its work product(s) within the timeframe specified by the Project Manager. OC SAN may charge to CONSULTANT all costs, expenses and damages associated with any such corrections or revisions.
- D. All professional services performed by the CONSULTANT, including, but not limited to, all drafts, data, correspondence, proposals, and reports compiled or composed by the CONSULTANT, pursuant to this AGREEMENT, are for the sole use of OC SAN, its agents and employees. Neither the documents nor their contents shall be released to any third party without the prior written consent of OC SAN. This provision does not apply to information that (a) was publicly known, or otherwise known to the CONSULTANT, at the time that it was disclosed to the CONSULTANT by OC SAN, or (b) subsequently becomes publicly known to the CONSULTANT other than through disclosure by OC SAN.

2. COMPENSATION

Total compensation shall be paid to CONSULTANT for services in accordance with the following provisions:

A. Total Compensation

Total compensation shall be in an amount not to exceed Four Hundred Thousand Dollars (\$400,000.00), over a three (3) year period.

OC SAN shall pay to CONSULTANT one total hourly rate set forth in Attachment "D" - Fee Proposal. The rate shall include all costs such as, but not necessarily limited to, technician labor, equipment, and overhead rates, report writing, office review and supervision, other miscellaneous charges. Drive time and mileage shall be included in the hourly rate and will not be allowed as additional costs.

B. Other Direct Costs

Other Direct Costs incurred by CONSULTANT and its Contractor due to modifications in scope of work resulting from field investigations and field work required by Contract. These items may include special equipment, test equipment and tooling and other materials and services not previously identified. Refer to attachment "K" Allowable Direct Costs for payment information.

3. PAYMENT

- A. Invoice: CONSULTANT shall include in its invoice, a detailed breakdown of costs associated with the performance of any corrections or revisions of the work for that invoicing period, in a format acceptable to OC SAN. CONSULTANT shall include copies of the daily notes or tasks including the signature of the OC SAN's Inspector approving the day's work for that invoicing period. CONSULTANT shall warrant and certify the accuracy of these costs and provide all support documentation required by OC SAN. CONSULTANT understands that submitted costs are subject to Audit Provisions as stated under this Agreement.
- B. CONSULTANT will submit statements covering services and/or work performed for payment for those items. The format must include, as a minimum: 1) current billing period invoicing, 2) current billing period "total percent invoiced to date", and 3) budget status and amount remaining. Such requests shall be accompanied by such supporting data as may be required by OC SAN.
- Upon approval of such payment request by OC SAN, payment shall be made to CONSULTANT as soon as practicable of one hundred percent (100%) of the invoiced amount.
- C. Upon satisfactory completion of the work performed hereunder and prior to final payment under this AGREEMENT for such work, or prior settlement upon termination of this AGREEMENT, and as a condition precedent thereto, CONSULTANT shall execute and deliver to OC SAN a release of all claims against OC SAN arising under or by virtue of this AGREEMENT other than such claims, if any, as may be specifically exempted by CONSULTANT from the operation of the release in stated amounts to be set forth therein.
- D. Pursuant to the California False Claims Act (Government Code sections 12650-12655), any CONSULTANT that knowingly submits a false claim to OC SAN for compensation under the terms of this AGREEMENT may be held liable for treble damages and up to a \$10,000 civil penalty for each false claim submitted. This section shall also be binding on all Subconsultants.

A CONSULTANT or Subconsultant shall be deemed to have submitted a false claim when the CONSULTANT or Subconsultant: (a) knowingly presents or causes to be presented to an officer or employee of OC SAN a false claim or request for payment or approval; (b) knowingly makes, uses, or causes to be made or used a false record or statement to get a false claim paid or approved by OC SAN; (c) conspires to defraud OC SAN by getting a false claim allowed or paid by OC SAN; (d) knowingly makes, uses, or causes to be made or used a false record or statement to conceal, avoid, or decrease an obligation to OC SAN; or (e) is a beneficiary of an inadvertent submission of a false claim to OC SAN, and fails to disclose the false claim to OC SAN within a reasonable time after discovery of the false claim.

4. PREVAILING WAGES

To the extent CONSULTANT intends to utilize employees who will perform work during the contract, as more specifically defined under Labor Code Section 1720,

CONSULTANT shall be subject to prevailing wage requirements with respect to such employees.

5. CALIFORNIA DEPARTMENT OF INDUSTRIAL RELATIONS (DIR) REGISTRATION AND RECORD OF WAGES

- A. To the extent CONSULTANT's employees and/or Subconsultants who will perform Work during the design and preconstruction phases of a construction contract for which Prevailing Wage Determinations have been issued by the DIR and as more specifically defined under Labor Code Section 1720 et seq, CONSULTANT and Subconsultants shall comply with the registration requirements of Labor Code Section 1725.5. Pursuant to Labor Code Section 1771.4, the Work is subject to compliance monitoring and enforcement by the DIR.
- B. The CONSULTANT and Subconsultants shall maintain accurate payroll records and shall comply with all the provisions of Labor Code Section 1776, and shall submit payroll records to the Labor Commissioner pursuant to Labor Code Section 1771.4(a)(3). Penalties for non-compliance with the requirements of Section 1776 may be deducted from progress payments per Section 1776.
- C. Pursuant to Labor Code Section 1776, the CONSULTANT and Subconsultants shall furnish a copy of all certified payroll records to OC SAN and/or general public upon request, provided the public request is made through OC SAN, the Division of Apprenticeship Standards or the Division of Labor Enforcement of the Department of Industrial Relations.
- D. The CONSULTANT and 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).

6. DOCUMENT OWNERSHIP – CONSULTANT PERFORMANCE

- A. Ownership of Documents for the Professional Services performed.

All documents in all forms (electronic, paper, etc.), including, but not limited to, studies, sketches, drawings, computer printouts, disk files, and electronic copies prepared in connection with or related to the Scope of Work or Professional Services, shall be the property of OC SAN. OC SAN's ownership of these documents includes use of, reproduction or reuse of and all incidental rights, whether or not the work for which they were prepared has been performed. OC SAN ownership entitlement arises upon payment or any partial payment for work performed and includes ownership of any and all work product completed prior to that payment. This Section shall apply whether the CONSULTANT's Professional Services are terminated: a) by the completion of the AGREEMENT, or b) in accordance with other provisions of this AGREEMENT. Notwithstanding any other provision of this paragraph or AGREEMENT, the CONSULTANT shall have the right to make copies of all such plans, studies, sketches, drawings, computer printouts and disk files, and specifications.

- B. CONSULTANT shall not be responsible for damage caused by subsequent changes to or uses of the study or deliverable where the subsequent changes or uses are not authorized or approved by CONSULTANT, provided that the service rendered by CONSULTANT was not a proximate cause of the damage.

7. AGREEMENT TERM

The services provided under this AGREEMENT shall be for the period of three (3) years, commencing on May 1, 2022 and continuing through April 30, 2025.

8. INSURANCE

A. General

- i. Insurance shall be issued and underwritten by insurance companies acceptable to OC SAN.
- ii. Insurers must have an "A-" Policyholder's Rating, or better, and Financial Rating of at least Class VIII, or better, in accordance with the most current A.M. Best's Guide Rating. However, OC SAN will accept State Compensation Insurance Fund, for the required policy of Worker's Compensation Insurance subject to OC SAN's option to require a change in insurer in the event the State Fund financial rating is decreased below "B". Further, OC SAN will require CONSULTANT to substitute any insurer whose rating drops below the levels herein specified. Said substitution shall occur within twenty (20) days of written notice to CONSULTANT, by OC SAN or its agent.
- iii. Coverage shall be in effect prior to the commencement of any work under this AGREEMENT.

B. General Liability

The CONSULTANT shall maintain during the life of this AGREEMENT, including the period of warranty, Commercial General Liability Insurance written on an occurrence basis providing the following minimum limits of liability coverage: Two Million Dollars (\$2,000,000) per occurrence with Four Million Dollars (\$4,000,000) aggregate. Said insurance shall include coverage for the following hazards: Premises-Operations, blanket contractual liability (for this AGREEMENT), products liability/completed operations (including any product manufactured or assembled), broad form property damage, blanket contractual liability, independent contractors liability, personal and advertising injury, mobile equipment, owners and contractors protective liability, and cross liability and severability of interest clauses. A statement on an insurance certificate will not be accepted in lieu of the actual additional insured endorsement(s). If requested by OC SAN and applicable, XCU coverage (Explosion, Collapse and Underground) and Riggers/On Hook Liability must be included in the General Liability policy and coverage must be reflected on the submitted Certificate of Insurance.

C. Umbrella Excess Liability

The minimum limits of general liability and Automotive Liability Insurance required, as set forth herein, shall be provided for through either a single policy of primary insurance or a combination of policies of primary and umbrella excess coverage. Umbrella excess liability coverage shall be issued with limits of liability which, when combined with the primary insurance, will equal the minimum limits for general liability and automotive liability.

D. Automotive/Vehicle liability Insurance

The CONSULTANT shall maintain a policy of Automotive Liability Insurance on a comprehensive form covering all owned, non-owned, and hired automobiles, trucks, and other vehicles providing the following minimum limits of liability coverage: Combined single limit of One Million Dollars (\$1,000,000). A statement on an insurance certificate will not be accepted in lieu of the actual additional insured endorsement.

E. Drone Liability Insurance

If a drone will be used, drone liability insurance must be maintained by CONSULTANT in the amount of One Million Dollars (\$1,000,000) in a form acceptable by OC SAN.

F. Worker's Compensation Insurance

The CONSULTANT shall provide such Workers' Compensation Insurance as required by the Labor Code of the State of California in the amount of the statutory limit, including Employer's Liability Insurance with a minimum limit of One Million Dollars (\$1,000,000) per occurrence. Such Worker's Compensation Insurance shall be endorsed to provide for a waiver of subrogation in favor of OC SAN. A statement on an insurance certificate will not be accepted in lieu of the actual endorsements unless the insurance carrier is State of California Insurance Fund and the identifier "SCIF" and endorsement numbers 2570 and 2065 are referenced on the certificate of insurance. If an exposure to Jones Act liability may exist, the insurance required herein shall include coverage for Jones Act claims.

G. Errors and Omissions/Professional Liability

CONSULTANT shall maintain in full force and effect, throughout the term of this AGREEMENT, standard industry form professional negligence errors and omissions insurance coverage in an amount of not less than One Million Dollars (\$1,000,000) with limits in accordance with the provisions of this Paragraph. If the policy of insurance is written on a "claims made" basis, said policy shall be continued in full force and effect at all times during the term of this AGREEMENT, and for a period of five (5) years from the date of the completion of the services hereunder.

In the event of termination of said policy during this period, CONSULTANT shall obtain continuing insurance coverage for the prior acts or omissions of

CONSULTANT during the course of performing services under the term of this AGREEMENT. Said coverage shall be evidenced by either a new policy evidencing no gap in coverage or by separate extended "tail" coverage with the present or new carrier.

In the event the present policy of insurance is written on an "occurrence" basis, said policy shall be continued in full force and effect during the term of this AGREEMENT or until completion of the services provided for in this AGREEMENT, whichever is later. In the event of termination of said policy during this period, new coverage shall be obtained for the required period to insure for the prior acts of CONSULTANT during the course of performing services under the term of this AGREEMENT.

CONSULTANT shall provide to OC SAN a certificate of insurance in a form acceptable to OC SAN indicating the deductible or self-retention amounts and the expiration date of said policy, and shall provide renewal certificates not less than ten (10) days prior to the expiration of each policy term.

H. Proof of Coverage

The CONSULTANT shall furnish OC SAN with original certificates and amendatory endorsements effecting coverage. Said policies and endorsements shall conform to the requirements herein stated. All certificates and endorsements are to be received and approved by OC SAN before work commences. OC SAN reserves the right to require complete, certified copies of all required insurance policies, including endorsements, effecting the coverage required, at any time. The following are approved forms that must be submitted as proof of coverage:

- Certificate of Insurance ACORD Form 25 (5/2010) or equivalent.
- Additional Insurance (General Liability) (ISO Form) CG2010 11 85 or
The combination of (ISO Forms)
CG 2010 10 01 and CG 2037 10 01

All other Additional Insured endorsements must be submitted for approval by OC SAN, and OC SAN may reject alternatives that provide different or less coverage to OC SAN.

- Additional Insured (Auto Liability) Submit endorsement provided by carrier for OC SAN approval.
- Waiver of Subrogation State Compensation Insurance Fund Endorsement No. 2570 or equivalent.
- Cancellation Notice State Compensation Insurance Fund Endorsement No. 2065 or equivalent.

I. Cancellation Notice

Each insurance policy required herein shall be endorsed to state that coverage shall not be cancelled by either party, except after thirty (30) days' prior written notice. The Cancellation Section of ACORD Form 25 (5/2010) shall state the required thirty (30) days' written notification. The policy shall not terminate, nor shall it be cancelled, nor the coverage reduced until thirty (30) days after written notice is given to OC SAN except for nonpayment of premium, which shall require not less than ten (10) days written notice to OC SAN. Should there be changes in coverage or an increase in deductible or SIR amounts, the CONSULTANT and its insurance broker/agent shall send to OC SAN a certified letter which includes a description of the changes in coverage and/or any increase in deductible or SIR amounts. The certified letter must be sent to the attention of Risk Management, and shall be received by OC SAN not less than thirty (30) days prior to the effective date of the change(s) if the change would reduce coverage or increase deductibles or SIR amounts or otherwise reduce or limit the scope of insurance coverage provided to OC SAN.

J. Primary Insurance

All liability policies shall contain a Primary and Non Contributory Clause. Any other insurance maintained by OC SAN shall be excess and not contributing with the insurance provided by CONSULTANT.

K. Separation of Insured

All liability policies shall contain a "Separation of Insureds" clause.

L. Non-Limiting (if applicable)

Nothing in this document shall be construed as limiting in any way, nor shall it limit the indemnification provision contained in this AGREEMENT, or the extent to which CONSULTANT may be held responsible for payment of damages to persons or property.

M. Deductibles and Self-Insured Retentions

Any deductible and/or self-insured retention must be declared to OC SAN on the Certificate of Insurance. All deductibles and/or self-insured retentions require approval by OC SAN. At the option of OC SAN, either: the insurer shall reduce or eliminate such deductible or self-insured retention as respects OC SAN; or the CONSULTANT shall provide a financial guarantee satisfactory to OC SAN guaranteeing payment of losses and related investigations, claim administration and defense expenses.

N. Defense Costs

Liability policies shall have a provision that defense costs for all insureds and additional insureds are paid in addition to and do not deplete any policy limits.

O. Subconsultants

The CONSULTANT shall be responsible to establish insurance requirements for any Subconsultant hired by the CONSULTANT. The insurance shall be in amounts and types reasonably sufficient to deal with the risk of loss involving the Subconsultant's operations and work.

P. Limits Are Minimums

If the CONSULTANT maintains higher limits than any minimums shown above, then OC SAN requires and shall be entitled to coverage for the higher limits maintained by CONSULTANT.

9. SCOPE CHANGES

In the event of a change in the Scope of Work or a change in the proposed Project, as requested by OC SAN, the Parties hereto shall execute an Amendment to this AGREEMENT setting forth with particularity all terms of the new AGREEMENT, including, but not limited to any additional CONSULTANT's fees.

10. PROJECT TEAM AND SUBCONSULTANTS

CONSULTANT shall provide to OC SAN, prior to execution of this AGREEMENT, the names and full description of all Subconsultants and CONSULTANT's project team members anticipated to be used on this Project under this AGREEMENT by CONSULTANT. CONSULTANT shall include a description of the work and services to be done by each Subconsultant and each of CONSULTANT's Project team member. CONSULTANT shall include the respective compensation amounts for CONSULTANT and each Subconsultant.

There shall be no substitution of the listed Subconsultants and CONSULTANT's project team members without prior written approval by OC SAN.

11. ENGINEERING REGISTRATION

The CONSULTANT's personnel and Subconsultants are comprised of a staff of specialists in each department. The firm itself is not a registered engineer but represents and agrees that wherever, in the performance of this AGREEMENT, the services of a registered engineer is required, such services hereunder will be performed under the direct supervision of registered engineers who are registered in California.

12. AUDIT PROVISIONS.

A. OC SAN retains the reasonable right to access, review, examine, and audit, any and all books, records, documents and any other evidence of procedures and practices that OC SAN determines are necessary to discover and verify that the CONSULTANT is in compliance with all requirements under this AGREEMENT. The CONSULTANT shall include OC SAN's right as described above, in any and all of their subcontracts, and shall ensure that these rights are binding upon all Subconsultants.

- B. OC SAN retains the right to examine CONSULTANT's books, records, documents and any other evidence of procedures and practices that OC SAN determines are necessary to discover and verify all direct and indirect costs, of whatever nature, which are claimed to have been incurred, or anticipated to be incurred or to ensure CONSULTANT's compliance with all requirements under this AGREEMENT during the term of this AGREEMENT and for a period of three (3) years after its termination.
- C. CONSULTANT shall maintain complete and accurate records in accordance with generally accepted industry standard practices and OC SAN's policy. The CONSULTANT shall make available to OC SAN for review and audit, all project related accounting records and documents, and any other financial data within 15 days after receipt of notice from OC SAN. Upon OC SAN's request, the CONSULTANT shall submit exact duplicates of originals of all requested records to OC SAN. If an audit is performed, CONSULTANT shall ensure that a qualified employee of the CONSULTANT will be available to assist OC SAN's auditor in obtaining all Project related accounting records and documents, and any other financial data.

13. LEGAL RELATIONSHIP BETWEEN PARTIES

The legal relationship between the parties hereto is that of an independent contractor and nothing herein shall be deemed to transform CONSULTANT, its staff, independent contractors, or Subconsultants into employees of OC SAN. CONSULTANT'S staff performing services under the AGREEMENT shall at all times be employees and/or independent contractors of CONSULTANT. CONSULTANT shall monitor and control its staff and pay wages, salaries, and other amounts due directly to its staff in connection with the AGREEMENT. CONSULTANT shall be responsible for hiring, review, and termination of its staff and shall be accountable for all reports and obligations respecting them, such as social security, income tax withholding, unemployment compensation, workers' compensation and similar matters.

14. NOTICES

All notices hereunder and communications regarding the interpretation of the terms of this AGREEMENT, or changes thereto, shall be effected by delivery of said notices in person or by depositing said notices in the U.S. mail, registered or certified mail, return receipt requested, postage prepaid and addressed as follows:

ORANGE COUNTY SANITATION DISTRICT
10844 Ellis Avenue
Fountain Valley, CA 92708-7018
Attention: Clarice Marcin, Contracts Administration
Copy: William Gilbert and Rick Kwiecien, Project Managers

CONSULTANT:

«Company»
«ConsultantsName»

«Address»
«CityStateZip»

All communication regarding the Scope of Work, will be addressed to the Project Manager. Direction from other OC SAN staff must be approved in writing by OC SAN's Project Manager prior to action from the CONSULTANT.

15. TERMINATION

OC SAN may terminate this AGREEMENT at any time, without cause, upon giving thirty (30) days written notice to CONSULTANT. In the event of such termination, CONSULTANT shall be entitled to compensation for work performed on a prorated basis through and including the effective date of termination.

CONSULTANT shall be permitted to terminate this AGREEMENT upon thirty (30) days written notice only if CONSULTANT is not compensated for billed amounts in accordance with the provisions of this AGREEMENT, when the same are due.

Notice of termination shall be mailed to OC SAN at the address listed in Section 14 - NOTICES.

16. DOCUMENTS AND STUDY MATERIALS

The documents and study materials for this Project shall become the property of OC SAN upon the termination or completion of the work. CONSULTANT agrees to furnish to OC SAN copies of all memoranda, correspondence, electronic materials, computation and study materials in its files pertaining to the work described in this AGREEMENT, which is requested in writing by OC SAN.

17. COMPLIANCE

A. Labor

CONSULTANT certifies by the execution of this AGREEMENT that it pays employees not less than the minimum wage as defined by law, and that it does not discriminate in its employment with regard to race, color, religion, sex or national origin; that it is in compliance with all federal, state and local directives and executive orders regarding non-discrimination in employment; and that it agrees to demonstrate positively and aggressively the principle of equal opportunity in employment.

B. Air Pollution

CONSULTANT and its Subconsultants and subcontractors shall comply with all applicable federal, state and local air pollution control laws and regulations.

18. AGREEMENT EXECUTION AUTHORIZATION

Both OC SAN and CONSULTANT do covenant that each individual executing this document by and on behalf of each Party is a person duly authorized to execute this

AGREEMENT for that Party.

19. DISPUTE RESOLUTION

In the event of a dispute arising between the parties regarding performance or interpretation of this AGREEMENT, the dispute shall be resolved by binding arbitration under the auspices of the Judicial Arbitration and Mediation Service (“JAMS”), or similar organization or entity conducting alternate dispute resolution services.

20. ATTORNEY'S FEES, COSTS AND NECESSARY DISBURSEMENTS

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 he may be entitled.

21. WARRANTY

CONSULTANT shall perform its services in accordance with generally accepted industry and professional standards. If, within the 12-month period following completion of its services, OC SAN informs CONSULTANT that any part of the services fails to meet those standards, CONSULTANT shall, within the time prescribed by OC SAN, take all such actions as are necessary to correct or complete the noted deficiency(ies).

22. INDEMNIFICATION

To the fullest extent permitted by law, CONSULTANT shall indemnify, defend (at CONSULTANT's sole cost and expense and with legal counsel approved by OC SAN, which approval shall not be unreasonably withheld), protect and hold harmless OC SAN and all of OC SAN's officers, directors, employees, CONSULTANT's, and agents (collectively the “Indemnified Parties”), from and against any and all claims, damages, liabilities, causes of action, suits, arbitration awards, losses, judgments, fines, penalties, costs and expenses (including, without limitation, attorneys' fees, disbursements and court costs, and all other professional, expert or CONSULTANT's fees and costs and OC SAN's general and administrative expenses; individually, a “Claim”; collectively, “Claims”) which may arise from or are in any manner related, directly or indirectly, to any work performed, or any operations, activities, or services provided by CONSULTANT in carrying out its obligations under this AGREEMENT to the extent of the negligent, recklessness and/or willful misconduct of CONSULTANT, its principals, officers, agents, employees, CONSULTANT's suppliers, CONSULTANT, Subconsultants, subcontractors, and/or anyone employed directly or indirectly by any of them, regardless of any contributing negligence or strict liability of an Indemnified Party. Notwithstanding the foregoing, nothing herein shall be construed to require CONSULTANT to indemnify the Indemnified Parties from any Claim arising solely from:

(A) the active negligence or willful misconduct of the Indemnified Parties; or

(B) a natural disaster or other act of God, such as an earthquake; or

(C) the independent action of a third party who is neither one of the Indemnified Parties

nor the CONSULTANT, nor its principal, officer, agent, employee, nor CONSULTANT's supplier, CONSULTANT, Subconsultant, subcontractor, nor anyone employed directly or indirectly by any of them.

Exceptions (A) through (B) above shall not apply, and CONSULTANT shall, to the fullest extent permitted by law, indemnify the Indemnified Parties, from Claims arising from more than one cause if any such cause taken alone would otherwise result in the obligation to indemnify hereunder.

CONSULTANT's liability for indemnification hereunder is in addition to any liability CONSULTANT may have to OC SAN for a breach by CONSULTANT of any of the provisions of this AGREEMENT. Under no circumstances shall the insurance requirements and limits set forth in this AGREEMENT be construed to limit CONSULTANT's indemnification obligation or other liability hereunder. The terms of this AGREEMENT are contractual and the result of negotiation between the parties hereto. Accordingly, any rule of construction of contracts (including, without limitation, California Civil Code Section 1654) that ambiguities are to be construed against the drafting party, shall not be employed in the interpretation of this AGREEMENT.

23. DUTY TO DEFEND

The duty to defend hereunder is wholly independent of and separate from the duty to indemnify and such duty to defend shall exist regardless of any ultimate liability of CONSULTANT and shall be consistent with Civil Code section 2782.8. Such defense obligation shall arise immediately upon presentation of a Claim by any person if, without regard to the merit of the Claim, such Claim could potentially result in an obligation to indemnify one or more Indemnified Parties, and upon written notice of such Claim being provided to CONSULTANT. Payment to CONSULTANT by any Indemnified Party or the payment or advance of defense costs by any Indemnified Party shall not be a condition precedent to enforcing such Indemnified Party's rights to indemnification hereunder. In the event a final judgment, arbitration, award, order, settlement, or other final resolution expressly determines that the claim did not arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the CONSULTANT, to any extent, then OC SAN will reimburse CONSULTANT for the reasonable costs of defending the Indemnified Parties against such claims.

CONSULTANT's indemnification obligation hereunder shall survive the expiration or earlier termination of this AGREEMENT until such time as action against the Indemnified Parties for such matter indemnified hereunder is fully and finally barred by the applicable statute of limitations.

24. COMPLIANCE WITH OC SAN POLICIES AND PROCEDURES

CONSULTANT shall comply with all OC SAN policies and procedures including the Contractor Safety Standards, as applicable, all of which may be amended from time to time.

25. CLOSEOUT

When OC SAN determines that all Work authorized under the AGREEMENT is fully

complete and that OC SAN requires no further work from CONSULTANT, or the AGREEMENT is otherwise terminated or expires in accordance with the terms of the AGREEMENT, OC SAN shall give the Consultant written notice that the AGREEMENT will be closed out. CONSULTANT shall submit all outstanding billings, work submittals, deliverables, reports or similarly related documents as required under the AGREEMENT within thirty (30) days of receipt of notice of AGREEMENT closeout.

Upon receipt of CONSULTANT's submittals, OC SAN shall commence a closeout audit of the AGREEMENT and will either:

- i. Give the CONSULTANT a final AGREEMENT Acceptance: or
- ii. Advise the CONSULTANT in writing of any outstanding item or items which must be furnished, completed, or corrected at the CONSULTANT's cost.

CONSULTANT shall be required to provide adequate resources to fully support any administrative closeout efforts identified in the AGREEMENT. Such support must be provided within the timeframe requested by OC SAN.

Notwithstanding the final AGREEMENT acceptance, the CONSULTANT will not be relieved of its obligations hereunder, nor will the CONSULTANT be relieved of its obligations to complete any portions of the work, the non-completion of which were not disclosed to OC SAN (regardless of whether such nondisclosures were fraudulent, negligent, or otherwise), and the CONSULTANT shall remain obligated under all those provisions of the AGREEMENT which expressly or by their nature extend beyond and survive final AGREEMENT Acceptance.

Any failure by OC SAN to reject the work or to reject the CONSULTANT's request for final AGREEMENT Acceptance as set forth above shall not be deemed to be acceptance of the work by OC SAN for any purpose nor imply acceptance of, or AGREEMENT with, the CONSULTANT's request for final AGREEMENT Acceptance.

26. ENTIRE AGREEMENT

This AGREEMENT constitutes the entire understanding and AGREEMENT between the Parties and supersedes all previous negotiations between them pertaining to the subject matter thereof.

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

IN WITNESS WHEREOF, this AGREEMENT has been executed in the name of OC SAN, by its officers thereunto duly authorized, and CONSULTANT as of the day and year first above written.

CONSULTANT: COMPANY NAME

By _____ Date

Printed Name & Title

ORANGE COUNTY SANITATION DISTRICT

By _____ Date
John B. Withers
Board Chairman

By _____ Date
Kelly A. Lore
Clerk of the Board

By _____ Date
Ruth Zintzun
Purchasing & Contracts Manager

- Attachments: Attachment "A" – Scope of Work
Attachment "B" – Not Attached
Attachment "C" – Not Attached
Attachment "D" – Fee Proposal
Attachment "E" – Not Attached
Attachment "F" – Not Attached
Attachment "G" – Not Attached
Attachment "H" – Not Used
Attachment "I" – Safety Declaration
Attachment "J" – Contractor Safety Standards
Attachment "K" - Allowable Direct Costs

CMM

ATTACHMENT “A”

SCOPE OF WORK

ATTACHMENT "A"

SCOPE OF WORK

MATERIALS TESTING, INSPECTION, AND OTHER GEOTECHNICAL TESTING SERVICES FOR THE ORANGE COUNTY SANITATION DISTRICT'S CAPITAL IMPROVEMENT PROGRAM, FACILITIES ENGINEERING, OPERATIONS, AND MAINTENANCE PROJECTS

PSA2022-003

I. PURPOSE

The selected CONSULTANT shall provide on-call materials testing, inspection and other geotechnical testing services as required in support of OC SAN's Capital Improvement Program, Facilities Engineering, Operations, and Maintenance projects. The locations for this work include the two treatment plants and other facilities (pump stations and collections system) located throughout Orange County and offsite facilities as required for testing and observation.

II. TYPICAL TASKS

- SOILS:** Provide lab testing for maximum density, sieve analysis, gradation and soil identification. Field-test compacted soil using nuclear density meter methods. Inspect compaction efforts by contractors to achieve specification-required densities. On a less frequent basis, be prepared to conduct soil sampling to depths as required.
- CONCRETE/MASONRY:** Provide concrete, mortar and grout cylinder compressive testing, masonry prism test, and shear test on brick cores. Pick up test specimen sets from construction sites. Provide concrete and masonry construction inspection as needed.
- WELDING INSPECTION:** Provide certified welding inspection for pipelines, welded connections, or as directed by OC SAN. The inspections shall include non-destructive testing and destructive testing as needed. Some welding inspection may occur outside of California and fees will be negotiated on a case-by-case basis.
- ASPHALT:** Provide field density testing and sample collection and lab testing. Inspect compaction efforts by contractors to achieve specification-required densities.
- METALS:** Provide tensile strength lab testing. Provide field testing for welds and inspect welding operations. As needed, provide materials analysis to determine the type of steel with destructive testing as required. Provide Positive Material Identification utilizing an XRF analyzer, Niton XLT 898 or equal.

MATERIALS: Provide material testing services for determining the chemical composition of various metals including but not limited to cast iron, cast steel, ductile iron, FRP, stainless steel castings (fittings), stainless steel piping, steel pipe, aluminum, copper alloy or as directed. Service may include destructive and non-destructive testing and opinion as to the grade, type, or ASTM equivalent.

III. REQUIREMENTS

1. CONSULTANT shall be available to work the next day if scheduled by the end of the work day. OC SAN expects that the technician will arrive at the site with the correct equipment, calibrated to existing standards with documentation. OC SAN will not reimburse the CONSULTANT for the time required to obtain the correct equipment.
2. Equipment that requires calibration shall be calibrated prior to the work. Calibration costs and equipment shall be included in the total hourly rate for field service fees.
3. All test results shall be clearly summarized in a standardized report format and submitted to OC SAN for review and comment.
4. CONSULTANT shall provide a detailed daily report for each day of field testing and observation with reported hours within 24 hours. The report can be non-carbon or photo copied reproduction. CONSULTANT shall sign in and out daily with the OC SAN representative.
5. CONSULTANT shall be available for night work (4:30 p.m. to 7:00 a.m.) upon 24-hour advance notice.
6. CONSULTANT shall be available to attend a pre-construction meeting and other key meetings as the project progresses.
7. All technicians must be adequately insured for liability and property damage, and a copy of the policy must be forwarded to OC SAN. Vehicles shall bear the CONSULTANT's name.
8. At least one member in the field shall have a cell phone or other form of communication so as to be in contact with the home office in the event the OC SAN requires immediate communication during normal working hours, and shall have means to be directly contacted in the field by OC SAN personnel via cell phone.
9. CONSULTANT must be able to recognize errors or omissions in the contract documents and specifications, and alert OC SAN staff timely in order to mitigate production delays and costs.
10. CONSULTANT shall comply with OSHA requirements and OCSD Safety Standards.
11. On occasion, CONSULTANT will be required to enter confined spaces to perform work. Entrants shall be CAL-OSHA confined-space trained and certified. Certifications shall be submitted to OC SAN for review and approval at least 48

hours prior to commencement of work. Personnel will be entering under Contractor's confined-space entry permit.

12. Personal protective equipment (PPE), including lower explosive limit (LEL) personal monitors is required onsite for all personnel.
 - a. Personnel must be fall-protection trained and provide their own fall-protection PPE, when onsite.
13. OC SAN shall provide to the CONSULTANT a Task Order Number that will be used to track the work. The CONSULTANT will not begin any work without the Task Order Number. If the CONSULTANT receives direction from OC SAN to perform some type of work without a Task Order Number, the CONSULTANT shall contact the Inspection Supervisor to determine if the work is authorized and receive a Task Order Number if appropriate.
14. CONSULTANT will submit monthly statements, ***separately for each project or Task***, covering services and/or work performed no later than the second Wednesday of the following month and in the format required by OC SAN, to request payment. Such requests shall be based upon the amount and value of the work and services performed by CONSULTANT under this Agreement and shall be prepared by CONSULTANT and accompanied by such supporting data (including sign in/out sheets signed by CONSULTANT and OC SAN representative), including:
 - Task Order Number and Project Number and/or Project Description included on the statement.
 - Tasks completed, identified by the Task number assigned to each Task.
 - Detailed breakdown of all costs incurred per task performed, and all back-up documentation for each Task.
 - Copy of the daily notes or tasks including the signature of OC SAN's Inspector approving the day's work.
 - Running total of services billed, services paid, services billed but not paid, and the amount of the contract remaining.

OC SAN will not approve any task performed without the appropriate back-up documentation and may result in delayed or partial payment. Failure to submit monthly statements no later than the second Wednesday of the following month may result in delayed payment.

15. If any conflict of interest occurs on a project, OC SAN shall be notified without delay of the conflict. OC SAN will evaluate conflict of interest on a case-by-case basis and advise as to whether it may be waived in each case.
16. To accommodate cases where other materials testing services are required, CONSULTANT shall, when requested by OC SAN, locate and subcontract local, qualified inspectors who can satisfy requirements for inspection and/or testing, and shall direct the work of the subcontractor(s). Billing rates for subcontractor(s) shall not exceed submitted rates for this proposal, plus a 15% overhead mark up.

PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT, is made and entered into to be effective the 1st day of May, 2022, by and between the ORANGE COUNTY SANITATION DISTRICT, hereinafter referred to as "OC SAN", and KOURY ENGINEERING & TESTING, INC., for purposes of this AGREEMENT hereinafter referred to as "CONSULTANT". OC SAN and CONSULTANT are referred to herein collectively as the "Parties" or individually as a "Party."

WITNESSETH:

WHEREAS, OC SAN desires to engage a consultant for materials testing, inspection, and other geotechnical testing services in support of the OC SAN's Capital Improvement Program, Facilities Engineering, Operations, and Maintenance projects, PSA2022-003; and,

WHEREAS, CONSULTANT is qualified to provide the necessary services in connection with these requirements and has agreed to provide the necessary professional services; and,

WHEREAS, OC SAN has adopted procedures for the selection of professional services and has proceeded in accordance with said procedures to select a CONSULTANT to perform this work; and,

WHEREAS, at its regular meeting on March 23, 2022, the Board of Directors, by Minute Order, accepted the recommendation of the Operations Committee to approve this AGREEMENT between OC SAN and CONSULTANT.

NOW, THEREFORE, in consideration of the promises and mutual benefits, which will result to the parties in carrying out the terms of this AGREEMENT, it is mutually agreed as follows:

1. SCOPE OF WORK

CONSULTANT agrees to furnish necessary professional services to accomplish those project elements outlined in the Scope of Work attached hereto as "Attachment A", and by this reference made a part of this AGREEMENT.

- A. The CONSULTANT shall be responsible for the professional quality, technical accuracy, and completeness and coordination of the work and services furnished by the CONSULTANT under this AGREEMENT, including the work performed by its Subconsultants. Where approval by OC SAN is indicated, it is understood to be conceptual approval only and does not relieve the CONSULTANT of responsibility for complying with all applicable laws, regulations, codes, industry standards and liability for damages caused by errors, omissions, noncompliance with industry standards, and/or negligence on the part of the CONSULTANT or its Subconsultants.
- B. CONSULTANT is responsible for the quality of work prepared under this AGREEMENT and shall ensure that all work is performed to the highest industry standards for clarity, uniformity, and completeness. CONSULTANT shall timely respond to all comments, suggestions, and recommendations from OC SAN. All comments from OC SAN, or its agent, shall be incorporated into the work prior to

the next review deadline or addressed, in writing, as to why the comment(s) has/have not been incorporated. CONSULTANT shall ensure that each submittal is 100% accurate for the level of work submitted (i.e. correct references, terms, capitalization or equal status, spelling, punctuation, etc.).

- C. In the event that CONSULTANT's services and/or work product(s) is not to the satisfaction of OC SAN and/or does not conform to the requirements of this AGREEMENT or the applicable industry standards, the CONSULTANT shall, without additional compensation, promptly correct or revise any errors or deficiencies in its work product(s) within the timeframe specified by the Project Manager. OC SAN may charge to CONSULTANT all costs, expenses and damages associated with any such corrections or revisions.
- D. All professional services performed by the CONSULTANT, including, but not limited to, all drafts, data, correspondence, proposals, and reports compiled or composed by the CONSULTANT, pursuant to this AGREEMENT, are for the sole use of OC SAN, its agents and employees. Neither the documents nor their contents shall be released to any third party without the prior written consent of OC SAN. This provision does not apply to information that (a) was publicly known, or otherwise known to the CONSULTANT, at the time that it was disclosed to the CONSULTANT by OC SAN, or (b) subsequently becomes publicly known to the CONSULTANT other than through disclosure by OC SAN.

2. COMPENSATION

Total compensation shall be paid to CONSULTANT for services in accordance with the following provisions:

A. Total Compensation

Total compensation shall be in an amount not to exceed Four Hundred Thousand Dollars (\$400,000.00), over a three (3) year period.

OC SAN shall pay to CONSULTANT one total hourly rate set forth in Attachment "D" - Fee Proposal. The rate shall include all costs such as, but not necessarily limited to, technician labor, equipment, and overhead rates, report writing, office review and supervision, other miscellaneous charges. Drive time and mileage shall be included in the hourly rate and will not be allowed as additional costs.

B. Other Direct Costs

Other Direct Costs incurred by CONSULTANT and its Contractor due to modifications in scope of work resulting from field investigations and field work required by Contract. These items may include special equipment, test equipment and tooling and other materials and services not previously identified. Refer to attachment "K" Allowable Direct Costs for payment information.

3. PAYMENT

- A. Invoice: CONSULTANT shall include in its invoice, a detailed breakdown of costs associated with the performance of any corrections or revisions of the work for that invoicing period, in a format acceptable to OC SAN. CONSULTANT shall include copies of the daily notes or tasks including the signature of the OC SAN's Inspector approving the day's work for that invoicing period. CONSULTANT shall warrant and certify the accuracy of these costs and provide all support documentation required by OC SAN. CONSULTANT understands that submitted costs are subject to Audit Provisions as stated under this Agreement.
- B. CONSULTANT will submit statements covering services and/or work performed for payment for those items. The format must include, as a minimum: 1) current billing period invoicing, 2) current billing period "total percent invoiced to date", and 3) budget status and amount remaining. Such requests shall be accompanied by such supporting data as may be required by OC SAN.

Upon approval of such payment request by OC SAN, payment shall be made to CONSULTANT as soon as practicable of one hundred percent (100%) of the invoiced amount.

- C. Upon satisfactory completion of the work performed hereunder and prior to final payment under this AGREEMENT for such work, or prior settlement upon termination of this AGREEMENT, and as a condition precedent thereto, CONSULTANT shall execute and deliver to OC SAN a release of all claims against OC SAN arising under or by virtue of this AGREEMENT other than such claims, if any, as may be specifically exempted by CONSULTANT from the operation of the release in stated amounts to be set forth therein.
- D. Pursuant to the California False Claims Act (Government Code sections 12650-12655), any CONSULTANT that knowingly submits a false claim to OC SAN for compensation under the terms of this AGREEMENT may be held liable for treble damages and up to a \$10,000 civil penalty for each false claim submitted. This section shall also be binding on all Subconsultants.

A CONSULTANT or Subconsultant shall be deemed to have submitted a false claim when the CONSULTANT or Subconsultant: (a) knowingly presents or causes to be presented to an officer or employee of OC SAN a false claim or request for payment or approval; (b) knowingly makes, uses, or causes to be made or used a false record or statement to get a false claim paid or approved by OC SAN; (c) conspires to defraud OC SAN by getting a false claim allowed or paid by OC SAN; (d) knowingly makes, uses, or causes to be made or used a false record or statement to conceal, avoid, or decrease an obligation to OC SAN; or (e) is a beneficiary of an inadvertent submission of a false claim to OC SAN, and fails to disclose the false claim to OC SAN within a reasonable time after discovery of the false claim.

4. PREVAILING WAGES

To the extent CONSULTANT intends to utilize employees who will perform work during the contract, as more specifically defined under Labor Code Section 1720,

CONSULTANT shall be subject to prevailing wage requirements with respect to such employees.

5. CALIFORNIA DEPARTMENT OF INDUSTRIAL RELATIONS (DIR) REGISTRATION AND RECORD OF WAGES

- A. To the extent CONSULTANT's employees and/or Subconsultants who will perform Work during the design and preconstruction phases of a construction contract for which Prevailing Wage Determinations have been issued by the DIR and as more specifically defined under Labor Code Section 1720 et seq, CONSULTANT and Subconsultants shall comply with the registration requirements of Labor Code Section 1725.5. Pursuant to Labor Code Section 1771.4, the Work is subject to compliance monitoring and enforcement by the DIR.
- B. The CONSULTANT and Subconsultants shall maintain accurate payroll records and shall comply with all the provisions of Labor Code Section 1776, and shall submit payroll records to the Labor Commissioner pursuant to Labor Code Section 1771.4(a)(3). Penalties for non-compliance with the requirements of Section 1776 may be deducted from progress payments per Section 1776.
- C. Pursuant to Labor Code Section 1776, the CONSULTANT and Subconsultants shall furnish a copy of all certified payroll records to OC SAN and/or general public upon request, provided the public request is made through OC SAN, the Division of Apprenticeship Standards or the Division of Labor Enforcement of the Department of Industrial Relations.
- D. The CONSULTANT and 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).

6. DOCUMENT OWNERSHIP – CONSULTANT PERFORMANCE

- A. Ownership of Documents for the Professional Services performed.

All documents in all forms (electronic, paper, etc.), including, but not limited to, studies, sketches, drawings, computer printouts, disk files, and electronic copies prepared in connection with or related to the Scope of Work or Professional Services, shall be the property of OC SAN. OC SAN's ownership of these documents includes use of, reproduction or reuse of and all incidental rights, whether or not the work for which they were prepared has been performed. OC SAN ownership entitlement arises upon payment or any partial payment for work performed and includes ownership of any and all work product completed prior to that payment. This Section shall apply whether the CONSULTANT's Professional Services are terminated: a) by the completion of the AGREEMENT, or b) in accordance with other provisions of this AGREEMENT. Notwithstanding any other provision of this paragraph or AGREEMENT, the CONSULTANT shall have the right to make copies of all such plans, studies, sketches, drawings, computer printouts and disk files, and specifications.

- B. CONSULTANT shall not be responsible for damage caused by subsequent changes to or uses of the study or deliverable where the subsequent changes or uses are not authorized or approved by CONSULTANT, provided that the service rendered by CONSULTANT was not a proximate cause of the damage.

7. AGREEMENT TERM

The services provided under this AGREEMENT shall be for the period of three (3) years, commencing on May 1, 2022 and continuing through April 30, 2025.

8. INSURANCE

A. General

- i. Insurance shall be issued and underwritten by insurance companies acceptable to OC SAN.
- ii. Insurers must have an "A-" Policyholder's Rating, or better, and Financial Rating of at least Class VIII, or better, in accordance with the most current A.M. Best's Guide Rating. However, OC SAN will accept State Compensation Insurance Fund, for the required policy of Worker's Compensation Insurance subject to OC SAN's option to require a change in insurer in the event the State Fund financial rating is decreased below "B". Further, OC SAN will require CONSULTANT to substitute any insurer whose rating drops below the levels herein specified. Said substitution shall occur within twenty (20) days of written notice to CONSULTANT, by OC SAN or its agent.
- iii. Coverage shall be in effect prior to the commencement of any work under this AGREEMENT.

B. General Liability

The CONSULTANT shall maintain during the life of this AGREEMENT, including the period of warranty, Commercial General Liability Insurance written on an occurrence basis providing the following minimum limits of liability coverage: Two Million Dollars (\$2,000,000) per occurrence with Four Million Dollars (\$4,000,000) aggregate. Said insurance shall include coverage for the following hazards: Premises-Operations, blanket contractual liability (for this AGREEMENT), products liability/completed operations (including any product manufactured or assembled), broad form property damage, blanket contractual liability, independent contractors liability, personal and advertising injury, mobile equipment, owners and contractors protective liability, and cross liability and severability of interest clauses. A statement on an insurance certificate will not be accepted in lieu of the actual additional insured endorsement(s). If requested by OC SAN and applicable, XCU coverage (Explosion, Collapse and Underground) and Riggers/On Hook Liability must be included in the General Liability policy and coverage must be reflected on the submitted Certificate of Insurance.

C. Umbrella Excess Liability

The minimum limits of general liability and Automotive Liability Insurance required, as set forth herein, shall be provided for through either a single policy of primary insurance or a combination of policies of primary and umbrella excess coverage. Umbrella excess liability coverage shall be issued with limits of liability which, when combined with the primary insurance, will equal the minimum limits for general liability and automotive liability.

D. Automotive/Vehicle liability Insurance

The CONSULTANT shall maintain a policy of Automotive Liability Insurance on a comprehensive form covering all owned, non-owned, and hired automobiles, trucks, and other vehicles providing the following minimum limits of liability coverage: Combined single limit of One Million Dollars (\$1,000,000). A statement on an insurance certificate will not be accepted in lieu of the actual additional insured endorsement.

E. Drone Liability Insurance

If a drone will be used, drone liability insurance must be maintained by CONSULTANT in the amount of One Million Dollars (\$1,000,000) in a form acceptable by OC SAN.

F. Worker's Compensation Insurance

The CONSULTANT shall provide such Workers' Compensation Insurance as required by the Labor Code of the State of California in the amount of the statutory limit, including Employer's Liability Insurance with a minimum limit of One Million Dollars (\$1,000,000) per occurrence. Such Worker's Compensation Insurance shall be endorsed to provide for a waiver of subrogation in favor of OC SAN. A statement on an insurance certificate will not be accepted in lieu of the actual endorsements unless the insurance carrier is State of California Insurance Fund and the identifier "SCIF" and endorsement numbers 2570 and 2065 are referenced on the certificate of insurance. If an exposure to Jones Act liability may exist, the insurance required herein shall include coverage for Jones Act claims.

G. Errors and Omissions/Professional Liability

CONSULTANT shall maintain in full force and effect, throughout the term of this AGREEMENT, standard industry form professional negligence errors and omissions insurance coverage in an amount of not less than One Million Dollars (\$1,000,000) with limits in accordance with the provisions of this Paragraph. If the policy of insurance is written on a "claims made" basis, said policy shall be continued in full force and effect at all times during the term of this AGREEMENT, and for a period of five (5) years from the date of the completion of the services hereunder.

In the event of termination of said policy during this period, CONSULTANT shall obtain continuing insurance coverage for the prior acts or omissions of

CONSULTANT during the course of performing services under the term of this AGREEMENT. Said coverage shall be evidenced by either a new policy evidencing no gap in coverage or by separate extended "tail" coverage with the present or new carrier.

In the event the present policy of insurance is written on an "occurrence" basis, said policy shall be continued in full force and effect during the term of this AGREEMENT or until completion of the services provided for in this AGREEMENT, whichever is later. In the event of termination of said policy during this period, new coverage shall be obtained for the required period to insure for the prior acts of CONSULTANT during the course of performing services under the term of this AGREEMENT.

CONSULTANT shall provide to OC SAN a certificate of insurance in a form acceptable to OC SAN indicating the deductible or self-retention amounts and the expiration date of said policy, and shall provide renewal certificates not less than ten (10) days prior to the expiration of each policy term.

H. Proof of Coverage

The CONSULTANT shall furnish OC SAN with original certificates and amendatory endorsements effecting coverage. Said policies and endorsements shall conform to the requirements herein stated. All certificates and endorsements are to be received and approved by OC SAN before work commences. OC SAN reserves the right to require complete, certified copies of all required insurance policies, including endorsements, effecting the coverage required, at any time. The following are approved forms that must be submitted as proof of coverage:

- Certificate of Insurance ACORD Form 25 (5/2010) or equivalent.
- Additional Insurance (General Liability) (ISO Form) CG2010 11 85 or
The combination of (ISO Forms)
CG 2010 10 01 and CG 2037 10 01

All other Additional Insured endorsements must be submitted for approval by OC SAN, and OC SAN may reject alternatives that provide different or less coverage to OC SAN.

- Additional Insured (Auto Liability) Submit endorsement provided by carrier for OC SAN approval.
- Waiver of Subrogation State Compensation Insurance Fund Endorsement No. 2570 or equivalent.
- Cancellation Notice State Compensation Insurance Fund Endorsement No. 2065 or equivalent.

I. Cancellation Notice

Each insurance policy required herein shall be endorsed to state that coverage shall not be cancelled by either party, except after thirty (30) days' prior written notice. The Cancellation Section of ACORD Form 25 (5/2010) shall state the required thirty (30) days' written notification. The policy shall not terminate, nor shall it be cancelled, nor the coverage reduced until thirty (30) days after written notice is given to OC SAN except for nonpayment of premium, which shall require not less than ten (10) days written notice to OC SAN. Should there be changes in coverage or an increase in deductible or SIR amounts, the CONSULTANT and its insurance broker/agent shall send to OC SAN a certified letter which includes a description of the changes in coverage and/or any increase in deductible or SIR amounts. The certified letter must be sent to the attention of Risk Management, and shall be received by OC SAN not less than thirty (30) days prior to the effective date of the change(s) if the change would reduce coverage or increase deductibles or SIR amounts or otherwise reduce or limit the scope of insurance coverage provided to OC SAN.

J. Primary Insurance

All liability policies shall contain a Primary and Non Contributory Clause. Any other insurance maintained by OC SAN shall be excess and not contributing with the insurance provided by CONSULTANT.

K. Separation of Insured

All liability policies shall contain a "Separation of Insureds" clause.

L. Non-Limiting (if applicable)

Nothing in this document shall be construed as limiting in any way, nor shall it limit the indemnification provision contained in this AGREEMENT, or the extent to which CONSULTANT may be held responsible for payment of damages to persons or property.

M. Deductibles and Self-Insured Retentions

Any deductible and/or self-insured retention must be declared to OC SAN on the Certificate of Insurance. All deductibles and/or self-insured retentions require approval by OC SAN. At the option of OC SAN, either: the insurer shall reduce or eliminate such deductible or self-insured retention as respects OC SAN; or the CONSULTANT shall provide a financial guarantee satisfactory to OC SAN guaranteeing payment of losses and related investigations, claim administration and defense expenses.

N. Defense Costs

Liability policies shall have a provision that defense costs for all insureds and additional insureds are paid in addition to and do not deplete any policy limits.

O. Subconsultants

The CONSULTANT shall be responsible to establish insurance requirements for any Subconsultant hired by the CONSULTANT. The insurance shall be in amounts and types reasonably sufficient to deal with the risk of loss involving the Subconsultant's operations and work.

P. Limits Are Minimums

If the CONSULTANT maintains higher limits than any minimums shown above, then OC SAN requires and shall be entitled to coverage for the higher limits maintained by CONSULTANT.

9. SCOPE CHANGES

In the event of a change in the Scope of Work or a change in the proposed Project, as requested by OC SAN, the Parties hereto shall execute an Amendment to this AGREEMENT setting forth with particularity all terms of the new AGREEMENT, including, but not limited to any additional CONSULTANT's fees.

10. PROJECT TEAM AND SUBCONSULTANTS

CONSULTANT shall provide to OC SAN, prior to execution of this AGREEMENT, the names and full description of all Subconsultants and CONSULTANT's project team members anticipated to be used on this Project under this AGREEMENT by CONSULTANT. CONSULTANT shall include a description of the work and services to be done by each Subconsultant and each of CONSULTANT's Project team member. CONSULTANT shall include the respective compensation amounts for CONSULTANT and each Subconsultant.

There shall be no substitution of the listed Subconsultants and CONSULTANT's project team members without prior written approval by OC SAN.

11. ENGINEERING REGISTRATION

The CONSULTANT's personnel and Subconsultants are comprised of a staff of specialists in each department. The firm itself is not a registered engineer but represents and agrees that wherever, in the performance of this AGREEMENT, the services of a registered engineer is required, such services hereunder will be performed under the direct supervision of registered engineers who are registered in California.

12. AUDIT PROVISIONS.

A. OC SAN retains the reasonable right to access, review, examine, and audit, any and all books, records, documents and any other evidence of procedures and practices that OC SAN determines are necessary to discover and verify that the CONSULTANT is in compliance with all requirements under this AGREEMENT. The CONSULTANT shall include OC SAN's right as described above, in any and all of their subcontracts, and shall ensure that these rights are binding upon all Subconsultants.

- B. OC SAN retains the right to examine CONSULTANT's books, records, documents and any other evidence of procedures and practices that OC SAN determines are necessary to discover and verify all direct and indirect costs, of whatever nature, which are claimed to have been incurred, or anticipated to be incurred or to ensure CONSULTANT's compliance with all requirements under this AGREEMENT during the term of this AGREEMENT and for a period of three (3) years after its termination.
- C. CONSULTANT shall maintain complete and accurate records in accordance with generally accepted industry standard practices and OC SAN's policy. The CONSULTANT shall make available to OC SAN for review and audit, all project related accounting records and documents, and any other financial data within 15 days after receipt of notice from OC SAN. Upon OC SAN's request, the CONSULTANT shall submit exact duplicates of originals of all requested records to OC SAN. If an audit is performed, CONSULTANT shall ensure that a qualified employee of the CONSULTANT will be available to assist OC SAN's auditor in obtaining all Project related accounting records and documents, and any other financial data.

13. LEGAL RELATIONSHIP BETWEEN PARTIES

The legal relationship between the parties hereto is that of an independent contractor and nothing herein shall be deemed to transform CONSULTANT, its staff, independent contractors, or Subconsultants into employees of OC SAN. CONSULTANT'S staff performing services under the AGREEMENT shall at all times be employees and/or independent contractors of CONSULTANT. CONSULTANT shall monitor and control its staff and pay wages, salaries, and other amounts due directly to its staff in connection with the AGREEMENT. CONSULTANT shall be responsible for hiring, review, and termination of its staff and shall be accountable for all reports and obligations respecting them, such as social security, income tax withholding, unemployment compensation, workers' compensation and similar matters.

14. NOTICES

All notices hereunder and communications regarding the interpretation of the terms of this AGREEMENT, or changes thereto, shall be effected by delivery of said notices in person or by depositing said notices in the U.S. mail, registered or certified mail, return receipt requested, postage prepaid and addressed as follows:

ORANGE COUNTY SANITATION DISTRICT
10844 Ellis Avenue
Fountain Valley, CA 92708-7018
Attention: Clarice Marcin, Contracts Administration
Copy: William Gilbert and Rick Kwiecien, Project Managers

CONSULTANT:

«Company»
«ConsultantsName»

«Address»
«CityStateZip»

All communication regarding the Scope of Work, will be addressed to the Project Manager. Direction from other OC SAN staff must be approved in writing by OC SAN's Project Manager prior to action from the CONSULTANT.

15. TERMINATION

OC SAN may terminate this AGREEMENT at any time, without cause, upon giving thirty (30) days written notice to CONSULTANT. In the event of such termination, CONSULTANT shall be entitled to compensation for work performed on a prorated basis through and including the effective date of termination.

CONSULTANT shall be permitted to terminate this AGREEMENT upon thirty (30) days written notice only if CONSULTANT is not compensated for billed amounts in accordance with the provisions of this AGREEMENT, when the same are due.

Notice of termination shall be mailed to OC SAN at the address listed in Section 14 - NOTICES.

16. DOCUMENTS AND STUDY MATERIALS

The documents and study materials for this Project shall become the property of OC SAN upon the termination or completion of the work. CONSULTANT agrees to furnish to OC SAN copies of all memoranda, correspondence, electronic materials, computation and study materials in its files pertaining to the work described in this AGREEMENT, which is requested in writing by OC SAN.

17. COMPLIANCE

A. Labor

CONSULTANT certifies by the execution of this AGREEMENT that it pays employees not less than the minimum wage as defined by law, and that it does not discriminate in its employment with regard to race, color, religion, sex or national origin; that it is in compliance with all federal, state and local directives and executive orders regarding non-discrimination in employment; and that it agrees to demonstrate positively and aggressively the principle of equal opportunity in employment.

B. Air Pollution

CONSULTANT and its Subconsultants and subcontractors shall comply with all applicable federal, state and local air pollution control laws and regulations.

18. AGREEMENT EXECUTION AUTHORIZATION

Both OC SAN and CONSULTANT do covenant that each individual executing this document by and on behalf of each Party is a person duly authorized to execute this

AGREEMENT for that Party.

19. DISPUTE RESOLUTION

In the event of a dispute arising between the parties regarding performance or interpretation of this AGREEMENT, the dispute shall be resolved by binding arbitration under the auspices of the Judicial Arbitration and Mediation Service (“JAMS”), or similar organization or entity conducting alternate dispute resolution services.

20. ATTORNEY'S FEES, COSTS AND NECESSARY DISBURSEMENTS

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 he may be entitled.

21. WARRANTY

CONSULTANT shall perform its services in accordance with generally accepted industry and professional standards. If, within the 12-month period following completion of its services, OC SAN informs CONSULTANT that any part of the services fails to meet those standards, CONSULTANT shall, within the time prescribed by OC SAN, take all such actions as are necessary to correct or complete the noted deficiency(ies).

22. INDEMNIFICATION

To the fullest extent permitted by law, CONSULTANT shall indemnify, defend (at CONSULTANT's sole cost and expense and with legal counsel approved by OC SAN, which approval shall not be unreasonably withheld), protect and hold harmless OC SAN and all of OC SAN's officers, directors, employees, CONSULTANT's, and agents (collectively the “Indemnified Parties”), from and against any and all claims, damages, liabilities, causes of action, suits, arbitration awards, losses, judgments, fines, penalties, costs and expenses (including, without limitation, attorneys' fees, disbursements and court costs, and all other professional, expert or CONSULTANT's fees and costs and OC SAN's general and administrative expenses; individually, a “Claim”; collectively, “Claims”) which may arise from or are in any manner related, directly or indirectly, to any work performed, or any operations, activities, or services provided by CONSULTANT in carrying out its obligations under this AGREEMENT to the extent of the negligent, recklessness and/or willful misconduct of CONSULTANT, its principals, officers, agents, employees, CONSULTANT's suppliers, CONSULTANT, Subconsultants, subcontractors, and/or anyone employed directly or indirectly by any of them, regardless of any contributing negligence or strict liability of an Indemnified Party. Notwithstanding the foregoing, nothing herein shall be construed to require CONSULTANT to indemnify the Indemnified Parties from any Claim arising solely from:

(A) the active negligence or willful misconduct of the Indemnified Parties; or

(B) a natural disaster or other act of God, such as an earthquake; or

(C) the independent action of a third party who is neither one of the Indemnified Parties

nor the CONSULTANT, nor its principal, officer, agent, employee, nor CONSULTANT's supplier, CONSULTANT, Subconsultant, subcontractor, nor anyone employed directly or indirectly by any of them.

Exceptions (A) through (B) above shall not apply, and CONSULTANT shall, to the fullest extent permitted by law, indemnify the Indemnified Parties, from Claims arising from more than one cause if any such cause taken alone would otherwise result in the obligation to indemnify hereunder.

CONSULTANT's liability for indemnification hereunder is in addition to any liability CONSULTANT may have to OC SAN for a breach by CONSULTANT of any of the provisions of this AGREEMENT. Under no circumstances shall the insurance requirements and limits set forth in this AGREEMENT be construed to limit CONSULTANT's indemnification obligation or other liability hereunder. The terms of this AGREEMENT are contractual and the result of negotiation between the parties hereto. Accordingly, any rule of construction of contracts (including, without limitation, California Civil Code Section 1654) that ambiguities are to be construed against the drafting party, shall not be employed in the interpretation of this AGREEMENT.

23. DUTY TO DEFEND

The duty to defend hereunder is wholly independent of and separate from the duty to indemnify and such duty to defend shall exist regardless of any ultimate liability of CONSULTANT and shall be consistent with Civil Code section 2782.8. Such defense obligation shall arise immediately upon presentation of a Claim by any person if, without regard to the merit of the Claim, such Claim could potentially result in an obligation to indemnify one or more Indemnified Parties, and upon written notice of such Claim being provided to CONSULTANT. Payment to CONSULTANT by any Indemnified Party or the payment or advance of defense costs by any Indemnified Party shall not be a condition precedent to enforcing such Indemnified Party's rights to indemnification hereunder. In the event a final judgment, arbitration, award, order, settlement, or other final resolution expressly determines that the claim did not arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the CONSULTANT, to any extent, then OC SAN will reimburse CONSULTANT for the reasonable costs of defending the Indemnified Parties against such claims.

CONSULTANT's indemnification obligation hereunder shall survive the expiration or earlier termination of this AGREEMENT until such time as action against the Indemnified Parties for such matter indemnified hereunder is fully and finally barred by the applicable statute of limitations.

24. COMPLIANCE WITH OC SAN POLICIES AND PROCEDURES

CONSULTANT shall comply with all OC SAN policies and procedures including the Contractor Safety Standards, as applicable, all of which may be amended from time to time.

25. CLOSEOUT

When OC SAN determines that all Work authorized under the AGREEMENT is fully

complete and that OC SAN requires no further work from CONSULTANT, or the AGREEMENT is otherwise terminated or expires in accordance with the terms of the AGREEMENT, OC SAN shall give the Consultant written notice that the AGREEMENT will be closed out. CONSULTANT shall submit all outstanding billings, work submittals, deliverables, reports or similarly related documents as required under the AGREEMENT within thirty (30) days of receipt of notice of AGREEMENT closeout.

Upon receipt of CONSULTANT's submittals, OC SAN shall commence a closeout audit of the AGREEMENT and will either:

- i. Give the CONSULTANT a final AGREEMENT Acceptance: or
- ii. Advise the CONSULTANT in writing of any outstanding item or items which must be furnished, completed, or corrected at the CONSULTANT's cost.

CONSULTANT shall be required to provide adequate resources to fully support any administrative closeout efforts identified in the AGREEMENT. Such support must be provided within the timeframe requested by OC SAN.

Notwithstanding the final AGREEMENT acceptance, the CONSULTANT will not be relieved of its obligations hereunder, nor will the CONSULTANT be relieved of its obligations to complete any portions of the work, the non-completion of which were not disclosed to OC SAN (regardless of whether such nondisclosures were fraudulent, negligent, or otherwise), and the CONSULTANT shall remain obligated under all those provisions of the AGREEMENT which expressly or by their nature extend beyond and survive final AGREEMENT Acceptance.

Any failure by OC SAN to reject the work or to reject the CONSULTANT's request for final AGREEMENT Acceptance as set forth above shall not be deemed to be acceptance of the work by OC SAN for any purpose nor imply acceptance of, or AGREEMENT with, the CONSULTANT's request for final AGREEMENT Acceptance.

26. ENTIRE AGREEMENT

This AGREEMENT constitutes the entire understanding and AGREEMENT between the Parties and supersedes all previous negotiations between them pertaining to the subject matter thereof.

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

IN WITNESS WHEREOF, this AGREEMENT has been executed in the name of OC SAN, by its officers thereunto duly authorized, and CONSULTANT as of the day and year first above written.

CONSULTANT: KOURY ENGINEERING & TESTING, INC.

By _____ Date _____

Printed Name & Title

ORANGE COUNTY SANITATION DISTRICT

By _____ Date _____
John B. Withers
Board Chairman

By _____ Date _____
Kelly A. Lore
Clerk of the Board

By _____ Date _____
Ruth Zintzun
Purchasing & Contracts Manager

- Attachments: Attachment "A" – Scope of Work
Attachment "B" – Not Attached
Attachment "C" – Not Attached
Attachment "D" – Fee Proposal
Attachment "E" – Not Attached
Attachment "F" – Not Attached
Attachment "G" – Not Attached
Attachment "H" – Not Used
Attachment "I" – Safety Declaration
Attachment "J" – Contractor Safety Standards
Attachment "K" - Allowable Direct Costs

CMM

ATTACHMENT “A”

SCOPE OF WORK

ATTACHMENT "A"

SCOPE OF WORK

MATERIALS TESTING, INSPECTION, AND OTHER GEOTECHNICAL TESTING SERVICES FOR THE ORANGE COUNTY SANITATION DISTRICT'S CAPITAL IMPROVEMENT PROGRAM, FACILITIES ENGINEERING, OPERATIONS, AND MAINTENANCE PROJECTS

PSA2022-003

I. PURPOSE

The selected CONSULTANT shall provide on-call materials testing, inspection and other geotechnical testing services as required in support of OC SAN's Capital Improvement Program, Facilities Engineering, Operations, and Maintenance projects. The locations for this work include the two treatment plants and other facilities (pump stations and collections system) located throughout Orange County and offsite facilities as required for testing and observation.

II. TYPICAL TASKS

- SOILS:** Provide lab testing for maximum density, sieve analysis, gradation and soil identification. Field-test compacted soil using nuclear density meter methods. Inspect compaction efforts by contractors to achieve specification-required densities. On a less frequent basis, be prepared to conduct soil sampling to depths as required.
- CONCRETE/MASONRY:** Provide concrete, mortar and grout cylinder compressive testing, masonry prism test, and shear test on brick cores. Pick up test specimen sets from construction sites. Provide concrete and masonry construction inspection as needed.
- WELDING INSPECTION:** Provide certified welding inspection for pipelines, welded connections, or as directed by OC SAN. The inspections shall include non-destructive testing and destructive testing as needed. Some welding inspection may occur outside of California and fees will be negotiated on a case-by-case basis.
- ASPHALT:** Provide field density testing and sample collection and lab testing. Inspect compaction efforts by contractors to achieve specification-required densities.
- METALS:** Provide tensile strength lab testing. Provide field testing for welds and inspect welding operations. As needed, provide materials analysis to determine the type of steel with destructive testing as required. Provide Positive Material Identification utilizing an XRF analyzer, Niton XLT 898 or equal.

MATERIALS: Provide material testing services for determining the chemical composition of various metals including but not limited to cast iron, cast steel, ductile iron, FRP, stainless steel castings (fittings), stainless steel piping, steel pipe, aluminum, copper alloy or as directed. Service may include destructive and non-destructive testing and opinion as to the grade, type, or ASTM equivalent.

III. REQUIREMENTS

1. CONSULTANT shall be available to work the next day if scheduled by the end of the work day. OC SAN expects that the technician will arrive at the site with the correct equipment, calibrated to existing standards with documentation. OC SAN will not reimburse the CONSULTANT for the time required to obtain the correct equipment.
2. Equipment that requires calibration shall be calibrated prior to the work. Calibration costs and equipment shall be included in the total hourly rate for field service fees.
3. All test results shall be clearly summarized in a standardized report format and submitted to OC SAN for review and comment.
4. CONSULTANT shall provide a detailed daily report for each day of field testing and observation with reported hours within 24 hours. The report can be non-carbon or photo copied reproduction. CONSULTANT shall sign in and out daily with the OC SAN representative.
5. CONSULTANT shall be available for night work (4:30 p.m. to 7:00 a.m.) upon 24-hour advance notice.
6. CONSULTANT shall be available to attend a pre-construction meeting and other key meetings as the project progresses.
7. All technicians must be adequately insured for liability and property damage, and a copy of the policy must be forwarded to OC SAN. Vehicles shall bear the CONSULTANT's name.
8. At least one member in the field shall have a cell phone or other form of communication so as to be in contact with the home office in the event the OC SAN requires immediate communication during normal working hours, and shall have means to be directly contacted in the field by OC SAN personnel via cell phone.
9. CONSULTANT must be able to recognize errors or omissions in the contract documents and specifications, and alert OC SAN staff timely in order to mitigate production delays and costs.
10. CONSULTANT shall comply with OSHA requirements and OCSD Safety Standards.
11. On occasion, CONSULTANT will be required to enter confined spaces to perform work. Entrants shall be CAL-OSHA confined-space trained and certified. Certifications shall be submitted to OC SAN for review and approval at least 48

hours prior to commencement of work. Personnel will be entering under Contractor's confined-space entry permit.

12. Personal protective equipment (PPE), including lower explosive limit (LEL) personal monitors is required onsite for all personnel.
 - a. Personnel must be fall-protection trained and provide their own fall-protection PPE, when onsite.
13. OC SAN shall provide to the CONSULTANT a Task Order Number that will be used to track the work. The CONSULTANT will not begin any work without the Task Order Number. If the CONSULTANT receives direction from OC SAN to perform some type of work without a Task Order Number, the CONSULTANT shall contact the Inspection Supervisor to determine if the work is authorized and receive a Task Order Number if appropriate.
14. CONSULTANT will submit monthly statements, ***separately for each project or Task***, covering services and/or work performed no later than the second Wednesday of the following month and in the format required by OC SAN, to request payment. Such requests shall be based upon the amount and value of the work and services performed by CONSULTANT under this Agreement and shall be prepared by CONSULTANT and accompanied by such supporting data (including sign in/out sheets signed by CONSULTANT and OC SAN representative), including:
 - Task Order Number and Project Number and/or Project Description included on the statement.
 - Tasks completed, identified by the Task number assigned to each Task.
 - Detailed breakdown of all costs incurred per task performed, and all back-up documentation for each Task.
 - Copy of the daily notes or tasks including the signature of OC SAN's Inspector approving the day's work.
 - Running total of services billed, services paid, services billed but not paid, and the amount of the contract remaining.

OC SAN will not approve any task performed without the appropriate back-up documentation and may result in delayed or partial payment. Failure to submit monthly statements no later than the second Wednesday of the following month may result in delayed payment.

15. If any conflict of interest occurs on a project, OC SAN shall be notified without delay of the conflict. OC SAN will evaluate conflict of interest on a case-by-case basis and advise as to whether it may be waived in each case.
16. To accommodate cases where other materials testing services are required, CONSULTANT shall, when requested by OC SAN, locate and subcontract local, qualified inspectors who can satisfy requirements for inspection and/or testing, and shall direct the work of the subcontractor(s). Billing rates for subcontractor(s) shall not exceed submitted rates for this proposal, plus a 15% overhead mark up.

PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT, is made and entered into to be effective the 1st day of May, 2022, by and between the ORANGE COUNTY SANITATION DISTRICT, hereinafter referred to as "OC SAN", and MTGL, INC., for purposes of this AGREEMENT hereinafter referred to as "CONSULTANT". OC SAN and CONSULTANT are referred to herein collectively as the "Parties" or individually as a "Party."

WITNESSETH:

WHEREAS, OC SAN desires to engage a consultant for materials testing, inspection, and other geotechnical testing services in support of the OC SAN's Capital Improvement Program, Facilities Engineering, Operations, and Maintenance projects, PSA2022-003; and,

WHEREAS, CONSULTANT is qualified to provide the necessary services in connection with these requirements and has agreed to provide the necessary professional services; and,

WHEREAS, OC SAN has adopted procedures for the selection of professional services and has proceeded in accordance with said procedures to select a CONSULTANT to perform this work; and,

WHEREAS, at its regular meeting on March 23, 2022, the Board of Directors, by Minute Order, accepted the recommendation of the Operations Committee to approve this AGREEMENT between OC SAN and CONSULTANT.

NOW, THEREFORE, in consideration of the promises and mutual benefits, which will result to the parties in carrying out the terms of this AGREEMENT, it is mutually agreed as follows:

1. SCOPE OF WORK

CONSULTANT agrees to furnish necessary professional services to accomplish those project elements outlined in the Scope of Work attached hereto as "Attachment A", and by this reference made a part of this AGREEMENT.

- A. The CONSULTANT shall be responsible for the professional quality, technical accuracy, and completeness and coordination of the work and services furnished by the CONSULTANT under this AGREEMENT, including the work performed by its Subconsultants. Where approval by OC SAN is indicated, it is understood to be conceptual approval only and does not relieve the CONSULTANT of responsibility for complying with all applicable laws, regulations, codes, industry standards and liability for damages caused by errors, omissions, noncompliance with industry standards, and/or negligence on the part of the CONSULTANT or its Subconsultants.
- B. CONSULTANT is responsible for the quality of work prepared under this AGREEMENT and shall ensure that all work is performed to the highest industry standards for clarity, uniformity, and completeness. CONSULTANT shall timely respond to all comments, suggestions, and recommendations from OC SAN. All comments from OC SAN, or its agent, shall be incorporated into the work prior to

the next review deadline or addressed, in writing, as to why the comment(s) has/have not been incorporated. CONSULTANT shall ensure that each submittal is 100% accurate for the level of work submitted (i.e. correct references, terms, capitalization or equal status, spelling, punctuation, etc.).

- C. In the event that CONSULTANT's services and/or work product(s) is not to the satisfaction of OC SAN and/or does not conform to the requirements of this AGREEMENT or the applicable industry standards, the CONSULTANT shall, without additional compensation, promptly correct or revise any errors or deficiencies in its work product(s) within the timeframe specified by the Project Manager. OC SAN may charge to CONSULTANT all costs, expenses and damages associated with any such corrections or revisions.
- D. All professional services performed by the CONSULTANT, including, but not limited to, all drafts, data, correspondence, proposals, and reports compiled or composed by the CONSULTANT, pursuant to this AGREEMENT, are for the sole use of OC SAN, its agents and employees. Neither the documents nor their contents shall be released to any third party without the prior written consent of OC SAN. This provision does not apply to information that (a) was publicly known, or otherwise known to the CONSULTANT, at the time that it was disclosed to the CONSULTANT by OC SAN, or (b) subsequently becomes publicly known to the CONSULTANT other than through disclosure by OC SAN.

2. COMPENSATION

Total compensation shall be paid to CONSULTANT for services in accordance with the following provisions:

A. Total Compensation

Total compensation shall be in an amount not to exceed Four Hundred Thousand Dollars (\$400,000.00), over a three (3) year period.

OC SAN shall pay to CONSULTANT one total hourly rate set forth in Attachment "D" - Fee Proposal. The rate shall include all costs such as, but not necessarily limited to, technician labor, equipment, and overhead rates, report writing, office review and supervision, other miscellaneous charges. Drive time and mileage shall be included in the hourly rate and will not be allowed as additional costs.

B. Other Direct Costs

Other Direct Costs incurred by CONSULTANT and its Contractor due to modifications in scope of work resulting from field investigations and field work required by Contract. These items may include special equipment, test equipment and tooling and other materials and services not previously identified. Refer to attachment "K" Allowable Direct Costs for payment information.

3. PAYMENT

- A. Invoice: CONSULTANT shall include in its invoice, a detailed breakdown of costs associated with the performance of any corrections or revisions of the work for that invoicing period, in a format acceptable to OC SAN. CONSULTANT shall include copies of the daily notes or tasks including the signature of the OC SAN's Inspector approving the day's work for that invoicing period. CONSULTANT shall warrant and certify the accuracy of these costs and provide all support documentation required by OC SAN. CONSULTANT understands that submitted costs are subject to Audit Provisions as stated under this Agreement.
- B. CONSULTANT will submit statements covering services and/or work performed for payment for those items. The format must include, as a minimum: 1) current billing period invoicing, 2) current billing period "total percent invoiced to date", and 3) budget status and amount remaining. Such requests shall be accompanied by such supporting data as may be required by OC SAN.

Upon approval of such payment request by OC SAN, payment shall be made to CONSULTANT as soon as practicable of one hundred percent (100%) of the invoiced amount.

- C. Upon satisfactory completion of the work performed hereunder and prior to final payment under this AGREEMENT for such work, or prior settlement upon termination of this AGREEMENT, and as a condition precedent thereto, CONSULTANT shall execute and deliver to OC SAN a release of all claims against OC SAN arising under or by virtue of this AGREEMENT other than such claims, if any, as may be specifically exempted by CONSULTANT from the operation of the release in stated amounts to be set forth therein.
- D. Pursuant to the California False Claims Act (Government Code sections 12650-12655), any CONSULTANT that knowingly submits a false claim to OC SAN for compensation under the terms of this AGREEMENT may be held liable for treble damages and up to a \$10,000 civil penalty for each false claim submitted. This section shall also be binding on all Subconsultants.

A CONSULTANT or Subconsultant shall be deemed to have submitted a false claim when the CONSULTANT or Subconsultant: (a) knowingly presents or causes to be presented to an officer or employee of OC SAN a false claim or request for payment or approval; (b) knowingly makes, uses, or causes to be made or used a false record or statement to get a false claim paid or approved by OC SAN; (c) conspires to defraud OC SAN by getting a false claim allowed or paid by OC SAN; (d) knowingly makes, uses, or causes to be made or used a false record or statement to conceal, avoid, or decrease an obligation to OC SAN; or (e) is a beneficiary of an inadvertent submission of a false claim to OC SAN, and fails to disclose the false claim to OC SAN within a reasonable time after discovery of the false claim.

4. PREVAILING WAGES

To the extent CONSULTANT intends to utilize employees who will perform work during the contract, as more specifically defined under Labor Code Section 1720,

CONSULTANT shall be subject to prevailing wage requirements with respect to such employees.

5. CALIFORNIA DEPARTMENT OF INDUSTRIAL RELATIONS (DIR) REGISTRATION AND RECORD OF WAGES

- A. To the extent CONSULTANT's employees and/or Subconsultants who will perform Work during the design and preconstruction phases of a construction contract for which Prevailing Wage Determinations have been issued by the DIR and as more specifically defined under Labor Code Section 1720 et seq, CONSULTANT and Subconsultants shall comply with the registration requirements of Labor Code Section 1725.5. Pursuant to Labor Code Section 1771.4, the Work is subject to compliance monitoring and enforcement by the DIR.
- B. The CONSULTANT and Subconsultants shall maintain accurate payroll records and shall comply with all the provisions of Labor Code Section 1776, and shall submit payroll records to the Labor Commissioner pursuant to Labor Code Section 1771.4(a)(3). Penalties for non-compliance with the requirements of Section 1776 may be deducted from progress payments per Section 1776.
- C. Pursuant to Labor Code Section 1776, the CONSULTANT and Subconsultants shall furnish a copy of all certified payroll records to OC SAN and/or general public upon request, provided the public request is made through OC SAN, the Division of Apprenticeship Standards or the Division of Labor Enforcement of the Department of Industrial Relations.
- D. The CONSULTANT and 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).

6. DOCUMENT OWNERSHIP – CONSULTANT PERFORMANCE

- A. Ownership of Documents for the Professional Services performed.

All documents in all forms (electronic, paper, etc.), including, but not limited to, studies, sketches, drawings, computer printouts, disk files, and electronic copies prepared in connection with or related to the Scope of Work or Professional Services, shall be the property of OC SAN. OC SAN's ownership of these documents includes use of, reproduction or reuse of and all incidental rights, whether or not the work for which they were prepared has been performed. OC SAN ownership entitlement arises upon payment or any partial payment for work performed and includes ownership of any and all work product completed prior to that payment. This Section shall apply whether the CONSULTANT's Professional Services are terminated: a) by the completion of the AGREEMENT, or b) in accordance with other provisions of this AGREEMENT. Notwithstanding any other provision of this paragraph or AGREEMENT, the CONSULTANT shall have the right to make copies of all such plans, studies, sketches, drawings, computer printouts and disk files, and specifications.

- B. CONSULTANT shall not be responsible for damage caused by subsequent changes to or uses of the study or deliverable where the subsequent changes or uses are not authorized or approved by CONSULTANT, provided that the service rendered by CONSULTANT was not a proximate cause of the damage.

7. AGREEMENT TERM

The services provided under this AGREEMENT shall be for the period of three (3) years, commencing on May 1, 2022 and continuing through April 30, 2025.

8. INSURANCE

A. General

- i. Insurance shall be issued and underwritten by insurance companies acceptable to OC SAN.
- ii. Insurers must have an "A-" Policyholder's Rating, or better, and Financial Rating of at least Class VIII, or better, in accordance with the most current A.M. Best's Guide Rating. However, OC SAN will accept State Compensation Insurance Fund, for the required policy of Worker's Compensation Insurance subject to OC SAN's option to require a change in insurer in the event the State Fund financial rating is decreased below "B". Further, OC SAN will require CONSULTANT to substitute any insurer whose rating drops below the levels herein specified. Said substitution shall occur within twenty (20) days of written notice to CONSULTANT, by OC SAN or its agent.
- iii. Coverage shall be in effect prior to the commencement of any work under this AGREEMENT.

B. General Liability

The CONSULTANT shall maintain during the life of this AGREEMENT, including the period of warranty, Commercial General Liability Insurance written on an occurrence basis providing the following minimum limits of liability coverage: Two Million Dollars (\$2,000,000) per occurrence with Four Million Dollars (\$4,000,000) aggregate. Said insurance shall include coverage for the following hazards: Premises-Operations, blanket contractual liability (for this AGREEMENT), products liability/completed operations (including any product manufactured or assembled), broad form property damage, blanket contractual liability, independent contractors liability, personal and advertising injury, mobile equipment, owners and contractors protective liability, and cross liability and severability of interest clauses. A statement on an insurance certificate will not be accepted in lieu of the actual additional insured endorsement(s). If requested by OC SAN and applicable, XCU coverage (Explosion, Collapse and Underground) and Riggers/On Hook Liability must be included in the General Liability policy and coverage must be reflected on the submitted Certificate of Insurance.

C. Umbrella Excess Liability

The minimum limits of general liability and Automotive Liability Insurance required, as set forth herein, shall be provided for through either a single policy of primary insurance or a combination of policies of primary and umbrella excess coverage. Umbrella excess liability coverage shall be issued with limits of liability which, when combined with the primary insurance, will equal the minimum limits for general liability and automotive liability.

D. Automotive/Vehicle liability Insurance

The CONSULTANT shall maintain a policy of Automotive Liability Insurance on a comprehensive form covering all owned, non-owned, and hired automobiles, trucks, and other vehicles providing the following minimum limits of liability coverage: Combined single limit of One Million Dollars (\$1,000,000). A statement on an insurance certificate will not be accepted in lieu of the actual additional insured endorsement.

E. Drone Liability Insurance

If a drone will be used, drone liability insurance must be maintained by CONSULTANT in the amount of One Million Dollars (\$1,000,000) in a form acceptable by OC SAN.

F. Worker's Compensation Insurance

The CONSULTANT shall provide such Workers' Compensation Insurance as required by the Labor Code of the State of California in the amount of the statutory limit, including Employer's Liability Insurance with a minimum limit of One Million Dollars (\$1,000,000) per occurrence. Such Worker's Compensation Insurance shall be endorsed to provide for a waiver of subrogation in favor of OC SAN. A statement on an insurance certificate will not be accepted in lieu of the actual endorsements unless the insurance carrier is State of California Insurance Fund and the identifier "SCIF" and endorsement numbers 2570 and 2065 are referenced on the certificate of insurance. If an exposure to Jones Act liability may exist, the insurance required herein shall include coverage for Jones Act claims.

G. Errors and Omissions/Professional Liability

CONSULTANT shall maintain in full force and effect, throughout the term of this AGREEMENT, standard industry form professional negligence errors and omissions insurance coverage in an amount of not less than One Million Dollars (\$1,000,000) with limits in accordance with the provisions of this Paragraph. If the policy of insurance is written on a "claims made" basis, said policy shall be continued in full force and effect at all times during the term of this AGREEMENT, and for a period of five (5) years from the date of the completion of the services hereunder.

In the event of termination of said policy during this period, CONSULTANT shall obtain continuing insurance coverage for the prior acts or omissions of

CONSULTANT during the course of performing services under the term of this AGREEMENT. Said coverage shall be evidenced by either a new policy evidencing no gap in coverage or by separate extended "tail" coverage with the present or new carrier.

In the event the present policy of insurance is written on an "occurrence" basis, said policy shall be continued in full force and effect during the term of this AGREEMENT or until completion of the services provided for in this AGREEMENT, whichever is later. In the event of termination of said policy during this period, new coverage shall be obtained for the required period to insure for the prior acts of CONSULTANT during the course of performing services under the term of this AGREEMENT.

CONSULTANT shall provide to OC SAN a certificate of insurance in a form acceptable to OC SAN indicating the deductible or self-retention amounts and the expiration date of said policy, and shall provide renewal certificates not less than ten (10) days prior to the expiration of each policy term.

H. Proof of Coverage

The CONSULTANT shall furnish OC SAN with original certificates and amendatory endorsements effecting coverage. Said policies and endorsements shall conform to the requirements herein stated. All certificates and endorsements are to be received and approved by OC SAN before work commences. OC SAN reserves the right to require complete, certified copies of all required insurance policies, including endorsements, effecting the coverage required, at any time. The following are approved forms that must be submitted as proof of coverage:

- Certificate of Insurance ACORD Form 25 (5/2010) or equivalent.
- Additional Insurance (General Liability) (ISO Form) CG2010 11 85 or
The combination of (ISO Forms)
CG 2010 10 01 and CG 2037 10 01

All other Additional Insured endorsements must be submitted for approval by OC SAN, and OC SAN may reject alternatives that provide different or less coverage to OC SAN.

- Additional Insured (Auto Liability) Submit endorsement provided by carrier for OC SAN approval.
- Waiver of Subrogation State Compensation Insurance Fund Endorsement No. 2570 or equivalent.
- Cancellation Notice State Compensation Insurance Fund Endorsement No. 2065 or equivalent.

I. Cancellation Notice

Each insurance policy required herein shall be endorsed to state that coverage shall not be cancelled by either party, except after thirty (30) days' prior written notice. The Cancellation Section of ACORD Form 25 (5/2010) shall state the required thirty (30) days' written notification. The policy shall not terminate, nor shall it be cancelled, nor the coverage reduced until thirty (30) days after written notice is given to OC SAN except for nonpayment of premium, which shall require not less than ten (10) days written notice to OC SAN. Should there be changes in coverage or an increase in deductible or SIR amounts, the CONSULTANT and its insurance broker/agent shall send to OC SAN a certified letter which includes a description of the changes in coverage and/or any increase in deductible or SIR amounts. The certified letter must be sent to the attention of Risk Management, and shall be received by OC SAN not less than thirty (30) days prior to the effective date of the change(s) if the change would reduce coverage or increase deductibles or SIR amounts or otherwise reduce or limit the scope of insurance coverage provided to OC SAN.

J. Primary Insurance

All liability policies shall contain a Primary and Non Contributory Clause. Any other insurance maintained by OC SAN shall be excess and not contributing with the insurance provided by CONSULTANT.

K. Separation of Insured

All liability policies shall contain a "Separation of Insureds" clause.

L. Non-Limiting (if applicable)

Nothing in this document shall be construed as limiting in any way, nor shall it limit the indemnification provision contained in this AGREEMENT, or the extent to which CONSULTANT may be held responsible for payment of damages to persons or property.

M. Deductibles and Self-Insured Retentions

Any deductible and/or self-insured retention must be declared to OC SAN on the Certificate of Insurance. All deductibles and/or self-insured retentions require approval by OC SAN. At the option of OC SAN, either: the insurer shall reduce or eliminate such deductible or self-insured retention as respects OC SAN; or the CONSULTANT shall provide a financial guarantee satisfactory to OC SAN guaranteeing payment of losses and related investigations, claim administration and defense expenses.

N. Defense Costs

Liability policies shall have a provision that defense costs for all insureds and additional insureds are paid in addition to and do not deplete any policy limits.

O. Subconsultants

The CONSULTANT shall be responsible to establish insurance requirements for any Subconsultant hired by the CONSULTANT. The insurance shall be in amounts and types reasonably sufficient to deal with the risk of loss involving the Subconsultant's operations and work.

P. Limits Are Minimums

If the CONSULTANT maintains higher limits than any minimums shown above, then OC SAN requires and shall be entitled to coverage for the higher limits maintained by CONSULTANT.

9. SCOPE CHANGES

In the event of a change in the Scope of Work or a change in the proposed Project, as requested by OC SAN, the Parties hereto shall execute an Amendment to this AGREEMENT setting forth with particularity all terms of the new AGREEMENT, including, but not limited to any additional CONSULTANT's fees.

10. PROJECT TEAM AND SUBCONSULTANTS

CONSULTANT shall provide to OC SAN, prior to execution of this AGREEMENT, the names and full description of all Subconsultants and CONSULTANT's project team members anticipated to be used on this Project under this AGREEMENT by CONSULTANT. CONSULTANT shall include a description of the work and services to be done by each Subconsultant and each of CONSULTANT's Project team member. CONSULTANT shall include the respective compensation amounts for CONSULTANT and each Subconsultant.

There shall be no substitution of the listed Subconsultants and CONSULTANT's project team members without prior written approval by OC SAN.

11. ENGINEERING REGISTRATION

The CONSULTANT's personnel and Subconsultants are comprised of a staff of specialists in each department. The firm itself is not a registered engineer but represents and agrees that wherever, in the performance of this AGREEMENT, the services of a registered engineer is required, such services hereunder will be performed under the direct supervision of registered engineers who are registered in California.

12. AUDIT PROVISIONS.

A. OC SAN retains the reasonable right to access, review, examine, and audit, any and all books, records, documents and any other evidence of procedures and practices that OC SAN determines are necessary to discover and verify that the CONSULTANT is in compliance with all requirements under this AGREEMENT. The CONSULTANT shall include OC SAN's right as described above, in any and all of their subcontracts, and shall ensure that these rights are binding upon all Subconsultants.

- B. OC SAN retains the right to examine CONSULTANT's books, records, documents and any other evidence of procedures and practices that OC SAN determines are necessary to discover and verify all direct and indirect costs, of whatever nature, which are claimed to have been incurred, or anticipated to be incurred or to ensure CONSULTANT's compliance with all requirements under this AGREEMENT during the term of this AGREEMENT and for a period of three (3) years after its termination.
- C. CONSULTANT shall maintain complete and accurate records in accordance with generally accepted industry standard practices and OC SAN's policy. The CONSULTANT shall make available to OC SAN for review and audit, all project related accounting records and documents, and any other financial data within 15 days after receipt of notice from OC SAN. Upon OC SAN's request, the CONSULTANT shall submit exact duplicates of originals of all requested records to OC SAN. If an audit is performed, CONSULTANT shall ensure that a qualified employee of the CONSULTANT will be available to assist OC SAN's auditor in obtaining all Project related accounting records and documents, and any other financial data.

13. LEGAL RELATIONSHIP BETWEEN PARTIES

The legal relationship between the parties hereto is that of an independent contractor and nothing herein shall be deemed to transform CONSULTANT, its staff, independent contractors, or Subconsultants into employees of OC SAN. CONSULTANT'S staff performing services under the AGREEMENT shall at all times be employees and/or independent contractors of CONSULTANT. CONSULTANT shall monitor and control its staff and pay wages, salaries, and other amounts due directly to its staff in connection with the AGREEMENT. CONSULTANT shall be responsible for hiring, review, and termination of its staff and shall be accountable for all reports and obligations respecting them, such as social security, income tax withholding, unemployment compensation, workers' compensation and similar matters.

14. NOTICES

All notices hereunder and communications regarding the interpretation of the terms of this AGREEMENT, or changes thereto, shall be effected by delivery of said notices in person or by depositing said notices in the U.S. mail, registered or certified mail, return receipt requested, postage prepaid and addressed as follows:

ORANGE COUNTY SANITATION DISTRICT
10844 Ellis Avenue
Fountain Valley, CA 92708-7018
Attention: Clarice Marcin, Contracts Administration
Copy: William Gilbert and Rick Kwiecien, Project Managers

CONSULTANT:

«Company»
«ConsultantsName»

«Address»
«CityStateZip»

All communication regarding the Scope of Work, will be addressed to the Project Manager. Direction from other OC SAN staff must be approved in writing by OC SAN's Project Manager prior to action from the CONSULTANT.

15. TERMINATION

OC SAN may terminate this AGREEMENT at any time, without cause, upon giving thirty (30) days written notice to CONSULTANT. In the event of such termination, CONSULTANT shall be entitled to compensation for work performed on a prorated basis through and including the effective date of termination.

CONSULTANT shall be permitted to terminate this AGREEMENT upon thirty (30) days written notice only if CONSULTANT is not compensated for billed amounts in accordance with the provisions of this AGREEMENT, when the same are due.

Notice of termination shall be mailed to OC SAN at the address listed in Section 14 - NOTICES.

16. DOCUMENTS AND STUDY MATERIALS

The documents and study materials for this Project shall become the property of OC SAN upon the termination or completion of the work. CONSULTANT agrees to furnish to OC SAN copies of all memoranda, correspondence, electronic materials, computation and study materials in its files pertaining to the work described in this AGREEMENT, which is requested in writing by OC SAN.

17. COMPLIANCE

A. Labor

CONSULTANT certifies by the execution of this AGREEMENT that it pays employees not less than the minimum wage as defined by law, and that it does not discriminate in its employment with regard to race, color, religion, sex or national origin; that it is in compliance with all federal, state and local directives and executive orders regarding non-discrimination in employment; and that it agrees to demonstrate positively and aggressively the principle of equal opportunity in employment.

B. Air Pollution

CONSULTANT and its Subconsultants and subcontractors shall comply with all applicable federal, state and local air pollution control laws and regulations.

18. AGREEMENT EXECUTION AUTHORIZATION

Both OC SAN and CONSULTANT do covenant that each individual executing this document by and on behalf of each Party is a person duly authorized to execute this

AGREEMENT for that Party.

19. DISPUTE RESOLUTION

In the event of a dispute arising between the parties regarding performance or interpretation of this AGREEMENT, the dispute shall be resolved by binding arbitration under the auspices of the Judicial Arbitration and Mediation Service (“JAMS”), or similar organization or entity conducting alternate dispute resolution services.

20. ATTORNEY'S FEES, COSTS AND NECESSARY DISBURSEMENTS

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 he may be entitled.

21. WARRANTY

CONSULTANT shall perform its services in accordance with generally accepted industry and professional standards. If, within the 12-month period following completion of its services, OC SAN informs CONSULTANT that any part of the services fails to meet those standards, CONSULTANT shall, within the time prescribed by OC SAN, take all such actions as are necessary to correct or complete the noted deficiency(ies).

22. INDEMNIFICATION

To the fullest extent permitted by law, CONSULTANT shall indemnify, defend (at CONSULTANT's sole cost and expense and with legal counsel approved by OC SAN, which approval shall not be unreasonably withheld), protect and hold harmless OC SAN and all of OC SAN's officers, directors, employees, CONSULTANT's, and agents (collectively the “Indemnified Parties”), from and against any and all claims, damages, liabilities, causes of action, suits, arbitration awards, losses, judgments, fines, penalties, costs and expenses (including, without limitation, attorneys' fees, disbursements and court costs, and all other professional, expert or CONSULTANT's fees and costs and OC SAN's general and administrative expenses; individually, a “Claim”; collectively, “Claims”) which may arise from or are in any manner related, directly or indirectly, to any work performed, or any operations, activities, or services provided by CONSULTANT in carrying out its obligations under this AGREEMENT to the extent of the negligent, recklessness and/or willful misconduct of CONSULTANT, its principals, officers, agents, employees, CONSULTANT's suppliers, CONSULTANT, Subconsultants, subcontractors, and/or anyone employed directly or indirectly by any of them, regardless of any contributing negligence or strict liability of an Indemnified Party. Notwithstanding the foregoing, nothing herein shall be construed to require CONSULTANT to indemnify the Indemnified Parties from any Claim arising solely from:

(A) the active negligence or willful misconduct of the Indemnified Parties; or

(B) a natural disaster or other act of God, such as an earthquake; or

(C) the independent action of a third party who is neither one of the Indemnified Parties

nor the CONSULTANT, nor its principal, officer, agent, employee, nor CONSULTANT's supplier, CONSULTANT, Subconsultant, subcontractor, nor anyone employed directly or indirectly by any of them.

Exceptions (A) through (B) above shall not apply, and CONSULTANT shall, to the fullest extent permitted by law, indemnify the Indemnified Parties, from Claims arising from more than one cause if any such cause taken alone would otherwise result in the obligation to indemnify hereunder.

CONSULTANT's liability for indemnification hereunder is in addition to any liability CONSULTANT may have to OC SAN for a breach by CONSULTANT of any of the provisions of this AGREEMENT. Under no circumstances shall the insurance requirements and limits set forth in this AGREEMENT be construed to limit CONSULTANT's indemnification obligation or other liability hereunder. The terms of this AGREEMENT are contractual and the result of negotiation between the parties hereto. Accordingly, any rule of construction of contracts (including, without limitation, California Civil Code Section 1654) that ambiguities are to be construed against the drafting party, shall not be employed in the interpretation of this AGREEMENT.

23. DUTY TO DEFEND

The duty to defend hereunder is wholly independent of and separate from the duty to indemnify and such duty to defend shall exist regardless of any ultimate liability of CONSULTANT and shall be consistent with Civil Code section 2782.8. Such defense obligation shall arise immediately upon presentation of a Claim by any person if, without regard to the merit of the Claim, such Claim could potentially result in an obligation to indemnify one or more Indemnified Parties, and upon written notice of such Claim being provided to CONSULTANT. Payment to CONSULTANT by any Indemnified Party or the payment or advance of defense costs by any Indemnified Party shall not be a condition precedent to enforcing such Indemnified Party's rights to indemnification hereunder. In the event a final judgment, arbitration, award, order, settlement, or other final resolution expressly determines that the claim did not arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the CONSULTANT, to any extent, then OC SAN will reimburse CONSULTANT for the reasonable costs of defending the Indemnified Parties against such claims.

CONSULTANT's indemnification obligation hereunder shall survive the expiration or earlier termination of this AGREEMENT until such time as action against the Indemnified Parties for such matter indemnified hereunder is fully and finally barred by the applicable statute of limitations.

24. COMPLIANCE WITH OC SAN POLICIES AND PROCEDURES

CONSULTANT shall comply with all OC SAN policies and procedures including the Contractor Safety Standards, as applicable, all of which may be amended from time to time.

25. CLOSEOUT

When OC SAN determines that all Work authorized under the AGREEMENT is fully

complete and that OC SAN requires no further work from CONSULTANT, or the AGREEMENT is otherwise terminated or expires in accordance with the terms of the AGREEMENT, OC SAN shall give the Consultant written notice that the AGREEMENT will be closed out. CONSULTANT shall submit all outstanding billings, work submittals, deliverables, reports or similarly related documents as required under the AGREEMENT within thirty (30) days of receipt of notice of AGREEMENT closeout.

Upon receipt of CONSULTANT's submittals, OC SAN shall commence a closeout audit of the AGREEMENT and will either:

- i. Give the CONSULTANT a final AGREEMENT Acceptance: or
- ii. Advise the CONSULTANT in writing of any outstanding item or items which must be furnished, completed, or corrected at the CONSULTANT's cost.

CONSULTANT shall be required to provide adequate resources to fully support any administrative closeout efforts identified in the AGREEMENT. Such support must be provided within the timeframe requested by OC SAN.

Notwithstanding the final AGREEMENT acceptance, the CONSULTANT will not be relieved of its obligations hereunder, nor will the CONSULTANT be relieved of its obligations to complete any portions of the work, the non-completion of which were not disclosed to OC SAN (regardless of whether such nondisclosures were fraudulent, negligent, or otherwise), and the CONSULTANT shall remain obligated under all those provisions of the AGREEMENT which expressly or by their nature extend beyond and survive final AGREEMENT Acceptance.

Any failure by OC SAN to reject the work or to reject the CONSULTANT's request for final AGREEMENT Acceptance as set forth above shall not be deemed to be acceptance of the work by OC SAN for any purpose nor imply acceptance of, or AGREEMENT with, the CONSULTANT's request for final AGREEMENT Acceptance.

26. ENTIRE AGREEMENT

This AGREEMENT constitutes the entire understanding and AGREEMENT between the Parties and supersedes all previous negotiations between them pertaining to the subject matter thereof.

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

IN WITNESS WHEREOF, this AGREEMENT has been executed in the name of OC SAN, by its officers thereunto duly authorized, and CONSULTANT as of the day and year first above written.

CONSULTANT: MTGL, INC.

By _____ Date _____

Printed Name & Title

ORANGE COUNTY SANITATION DISTRICT

By _____ Date _____
John B. Withers
Board Chairman

By _____ Date _____
Kelly A. Lore
Clerk of the Board

By _____ Date _____
Ruth Zintzun
Purchasing & Contracts Manager

- Attachments: Attachment "A" – Scope of Work
Attachment "B" – Not Attached
Attachment "C" – Not Attached
Attachment "D" – Fee Proposal
Attachment "E" – Not Attached
Attachment "F" – Not Attached
Attachment "G" – Not Attached
Attachment "H" – Not Used
Attachment "I" – Safety Declaration
Attachment "J" – Contractor Safety Standards
Attachment "K" - Allowable Direct Costs

CMM

ATTACHMENT “A”

SCOPE OF WORK

ATTACHMENT "A"

SCOPE OF WORK

MATERIALS TESTING, INSPECTION, AND OTHER GEOTECHNICAL TESTING SERVICES FOR THE ORANGE COUNTY SANITATION DISTRICT'S CAPITAL IMPROVEMENT PROGRAM, FACILITIES ENGINEERING, OPERATIONS, AND MAINTENANCE PROJECTS

PSA2022-003

I. PURPOSE

The selected CONSULTANT shall provide on-call materials testing, inspection and other geotechnical testing services as required in support of OC SAN's Capital Improvement Program, Facilities Engineering, Operations, and Maintenance projects. The locations for this work include the two treatment plants and other facilities (pump stations and collections system) located throughout Orange County and offsite facilities as required for testing and observation.

II. TYPICAL TASKS

- SOILS:** Provide lab testing for maximum density, sieve analysis, gradation and soil identification. Field-test compacted soil using nuclear density meter methods. Inspect compaction efforts by contractors to achieve specification-required densities. On a less frequent basis, be prepared to conduct soil sampling to depths as required.
- CONCRETE/MASONRY:** Provide concrete, mortar and grout cylinder compressive testing, masonry prism test, and shear test on brick cores. Pick up test specimen sets from construction sites. Provide concrete and masonry construction inspection as needed.
- WELDING INSPECTION:** Provide certified welding inspection for pipelines, welded connections, or as directed by OC SAN. The inspections shall include non-destructive testing and destructive testing as needed. Some welding inspection may occur outside of California and fees will be negotiated on a case-by-case basis.
- ASPHALT:** Provide field density testing and sample collection and lab testing. Inspect compaction efforts by contractors to achieve specification-required densities.
- METALS:** Provide tensile strength lab testing. Provide field testing for welds and inspect welding operations. As needed, provide materials analysis to determine the type of steel with destructive testing as required. Provide Positive Material Identification utilizing an XRF analyzer, Niton XLT 898 or equal.

MATERIALS: Provide material testing services for determining the chemical composition of various metals including but not limited to cast iron, cast steel, ductile iron, FRP, stainless steel castings (fittings), stainless steel piping, steel pipe, aluminum, copper alloy or as directed. Service may include destructive and non-destructive testing and opinion as to the grade, type, or ASTM equivalent.

III. REQUIREMENTS

1. CONSULTANT shall be available to work the next day if scheduled by the end of the work day. OC SAN expects that the technician will arrive at the site with the correct equipment, calibrated to existing standards with documentation. OC SAN will not reimburse the CONSULTANT for the time required to obtain the correct equipment.
2. Equipment that requires calibration shall be calibrated prior to the work. Calibration costs and equipment shall be included in the total hourly rate for field service fees.
3. All test results shall be clearly summarized in a standardized report format and submitted to OC SAN for review and comment.
4. CONSULTANT shall provide a detailed daily report for each day of field testing and observation with reported hours within 24 hours. The report can be non-carbon or photo copied reproduction. CONSULTANT shall sign in and out daily with the OC SAN representative.
5. CONSULTANT shall be available for night work (4:30 p.m. to 7:00 a.m.) upon 24-hour advance notice.
6. CONSULTANT shall be available to attend a pre-construction meeting and other key meetings as the project progresses.
7. All technicians must be adequately insured for liability and property damage, and a copy of the policy must be forwarded to OC SAN. Vehicles shall bear the CONSULTANT's name.
8. At least one member in the field shall have a cell phone or other form of communication so as to be in contact with the home office in the event the OC SAN requires immediate communication during normal working hours, and shall have means to be directly contacted in the field by OC SAN personnel via cell phone.
9. CONSULTANT must be able to recognize errors or omissions in the contract documents and specifications, and alert OC SAN staff timely in order to mitigate production delays and costs.
10. CONSULTANT shall comply with OSHA requirements and OCSD Safety Standards.
11. On occasion, CONSULTANT will be required to enter confined spaces to perform work. Entrants shall be CAL-OSHA confined-space trained and certified. Certifications shall be submitted to OC SAN for review and approval at least 48

hours prior to commencement of work. Personnel will be entering under Contractor's confined-space entry permit.

12. Personal protective equipment (PPE), including lower explosive limit (LEL) personal monitors is required onsite for all personnel.
 - a. Personnel must be fall-protection trained and provide their own fall-protection PPE, when onsite.
13. OC SAN shall provide to the CONSULTANT a Task Order Number that will be used to track the work. The CONSULTANT will not begin any work without the Task Order Number. If the CONSULTANT receives direction from OC SAN to perform some type of work without a Task Order Number, the CONSULTANT shall contact the Inspection Supervisor to determine if the work is authorized and receive a Task Order Number if appropriate.
14. CONSULTANT will submit monthly statements, ***separately for each project or Task***, covering services and/or work performed no later than the second Wednesday of the following month and in the format required by OC SAN, to request payment. Such requests shall be based upon the amount and value of the work and services performed by CONSULTANT under this Agreement and shall be prepared by CONSULTANT and accompanied by such supporting data (including sign in/out sheets signed by CONSULTANT and OC SAN representative), including:
 - Task Order Number and Project Number and/or Project Description included on the statement.
 - Tasks completed, identified by the Task number assigned to each Task.
 - Detailed breakdown of all costs incurred per task performed, and all back-up documentation for each Task.
 - Copy of the daily notes or tasks including the signature of OC SAN's Inspector approving the day's work.
 - Running total of services billed, services paid, services billed but not paid, and the amount of the contract remaining.

OC SAN will not approve any task performed without the appropriate back-up documentation and may result in delayed or partial payment. Failure to submit monthly statements no later than the second Wednesday of the following month may result in delayed payment.

15. If any conflict of interest occurs on a project, OC SAN shall be notified without delay of the conflict. OC SAN will evaluate conflict of interest on a case-by-case basis and advise as to whether it may be waived in each case.
16. To accommodate cases where other materials testing services are required, CONSULTANT shall, when requested by OC SAN, locate and subcontract local, qualified inspectors who can satisfy requirements for inspection and/or testing, and shall direct the work of the subcontractor(s). Billing rates for subcontractor(s) shall not exceed submitted rates for this proposal, plus a 15% overhead mark up.



OPERATIONS COMMITTEE

Administration Building
10844 Ellis Avenue
Fountain Valley, CA 92708
(714) 593-7433

Agenda Report

File #: 2022-2143

Agenda Date: 3/16/2022

Agenda Item No: 7.

FROM: James D. Herberg, General Manager
Originator: Riaz Moinuddin, Director of Operations & Maintenance

SUBJECT:

POWER HEADS REPAIRS FOR CENTRAL GENERATION ENGINES AT PLANT NOS. 1 AND 2

GENERAL MANAGER'S RECOMMENDATION

RECOMMENDATION:

- A. Approve additional funds of \$60,300.60 to Sole Source Purchase Order 146032-OS, for Cooper Machinery Services to repair 16 spare Engine Power Heads for Engines at Central Generation for Plant Nos. 1 and 2, for a new total amount not to exceed \$132,915 plus taxes and shipping; and
- B. Approve a contingency of \$13,292 (10%).

BACKGROUND

The Orange County Sanitation District (OC San) operates eight Cooper Bessemer engines which includes three 12 cylinder engines at Plant No. 1 and five 16 cylinder engines at Plant No. 2. The two plants produce approximately 8.2 million kilowatt hours per month, providing approximately 70% of the power required for operation. The Cen Gen facilities began service in 1993 to improve air emissions by using clean burn engine technology to convert biogas into electricity and process heat. Additionally, heat recovered from the engines is used in the digestion process at the treatment plants and for absorption chillers at Plant No. 1, providing cooling for the Administration Building, Laboratory Building, Central Generation Building, and Operations Building.

The engines employ a modular design with one interchangeable Power Head per cylinder. OC San purchased 16 spare Power Heads as part of an earlier project to rebuild its engines. That earlier rebuild contractor failed to deliver a working rebuilt engine partially due to out of specification parts. OC San issued an initial Purchase Order for \$72,614.40 to Cooper Machinery Services (the Original Equipment Manufacturer) on June 30, 2021 to inspect the 16 spare Power Heads and four cam shafts provided by the unsuccessful rebuild contractor and provide an inspection report, and a quote if repairs were needed. The cam shafts were determined to meet the Original Equipment Manufacturer specifications.

RELEVANT STANDARDS

- 24/7/365 treatment plant reliability

- Maintain a proactive asset management program
- Comply with environmental permit requirements

PROBLEM

The Cooper Machinery Services inspection report identified needed repairs with the Power Heads that will result in additional costs.

PROPOSED SOLUTION

Approve an additional \$60,300.60 to Purchase Order 146032-OS for Cooper Machinery Services to repair the 16 spare Power Heads and return them to the original equipment manufacturer specifications and industry standards.

TIMING CONCERNS

Spare Power Heads are needed to perform corrective maintenance and currently there are no spare heads available that will facilitate quick return to service of critical engines in the event of a failure of a Power Head.

The 16 spare Power Heads were purchased as spares compatible with all eight Cooper Bessemer engines. These spare Power Heads are used for preventative and corrective maintenance, they speed up top-end overhauls of an engine and allow for timely replacement of an individual failed unit.

RAMIFICATIONS OF NOT TAKING ACTION

Failure to maintain adequate spare parts will potentially result in an extended equipment outage of a critical asset and impact the reliability of necessary power generation and resource recovery within the Central Generation facilities at Plant Nos. 1 and 2.

PRIOR COMMITTEE/BOARD ACTIONS

N/A

ADDITIONAL INFORMATION

Staff intends to pursue recovery of these repair costs from the original supplier. A 10% contingency is requested in the event of unforeseeable repairs and expenses.

CEQA

N/A

FINANCIAL CONSIDERATIONS

This request complies with authority levels of the OC San Purchasing Ordinance. This recommendation will be funded under the Repair and Maintenance line item for Operation and

Maintenance Department (Budget Update Fiscal Year 2021-2022, Page 45). The available funding is sufficient for this action.

<u>Date of Approval</u>	<u>Contract Amount</u>	<u>Contingency</u>
03/02/2022	\$132,915	\$13,292 (10%)

ATTACHMENT

The following attachment(s) may be viewed on-line at the OC San website (www.ocsan.gov) with the complete agenda package:

N/A



OPERATIONS COMMITTEE

Administration Building
10844 Ellis Avenue
Fountain Valley, CA 92708
(714) 593-7433

Agenda Report

File #: 2022-2152

Agenda Date: 3/16/2022

Agenda Item No: 8.

FROM: James D. Herberg, General Manager
Originator: Kathy Millea, Director of Engineering

SUBJECT:

REIMBURSEMENT AGREEMENT FOR ORANGE COUNTY SANITATION DISTRICT MANHOLE FRAME AND COVER ADJUSTMENTS ON EUCLID STREET IN THE CITY OF ANAHEIM

GENERAL MANAGER'S RECOMMENDATION

RECOMMENDATION:

Approve and authorize the General Manager to execute a Reimbursement Agreement with the City of Anaheim for an amount not to exceed \$180,000 for Orange County Sanitation District manhole frame and cover adjustments on Euclid Street in the City of Anaheim in a form approved by General Counsel.

BACKGROUND

The City of Anaheim (City) is working on a street rehabilitation project on Euclid Street from Broadway to the 91 Freeway. This project generally consists of asphalt pavement resurfacing and associated improvements within the existing right-of-way. Orange County Sanitation District (OC San) is responsible for adjusting the elevation of its infrastructure in the public right of way in order to maintain road safety and system function.

The City intends to award the paving contract on March 01, 2022 which will include pricing to adjust OC San's manholes effected by the contract.

RELEVANT STANDARDS

- Protect OC San assets
- Maintain collaborative and cooperative relationships with regulators, stakeholders, and neighboring communities

PROBLEM

OC San owns 39 manholes within the limits of the City's project. These manholes will need to be adjusted to a final grade after the City resurfaces the pavement to maintain road safety and system function.

PROPOSED SOLUTION

Enter into a reimbursement agreement with the City for the City's awarded contractor to perform the manhole adjustment work. OC San will provide the manhole frames and covers to the City, as well as inspection services to ensure the construction is in conformance with OC San standards.

TIMING CONCERNS

The Project is anticipated to start in April 2022 and be completed in August 2022.

RAMIFICATIONS OF NOT TAKING ACTION

If OC San does nothing, manhole frames and covers may be damaged, buried, or uneven with the finished road surface after the completion of the Project, posing a public-driving safety hazard. If OC San decides to publicly bid and perform the work at a later date, it is likely to cost more and there will be additional street closures and impacts to the public.

PRIOR COMMITTEE/BOARD ACTIONS

N/A

ADDITIONAL INFORMATION

The reimbursement amount is based on the City's awarded unit price of \$4,200 per manhole adjustment. This equates to a total cost of \$163,800. An additional \$16,200 was added to this amount to account for unknown conditions that may be discovered during paving and for change orders. OC San will reimburse the City upon inspection and approval of manhole adjustment construction.

CEQA

CEQA compliance falls under the City's project.

FINANCIAL CONSIDERATIONS

This recommendation would be funded under the Repairs and Maintenance line item for the Operations and Maintenance Department (Budget Update Fiscal Years FY 2021-2022, Page 45), and the available funding is sufficient for this action.

ATTACHMENT

The following attachment(s) may be viewed on-line at the OC San website (www.ocsan.gov) with the complete agenda package:

- Draft Reimbursement Agreement

REIMBURSEMENT AGREEMENT
(OC SAN MANHOLE ADJUSTMENT)

THIS UTILITY RELOCATION AGREEMENT (this "**Agreement**") is entered into the _____ day of _____, 20__, between **Orange County Sanitation District** ("**OC San**"), and **City of Anaheim** ("**City**").

RECITALS

A. City proposes improvements to Euclid Street from Broadway to 850 feet north of Lincoln Avenue and 44 feet south of Catalpa Drive to the 91 Freeway (the "**Project**"). The work to be performed generally consists of asphalt concrete pavement resurfacing and associated improvements within the existing right-of-way.

B. City has notified OC San that its surficial manhole structures (the "**Utilities**") located on Euclid Street within the Project area are in locational conflict with the Project and has requested that OC San adjust the Utilities to finished surface (the "**Adjustment Work**") as necessary to accommodate the Project.

C. Adjustment Work is a part of the overall work ("**Work**") that is to be performed under the Project

D. OC San has provided City with a copy of all OC San standard drawings ("**Standards**") outlining the Work to be performed, which have been approved by City and a copy of which Standards are attached hereto and made a part hereof as **Exhibit A**.

E. In order to avoid delay to the Project and minimize impacts to the environment, community and surrounding areas, City intends to perform the Adjustment Work in accordance with Exhibit A and seek reimbursement from OC San.

F. City and OC San desire to enter into this Agreement to outline their respective obligations regarding the cost and timely execution of the Project by City.

AGREEMENT

For and in consideration of the foregoing recitals which are incorporated herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, City and OC San agree as follows:

Section 1: **Recitals.** The Recitals above are deemed true and correct, are hereby incorporated in this Section as though fully set forth herein, and each Party to this Agreement acknowledges and agrees that they are bound by the same.

Section 2: **Elements of Agreement.** City and OC San will work cooperatively together so City's Project and OC San's Adjustment Work can be constructed in a manner that

minimizes the costs and impacts to all Parties and the public. The specific terms and conditions governing the elements of this Agreement are set forth hereinafter.

Section 3: CITY's Specific Obligations.

- A. City will be responsible for compliance with the California Environmental Quality Act ("CEQA") and all other permitting requirements
- B. City will undergo a Public Works bidding process and will enter into a construction contract to perform the Adjustment Work in accordance with the Standards provided by OC San.
- C. Upon determination of the successful bidder, City will submit relevant documentation to OC San for its files.
- D. For the duration of Project construction, City will:
 - a. Promptly inform OC San of any proposed changes to the construction contract as it relates to OC San facilities. Copies of proposed changes affecting OC San will be provided to OC San within five (5) working days of submission to City
 - b. Provide OC San staff with contractor schedules and updates within five (5) days of acceptance by City staff and;
 - c. Invite OC San staff to construction progress meetings.
 - d. Notify OC San 48 hours prior to the need for an inspection.
 - e. Ensure the City's construction contractor coordinate with OC San to retrieve the manhole frames and covers (provided by OC San) from the OC San Treatment Plant No. 2 in Huntington Beach.
- E. City will document and inform OC San of the date of the completion of the Adjustment Work. City will verify with OC San prior to issuance of progress payment to City's construction contractor that Adjustment Work was completed per OC San Standards.

Section 4: OC San's Specific Obligations.

- A. OC San will provide, at OC San's expense, new frames and covers to replace the existing frames and covers.

- B. OC San will provide, at OC San's expense, inspection services to assure compliance with the Standards. OC San will promptly notify City if any portion of the Adjustment Work appears not to conform to the Standards, and will work with the City to resolve all discrepancies.
- C. OC San will respond to City's request for an inspection within 48 hours. OC San will be responsible for Contractor's downtime due to failure to comply with this provision.
- D. OC San's obligation to reimburse City hereunder for the Adjustment Work shall not exceed a cumulative total of One Hundred Eighty Thousand Dollars and No/100 Cents (\$180,000.00) unless otherwise approved by OC San, or provided herein. If OC San's obligation to reimburse City for the Adjustment Work exceeds One Hundred Eighty Thousand Dollars and No/100 Cents (\$180,000.00), CITY shall not be responsible for bearing OC San's excess share. CITY agrees to notify OC San at the earliest opportunity if OC San's share is expected to exceed One Hundred Eighty Thousand Dollars and No/100 Cents (\$180,000.00) at any time during the project. If reimbursement over and above One Hundred Eighty Thousand Dollars and No/100 Cents (\$180,000.00) is requested by City, OC San staff will request approval from OC San's General Manager or Board of Directors, as appropriate, to increase the reimbursement amount.

Section 5: Timing of Reimbursement. For each progress payment, including the final progress payment, made by City to its contractor, City shall submit an invoice to OC San setting forth OC San's share of the payment, accompanied by a copy of any documentation processed with the progress payment or other documentation to substantiate the calculation of OC San's portion. OC San shall pay City within thirty (30) days of OC San's receipt of all required invoices and supporting documentation.

Section 6: This Agreement may be executed in any number of counterparts with the same effect as if all parties hereto had signed the same document. All such counterparts shall be construed together and shall constitute one agreement, but in making proof hereof it shall only be necessary to produce one such counterpart.

Section 7: This Agreement (a) shall be binding upon and inure to the benefit of City and OC San and their respective legal representatives, successors and assigns; (b) may be modified or amended only by a writing signed by each party hereto; and (c) shall be governed by and construed in accordance with the laws of the State of California. Notwithstanding anything herein to the contrary, the OC San may not assign its rights and obligations under this Agreement without the prior written consent of City. City may assign its rights or obligations under this Agreement without the OC San's consent, but with notice to the OC San.

Section 8: Indemnity. Each Party hereby agrees to indemnify, defend, protect and hold harmless the other Party, and its elected and appointed officials, officers, employees,

representatives, volunteers, and agents from and against any and all claims (including, without limitation, claims for bodily injury, death or damage to property), demands, workers' compensation benefits, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses of any kind or nature, arising from any breach of contract, negligent acts, omissions or breach of law, or willful misconduct of the indemnitor, or its officers, agents, or employees arising out of the performance of, or failure to perform, any provisions of this Agreement. Neither Party assumes liability for the acts or omissions of persons other than each Party's respective officers, agents, or employees. In the event judgment is entered against both Parties because of joint or concurrent negligence of both Parties, or their officers, agents, or employees, an apportionment of liability to pay such judgment shall be made by a court of competent jurisdiction. The respective obligations of the Parties pursuant to this Section shall survive expiration or earlier termination of this Agreement.

Section 9: Alteration of Terms. This Agreement fully expresses all understanding of the City and OC San with respect to the subject matter of this Agreement, and shall constitute the total Agreement between the parties for these purposes. No addition to, or alteration of, the terms of this Agreement, whether written or verbal, shall be valid unless made in writing and formally approved and executed by the Parties.

Section 10: Notices. Any notice, tender, demand, delivery, or other communication pursuant to this Agreement shall be in writing and shall be deemed to be properly given if delivered in person or mailed by first class or certified mail, postage prepaid, or sent by telefacsimile or other telegraphic communication in the manner provided in this Section, to the following persons:

CITY: City of Anaheim
Attn: City Clerk
200 S. Anaheim Boulevard
Anaheim, CA 92805

With a courtesy copy to:
City of Anaheim
Attn: Director of Public Works
200 S. Anaheim Boulevard, Suite 276
Anaheim, CA 92805

OC SAN: Orange County Sanitation District
Attn: Clerk of the Board
10844 Ellis Avenue
Fountain Valley, CA 92708

A party may change its address by giving notice in writing to the other party. Thereafter, any communication shall be addressed and transmitted to the new address. If sent by mail, communication shall be effective or deemed to have been given three (3) days after it has been deposited in the United States mail, duly registered or certified, with postage prepaid, and addressed as set forth above. If sent by telefacsimile, communication shall be effective or deemed to have been given twenty-four (24) hours after the time set forth on the transmission report issued by the transmitting facsimile machine, addressed as set forth above. For purposes of calculating these time frames, weekends, federal, state, County or City holidays shall be excluded.

Section 11: Term of Agreement. The Effective Date of this Agreement shall be the latter to occur of the following: (i) execution by the City or (ii) execution by OC San. The term of the Agreement shall continue in full force and effect until all obligations of the OC San to the City are completed in full accordance with the terms of this Agreement.

Section 12: Severability. If any term, provision, covenant, or condition set forth in this Agreement is held by the final judgment of a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions, covenants, and conditions shall continue in full force and effect to the extent that the basic intent of the Parties as expressed herein can be accomplished. In addition, in such event the Parties shall cooperate in good faith in an effort to amend or modify this Agreement in a manner such that the purpose of the invalidated or voided provision, covenant, and condition can be accomplished to the maximum extent legally permissible; provided, however, that in no event shall either party be required to agree to an amendment or modification of this Agreement that materially adversely impacts its rights or materially increases its obligations or risks as set forth herein.

Section 13: Waiver of Default or Breach. Waiver of any default by either party shall not be considered a waiver of any subsequent default. Waiver of any breach by either party of any provision of this Agreement shall not be considered a waiver of any subsequent breach. Waiver of any default or any breach by either party shall not be considered a modification of the terms of this Agreement.

Section 14: No Third-Party Beneficiaries. Nothing in this Agreement is intended to create any third-party beneficiaries to the Agreement, and no person or entity other than the City and OC San, and the permitted successors and assigns of either of them, shall be authorized to enforce the provisions of this Agreement.

Section 15: Further Assurances. OC San and the City agree to execute, acknowledge and deliver any and all additional papers, documents and other assurances and to perform any and all acts and things reasonably necessary in connection with the performance of the obligations hereunder and to carry out the intent of the Parties.

Section 16: Agreement Negotiated. The text of this Agreement is the product of negotiation among the parties and their counsel and is not to be construed as having been prepared by one party or the other.

Section 17: Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

Section 18: Recitals. The Recitals above are hereby incorporated into this section as though fully set forth herein and each Party acknowledges and agrees that such Party is bound, for purposes of this Agreement, by the same.

**ORANGE COUNTY SANITATION
DISTRICT**

CITY OF ANAHEIM, CALIFORNIA

By: _____

By: _____

**James D. Herberg
General Manager**

**James Vanderpool
City Manager**

ATTEST

ATTEST

By: _____

By: _____

**Kelly A. Lore, MMC
Clerk of the Board**

**Theresa Bass, CMC
City Clerk**

EXHIBIT A

The Standards



OPERATIONS COMMITTEE

Administration Building
10844 Ellis Avenue
Fountain Valley, CA 92708
(714) 593-7433

Agenda Report

File #: 2021-1785

Agenda Date: 3/16/2022

Agenda Item No: 9.

FROM: James D. Herberg, General Manager
Originator: Kathy Millea, Director of Engineering

SUBJECT:

SECONDARY TREATMENT VFD REPLACEMENTS AT PLANT NO. 2, PROJECT NO. FE19-08

GENERAL MANAGER'S RECOMMENDATION

RECOMMENDATION: Recommend to the Board of Directors to:

- A. Receive and file Bid Tabulation and Recommendation for Secondary Treatment VFD Replacements at Plant No. 2, Project No. FE19-08;
- B. Receive and file Orange County Sanitation District's Notice of Intent to Award dated January 27, 2022;
- C. Receive and file Award Protest from LEED Electric, Inc. dated February 2, 2022, concerning the award to ACS Engineering;
- D. Receive and file Orange County Sanitation District's determination letter dated February 10, 2022 to LEED Electric, Inc. responding to award protest;
- E. Award a Construction Contract to ACS Engineering for Secondary Treatment VFD Replacements at Plant No. 2, Project No. FE19-08, for an amount not to exceed \$1,433,000; and
- F. Approve a contingency of \$143,300 (10%).

BACKGROUND

The Activated Sludge Plant at Plant No. 2 is one of two parallel biological treatment processes at Plant No. 2. The facility was built in 1983 and includes pumps of various sizes, many of which have variable frequency drives (VFDs) to control the output of the pumps.

RELEVANT STANDARDS

- Comply with California Public Contract Code Section 20103.8, award construction contract to lowest responsive, responsible bidder
- 24/7/365 treatment plant reliability

PROBLEM

Fourteen pumps in the Activated Sludge Plant ranging in size from 50 to 300 horsepower have VFDs installed between 2004 and 2007 that are at the end of their useful life. Replacement parts and manufacturer support services are no longer available. The pumps driven by these VFDs are critical to operations and permit compliance.

PROPOSED SOLUTION

Award a construction contract for Secondary Treatment VFD Replacements at Plant No. 2, Project No. FE19-08, to replace fourteen VFDs at the end of their useful life.

TIMING CONCERNS

Delaying replacement of these VFDs increases the risk for reduced secondary capacity if the VFDs cannot be repaired because parts or vendor support are not available.

RAMIFICATIONS OF NOT TAKING ACTION

Not replacing these VFDs increases the risk that critical pumps would not be available for service, leading to a reduction in treatment capacity.

PRIOR COMMITTEE/BOARD ACTIONS

N/A

ADDITIONAL INFORMATION

OC San advertised for bids on November 4, 2021 and eleven sealed bids were received on January 11, 2022. A summary of the bid opening follows:

Engineer's Estimate	\$ 1,632,000
<u>Bidder</u>	<u>Amount of Bid</u>
ACS Engineering	\$ 1,433,000
LEED Electric, Inc.	\$ 1,557,000
Inter-Pacific, Inc.	\$ 1,629,073
Spark Power Corp.	\$ 1,671,425
Helix Electric, Inc.	\$ 1,943,000
Mass. Electric Construction Co.	\$ 1,975,600
Houalla Enterprises, Ltd.	\$ 2,379,100
Vellutini Corp.	\$ 2,444,000
Baker Electric, Inc.	\$ 2,493,925
Shimmick Construction Company, Inc.	\$ 2,716,182
CSI Electrical Contractors, Inc.	\$ 3,719,000

The bids were evaluated in accordance with OC San's policies and procedures. On January 18, 2022, the Orange County Sanitation District (OC San) issued a Clarification Request No. 1 to the low bidder concerning reference projects listed in form BF-4 (List of Completed Projects and Experience Requirements). On January 20, 2022, the low bidder submitted a response that satisfied the listed requirements.

A notice was sent to all bidders on January 27, 2022, informing them of the intent of OC San to recommend award of the Construction Contract to ACS Engineering.

LEED Electric, Inc., the second low bidder, submitted a formal Protest of the award recommendation to OC San on February 2, 2022, alleging deficiencies in the ACS Engineering bid due to reference projects listed in form BF-4.

Staff reviewed the Bid Protest and the Clarification Response and found that it does not merit a change to the award recommendation for the following reasons:

1. The Low Bidder's Clarification Response included information that satisfied the requirements of form BF-4, List of Completed Projects and Experience Requirements.

Based on the above, staff, in consultation with OC San's General Counsel, determined the protest had no merit.

Staff recommends awarding a Construction Contract to the lowest responsive and responsible bidder, ACS Engineering, for a total amount not to exceed \$1,433,000.

CEQA

The project is exempt from CEQA under the Class 1 categorical exemptions set forth in California Code of Regulations Sections 15301. A Notice of Exemption will be filed with the OC Clerk-Recorder after OC San Board of Directors approval of the construction contract.

FINANCIAL CONSIDERATIONS

This request complies with the authority levels of OC San's Purchasing Ordinance. This item has been budgeted (Budget Update, Fiscal Year 2021-2022, Appendix A, Page A-8, Support Facilities - Small Construction Projects Program) and the budget is sufficient for the recommended action.

ATTACHMENT

The following attachment(s) may be viewed on-line at the OC San website (www.ocsan.gov) with the complete agenda package:

- Notice of Intent to Award Dated January 27, 2022
- Award Protest from LEED Electric, Inc. Dated February 2, 2022
- OC San's Determination Letter Dated February 10, 2022
- Construction Contract

TW: jw

January 27, 2022

By Email: bobk@acsengineering.net

Babak Kavoossi
ACS Engineering
33 Hammond, Suite 209
Irvine, CA 92618

SUBJECT: Award Recommendation Notice
Project No. FE19-08
Secondary Treatment VFD Replacements at Plant No. 2

The Orange County Sanitation District (OC SAN) completed its evaluation of the Bids submitted in response to the Invitation for Bids for the above-referenced Project. The lowest responsive and responsible Bidder is ACS Engineering. The Evaluation Team is recommending ACS Engineering for Contract award.

The recommendation for Contract award will be included as an item on OC SAN's Operations Committee agenda.

The Operations Committee Meeting is scheduled for:

Date: March 2, 2022
Time: 5 p.m.
Location: Due to the current COVID-19 restrictions, please check for updated meetings details at:
<http://ocsd.legistar.com/Calendar.aspx>

If approved by the Operations Committee, the recommendation will be forwarded to OC SAN's Board of Directors for Contract award.

The Board of Directors Meeting is scheduled for:

Date: March 23, 2022
Time: 6 p.m.
Location: Due to the current COVID-19 restrictions, please check for updated meetings details at:
<http://ocsd.legistar.com/Calendar.aspx>

The Final Agenda Report will be posted not less than 72 hours prior to the Operations Committee and Board of Directors Meetings. Should you wish to determine if the item has been placed on the agenda(s), please contact OC SAN's Clerk of the Board at (714) 593-7433.

Larry Roberson
Senior Contracts Administrator

LDR:yp

cc: K. Millea, T. Waltz, C. Davies, K. Lore, N. Dubrovski

Serving:

- Anaheim
- Brea
- Buena Park
- Cypress
- Fountain Valley
- Fullerton
- Garden Grove
- Huntington Beach
- Irvine
- La Habra
- La Palma
- Los Alamitos
- Newport Beach
- Orange
- Placentia
- Santa Ana
- Seal Beach
- Stanton
- Tustin
- Villa Park
- County of Orange
- Costa Mesa Sanitary District
- Midway City Sanitary District
- Irvine Ranch Water District
- Yorba Linda Water District



Power, Control and Instrumentation Contractor Since 1979

Award Protest

February 2, 2022

To:
Orange County Sanitation District
10844 Ellis Avenue
Fountain Valley, CA 92708
714.962.2411

From:
LEED Electric Inc
13138 Arctic Circle
Santa Fe Springs, CA 90670
562.270.9500

**REF: SECONDARY TREATMENT VFD REPLACEMENTS AT PLANT NO. 2
PROJECT NO. FE19-08
ACS ENGINEERING AWARD RECOMMENDATION**

Name of the affected Party: ACS Engineering

LEED Electric has received OCSANS' award recommendation for the subject project. We hereby submit award protest based on the following reasons:

According Bid proposal section **BF-4.A LIST OF COMPLETED PROJECTS AND EXPERIENCE REQUIREMENTS:**

"Using this form, Bidder shall list three (3) Public Works VFD projects (125hp / 480V and above) completed within the last seven (7) years.

Using the table provided in this section, for each listed project, include: (1) the project name and location, (2) role as prime contractor or subcontractor, (3) description of work, (4) owner's name and address and the name and phone number of project manager or project engineer, (5) final contract value, and (6) completion date.

Bidder shall ensure the contact names and numbers are current at the time of Bid. If the contacts are no longer employed with the owner, Bidder shall identify at least one contact familiar with the project and Bidder's work thereon. In addition to contacting the references included herein, OC SAN may, and retains its right to contact other project owners and such other entities for which Bidder has performed or is performing work.

Bidder must submit this information with its Bid. Attach documents directly behind this page and/or fill in the pages provided below.

If the Bidder cannot demonstrate that it has the minimum experience requirements described above, its Bid shall be deemed non-responsive."

Based on the above bid requirements, we have reviewed the four (4) references that ACS Engineering submitted and found three (3) of the references to be nonresponsive:

- 1- Project # 1 Perris Desalination: This project completion date is marked at 1/1/2022 which is unusual for a public work project to gain substantial completion on a New Year's date. We believe this project is not substantially completed on or before the date of the subject bid 1/11/2022 and cannot be used as a reference.



13138 ARCTIC CIRCLE
SANTA FE SPRINGS, CA 90670
TEL: (562) 270-9500
FAX: (562) 863-5723

Power, Control and Instrumentation Contractor Since 1979

- 2- Project # 2 LA County Public Works Gate Canyon: We have looked through the drawings on this project and there is no VFD scope that is part of the plans or specification. Also, there is no phone number or address listed for the project owner, therefore this reference is deemed nonresponsive.
- 3- Project Number 3 OCTA RFP-8-1430 Arc Flash Analysis: Similar to reference number 2, the title of the RFP states Arc Flash Analysis and there is no reference of using any VFD's on the project. secondly, there is no name reference, and it provides a generic phone number for OCTA. Therefore, we believe this reference is deemed nonresponsive and should not be used.

Based on the above, we believe that the bid that is submitted by ACS Engineering is nonresponsive, and the contractor is non responsible for delivery of the scope of work that is required by OCSAN's plans and specifications.

Should you have any questions or concerns, please do not hesitate to contact me.

I, Michael Sanchez, under penalty of perjury, do hereby certify that the foregoing information is true and correct.

A handwritten signature in blue ink that reads "Michael Sanchez".

Michael Sanchez
Vice President
LEED Electric Inc

February 10, 2022

By Email: sjamali@leedelectric.com

Seyed A. Jamali Dinan
LEED Electric, Inc.
13138 Arctic Circle
Santa Fe Springs, CA 90670

SUBJECT: OC SAN Response to LEED Electric, Inc. Protest Statement
Project No. FE19-08
Secondary Treatment VFD Replacements at Plant No. 2

This letter serves as the Orange County Sanitation District's ("OC SAN") response to the Award Protest Statement ("Protest") filed by LEED Electric, Inc. ("LEI") on February 2, 2022. The Protest challenges the recommendation that OC SAN award the contract for the above-referenced project (the "Contract") to ACS Engineering ("ACSE"). LEI alleges that ACSE is not a responsive and/or qualified contractor because it is non-responsive to OC SAN's requirements identified on bid submittal form BF-4 A. which states in part, "Using this form, Bidder shall list three (3) Public Works VFD projects (125hp / 480V and above) completed within the last seven (7) years". OC SAN has reviewed the Protest and all necessary facts and written materials submitted, including the Protest response letter received from ACSE, and hereby denies the relief LEI requested based on the following:

ACS Engineering is a Responsive and Responsible Bidder

OC SAN reviewed ACSE's bid and requested ACSE clarify information provided on bid submittal form BF-4 A.

ACSE responded to the request for clarification and the information in the response provided clarification which was sufficient to complete the evaluation of the bid (see attached FE19-08 ACSE Response to Clarification Request No. 1).

LEI's protest points out that ACSE's original responses were deficient. ACSE's responses to the request for clarification have resolved this minor deficiency.

Determination

Based on the facts and evidence presented, OC SAN determined that ACSE is a responsive and responsible bidder for the above-referenced project. Accordingly, OC SAN hereby rejects LEI's Protest.

Serving:

- Anaheim
- Brea
- Buena Park
- Cypress
- Fountain Valley
- Fullerton
- Garden Grove
- Huntington Beach
- Irvine
- La Habra
- La Palma
- Los Alamitos
- Newport Beach
- Orange
- Placentia
- Santa Ana
- Seal Beach
- Stanton
- Tustin
- Villa Park
- County of Orange
- Costa Mesa Sanitary District
- Midway City Sanitary District
- Irvine Ranch Water District
- Yorba Linda Water District



Seyed A. Jamali Dinan
February 10, 2022
Page 2 of 2

OC SAN will proceed to recommend award of the Contract to the lowest responsive and responsible bidder, ACSE, at the Board of Directors Meeting on March 23, 2022.

Ruth Zintzun
Purchasing & Contracts Manager

RZ:LDR:yp

Attachment: Noted Above



Electrical, Controls, & Automation Solutions



ACS Electrical, Inc.

January 20, 2022

Larry Roberson
Orange County Sanitation District
Senior Contracts Administrator
10844 Ellis Avenue
Fountain Valley, CA 92708

Subject: **Project No. FE19-08**
Secondary Treatment VFD Replacements at Plant No. 2

Dear Larry,

In response to OCSD Clarification Request No.1 that we received for the above project.

Attached, please find the Bid Submittal documentation you requested.

1. BF-4 Performance History and Financial Resources
 - A. List of Current and Completed Projects

Respectfully,

C. Sandoval

Chris Sandoval
Project Manager
Mobile: (702) 234-8918
Office: (949) 297-3777 Ext: 302



ACS Electrical, Inc.

33 Hammond
Suite 209
Irvine, CA 92618

www.acsengineering.net

BF-4 PERFORMANCE HISTORY AND FINANCIAL RESOURCES

A. LIST OF COMPLETED PROJECTS AND EXPERIENCE REQUIREMENTS

Using this form, Bidder shall list three (3) Public Works VFD projects (125hp / 480V and above) completed within the last seven (7) years.

Using the table provided in this section, for each listed project, include: (1) the project name and location, (2) role as prime contractor or subcontractor, (3) description of work, (4) owner's name and address and the name and phone number of project manager or project engineer, (5) final contract value, and (6) completion date.

Bidder shall ensure the contact names and numbers are current at the time of Bid. If the contacts are no longer employed with the owner, Bidder shall identify at least one contact familiar with the project and Bidder's work thereon. In addition to contacting the references included herein, OC SAN may, and retains its right to contact other project owners and such other entities for which Bidder has performed or is performing work.

Bidder must submit this information with its Bid. Attach documents directly behind this page and/or fill in the pages provided below.

If the Bidder cannot demonstrate that it has the minimum experience requirements described above, its Bid shall be deemed non-responsive.

Project Name and Location	Role	Description of Work	Owner's Name, Address, Phone No., Project Manager or Project Engineer	Final Contract Value	Completion Date
Perris II Desalination Facility 29285 Valley Blvd. Menifee, CA 92584	<input type="checkbox"/> Prime	1. Electrical, Instrumentation, & Control System work 2. Manufacturing & installation of PLC Control Panels 3. Supply & installation of several new MCCs & VFDs 4. Testing, Startup, and Commissioning	Eastern Municipal Water District 2270 Trumble Rd. Perris, CA 92570	\$ 58,400,000.00 (TOTAL)	January 2022
	<input checked="" type="checkbox"/> Sub	VFDs ranged in size from 75HP to 300HP. There were a total of twenty (20) VFDs, fourteen (14) of which were 125HP or larger.	Mr. Kourosh Ironzamin (951) 300-7218	\$ 5,980,000.00 (ELECTRICAL)	

Bid Submitted By: **ACSE**
 (Name of Firm)

Project Name and Location	Role	Description of Work	Owner's Name, Address, Phone No., Project Manager or Project Engineer	Final Contract Value	Completion Date
Pall Microfiltration Expansion Project (CIP-10057) 1035 S. Hughes Way El Segundo, CA 80245	<input type="checkbox"/> Prime <input checked="" type="checkbox"/> Sub	1. Electrical, Instrumentation, & Control System work 2. Supply and installation of four (4) 300HP VFDs 3. Testing, Startup, and Commissioning	West Basin Municipal Water District 17140 S. Avalon Blvd. Carson, CA 90746 Mrs. Yvonne Lucas (310) 660-6284	\$ 18,600,000.00 (TOTAL) \$ \$ 1,200,000.00 (ELECTRICAL)	April 2018
Northwest Siebrie Park Water Well No. 20 1300 W. El Segundo Blvd. Hawthorne, CA 90250	<input checked="" type="checkbox"/> Prime <input type="checkbox"/> Sub	1. Electrical, Instrumentation, & Control System work 2. Supply and installation of one (1) 300HP VFD 3. Testing, Startup, and Commissioning	City of Compton 205 S. Willowbrook Ave.. Compton, CA 90220 Mr. Kavous Emami (714) 401-4695	\$ 1,200,000.00 (TOTAL) \$ \$ 320,000.00 (ELECTRICAL)	August 2017
	<input type="checkbox"/> Prime <input type="checkbox"/> Sub			\$	
	<input type="checkbox"/> Prime <input type="checkbox"/> Sub			\$	

BF-4 PERFORMANCE HISTORY AND FINANCIAL RESOURCES (Continued)

B. BUSINESS OPERATIONS

For the questions herein, the term "Firm" shall refer to the individual or the entity submitting the Bid to perform the Work under the Contract, and if the Firm is a Joint Venture, it shall include all joint venture partners.

1. In the past five (5) years, has a public agency, governmental or private entity or individual terminated your Firm's contract (or performance under a contract) for default prior to completion of the contract?

Yes No

If yes, explain on Attachment A the circumstances surrounding each termination.

2. In the past five (5) years, has your Firm been assessed liquidated damages on a construction contract with either a public or private owner?

Yes No

If yes, explain on Attachment A the circumstances surrounding each instance, and identify all such projects, the value of the contract on which liquidated damages were assessed, the amount assessed and paid, the name and address of the project owner, and the name and telephone number of a contact person with the project owner.

If any initial assessment of liquidated damages was determined by a court (jury decision or bench trial) or an arbitrator to be improperly assessed, then the liquidated damages will not be considered "assessed" for purposes of this question.

3. At any time during the past five (5) years, has any surety company made any payments or performed any work on your Firm's behalf as a result of a default to satisfy any claims made against a performance or payment bond issued on your firm's behalf in connection with a construction project, either public or private?

Yes No

If yes, explain on Attachment A the circumstances surrounding each issue, including the amount of each such payment or activity.

4. In the past five (5) years, has your Firm been prevented from bidding on any government agency or public works project because of debarment or for any other reason?

Yes No

If yes, explain on Attachment A the circumstances surrounding each instance, the terms of each such instance, whether an appeal was taken, and the status and/or result of each such appeal. The description should include the grounds on which the public entity debarred or otherwise prevented your Firm from bidding (e.g., applicable law, code, regulation, etc.), including but not limited to whether your Firm was debarred under Labor Code section 1770 et seq.

5. In the past five (5) years, has your Firm been convicted or found liable in a civil suit for making false claims or material misrepresentations to any governmental entity or public utility?

Yes No

If yes, explain on Attachment A the circumstances surrounding each instance.

6. In the past five (5) years, has your Firm or any of its owners or officers been convicted of a crime involving the bidding of a public contract, the awarding of a public contract, the performance of a public contract, or the crime of fraud, theft, embezzlement, perjury or bribery in any context? For this question, the term "owner" does not include those who own stock in a publicly traded corporation.

Yes No

If yes, explain on Attachment A the circumstances surrounding each instance.

BF-4 PERFORMANCE HISTORY AND FINANCIAL RESOURCES (Continued)

C. FINANCIAL INFORMATION

Insert the following information concerning your Firm’s financial information, and indicate the fiscal year-end date applicable to the same. “Year 1” refers to the most recent fiscal year in time, etc. Reflect the financial situation of the Bidder or partner to a Joint Venture, and not a sister or parent company. Information and representations provided by Joint Venture Bidders shall be made consistent with General Conditions, section entitled “Joint and Several Liability”.

	Year 1 <u>2021</u> to <u>2022</u>	Year 2 <u>2020</u> to <u>2021</u>	Year 3 <u>2019</u> to <u>2020</u>
1. Net Worth*	\$ 4,500,000	\$ 3,800,000	\$ 3,700,000
2. Working Capital* ¹	\$ 1,500,000	\$ 1,900,000	\$ 1,600,000

*If required by OC SAN during the evaluation period, Bidder shall bring in for review by OC SAN requested documentation to substantiate information provided with its Bid as noted below.

Upon request from OC SAN, Bidder must bring in for OC SAN’s inspection and review balance sheets, including all related notes, and income statements for the last three years, complying with the following conditions:

- All such documents reflect the financial situation of the Bidder or partner to a Joint Venture, and not a sister or parent company. Information and representations provided by Joint Venture Bidders shall be made consistent with General Conditions, section entitled “Joint and Several Liability”
- Provide a reviewed or audited financial statement for the past three years.
- Financial statements must be complete, including all notes to the financial statements.
- Financial statements must correspond to accounting periods already completed and/or audited (no statements for partial periods shall be requested or accepted).

If, during or after the review of the requested documents, OC SAN determines that copies of some or all of the requested documents are needed to aid further evaluation by OC SAN of the Bidder’s Responsibility or ability to perform the Contract, OC SAN staff may, in its sole discretion, make copies of some or all of the documents and materials, or may request Bidder to supply copies of documents and materials.

¹ Includes any available lines of credit.

BF-4 PERFORMANCE HISTORY AND FINANCIAL RESOURCES (Continued)

D. FINANCIAL HISTORY

For the questions herein, the term "Firm" shall refer to the individual or the entity submitting the Bid to perform the Work under the Contract, and if the Firm is a Joint Venture, it shall include all joint venture partners.

If the answer to any of the following questions is "Yes," explain on Attachment B the circumstances surrounding each instance.

1. Is your Firm now the debtor in a bankruptcy case?

Yes No

2. Is your Firm's working capital for the most recent completed fiscal year less than 5% of your Total Amount of Bid as set forth in the Schedule of Prices herein.

Yes No

3. Is your Firm's net worth for the most recent completed fiscal year less than 20% of your Total Amount of Bid as set forth in the Schedule of Prices herein?

Yes No

PART A
CONTRACT AGREEMENT

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CONTRACT AGREEMENT

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CONTRACT AGREEMENT
ORANGE COUNTY SANITATION DISTRICT

PROJECT NO. FE19-08
SECONDARY TREATMENT VFD REPLACEMENTS AT PLANT NO. 2

THIS AGREEMENT is made and entered into, to be effective, this March 23, 2022, by and between ACS Engineering, hereinafter referred to as “CONTRACTOR” and the Orange County Sanitation District, hereinafter referred to as “OC SAN”.

WITNESSETH

That for and in consideration of the promises and agreements hereinafter made and exchanged, OC SAN and CONTRACTOR agree as follows:

SECTION – 1 GENERAL

CONTRACTOR certifies and agrees that all the terms, conditions and obligations of the Contract Documents as hereinafter defined, the location of the job site, and the conditions under which the Work is to be performed have been thoroughly reviewed, and enters into this Contract based upon CONTRACTOR’s investigation of all such matters and is in no way relying upon any opinions or representations of OC SAN. It is agreed that this Contract represents the entire agreement. It is further agreed that the Contract Documents are each incorporated into this Contract by reference, with the same force and effect as if the same were set forth at length herein, and that CONTRACTOR and its Subcontractors, if any, will be and are bound by any and all of said Contract Documents insofar as they relate in any part or in any way, directly or indirectly, to the Work covered by this Contract.

A. Contract Documents Order of Precedence

“Contract Documents” refers to those documents identified in the definition of “Contract Documents” in the General Conditions – Definitions.

1. In the event of a conflict between one Contract Document and any of the other Contract Documents, the provisions in the document highest in precedence shall be controlling. The order of precedence of the Contract Documents is as follows:
 - a. Supplemental Agreements – the last in time being the first in precedence
 - b. Addenda issued prior to the date for submittal of Bids – the last in time being the first in precedence
 - c. Contract Agreement
 - d. Permits and other regulatory requirements
 - e. Special Provisions
 - f. General Conditions (GC)
 - g. Notice Inviting Bids and Instruction to Bidders
 - h. Geotechnical Baseline Report (GBR), if attached as a Contract Document
 - i. Plans and Specifications – in these documents the order of precedence shall be:
 - i. Specifications (Divisions 01-17)
 - ii. Plans
 - iii. General Requirements (GR)
 - iv. Standard Drawings and Typical Details
 - j. CONTRACTOR's Bid
2. In the event of a conflict between terms within an individual Contract Document, the conflict shall be resolved by applying the following principles as appears applicable:
 - a. Figured dimensions on the Contract Documents shall govern. Dimensions not specified shall be as directed by the ENGINEER. Details not shown or specified shall be the same as similar parts that are shown or specified, or as directed. Full-size details shall take precedence over scale Drawings as to

shape and details of construction. Specifications shall govern as to material and workmanship.

- b. The Contract Documents calling for the higher quality material or workmanship shall prevail. Materials or Work described in words, which so applied, have a well-known technical or trade meaning shall be deemed to refer to such recognized standards. In the event of any discrepancy between any Drawings and the figures thereon, the figures shall be taken as correct.
- c. Scale Drawings, full-size details, and Specifications are intended to be fully complementary and to agree. Should any discrepancy between Contract Documents come to the CONTRACTOR's attention, or should an error occur in the efforts of others, which affect the Work, the CONTRACTOR shall notify the ENGINEER, in writing, at once. In the event any doubts or questions arise with respect to the true meaning of the Contract Documents, reference shall be made to the ENGINEER whose written decision shall be final. If the CONTRACTOR proceeds with the Work affected without written instructions from the ENGINEER, the CONTRACTOR shall be fully responsible for any resultant damage or defect.
- d. Anything mentioned in the Specifications and not indicated in the Plans, or indicated in the Plans and not mentioned in the Specifications, shall be of like effect as if indicated and mentioned in both. In case of discrepancy in the Plans or Specifications, the matter shall be immediately submitted to OC SAN's ENGINEER, without whose decision CONTRACTOR shall not adjust said discrepancy save only at CONTRACTOR's own risk and expense. The decision of the ENGINEER shall be final.

In all matters relating to the acceptability of material, machinery or plant equipment; classifications of material or Work; the proper execution, progress or sequence of the Work; and quantities interpretation of the Contract Documents, the decision of the ENGINEER shall be final and binding, and shall be a condition precedent to any payment under the Contract, unless otherwise ordered by the Board of Directors.

B. Definitions

Capitalized terms used in this Contract are defined in the General Conditions, Definitions. Additional terms may be defined in the Special Provisions.

SECTION – 2 MATERIALS AND LABOR

CONTRACTOR shall furnish, under the conditions expressed in the Plans and Specifications, at CONTRACTOR'S own expense, all labor and materials necessary, except such as are mentioned in the Specifications to be furnished by OC SAN, to construct and complete the Project, in good workmanlike and substantial order. If CONTRACTOR fails to pay for labor or materials when due, OC SAN may settle such claims by making demand upon the Surety to this Contract. In the event of the failure or refusal of the Surety to satisfy said claims, OC SAN may settle them directly and deduct the amount of payments from the Contract Price and any amounts due to CONTRACTOR. In the event OC SAN receives a stop payment notice from any laborer or material supplier alleging non-payment by CONTRACTOR, OC SAN shall be entitled to deduct all of its costs and expenses incurred relating thereto, including but not limited to administrative and legal fees.

SECTION – 3 PROJECT

The Project is described as:

PROJECT NO. FE19-08

SECONDARY TREATMENT VFD REPLACEMENTS AT PLANT NO. 2

SECTION – 4 PLANS AND SPECIFICATIONS

The Work to be done is shown in a set of Plans and Specifications entitled:

PROJECT NO. FE19-08

SECONDARY TREATMENT VFD REPLACEMENTS AT PLANT NO. 2

Said Plans and Specifications and any revision, amendments and addenda thereto are attached hereto and incorporated herein as part of this Contract and referred to by reference.

SECTION – 5 TIME OF COMMENCEMENT AND COMPLETION

CONTRACTOR agrees to commence the Project within 15 calendar days from the date set forth in the “Notice to Proceed” sent by OC SAN, unless otherwise specified therein and shall diligently prosecute the Work to completion within six hundred ninety (690) calendar days from the date of the “Notice to Proceed” issued by OC SAN, excluding delays caused or authorized by OC SAN as set forth in Sections 7, 8, and 9 hereof, and applicable provisions in the General Conditions. The time for completion includes ten (10) calendar days determined by OC SAN likely to be inclement weather when CONTRACTOR will be unable to work.

SECTION – 6 TIME IS OF THE ESSENCE

Time is of the essence of this Contract. As required by the Contract Documents, CONTRACTOR shall prepare and obtain approval of all shop drawings, details and samples, and do all other things necessary and incidental to the prosecution of CONTRACTOR’s Work in conformance with an approved construction progress schedule. CONTRACTOR shall coordinate the Work covered by this Contract with that of all other contractors, subcontractors and of OC SAN, in a manner that will facilitate the efficient completion of the entire Work and accomplish the required milestone(s), if any, by the applicable deadline(s) in accordance with Section 5 herein. OC SAN shall have the right to assert complete control of the premises on which the Work is to be performed and shall have the right to decide the time or order in which the various portions of the Work shall be installed or the priority of the work of subcontractors,

and, in general, all matters representing the timely and orderly conduct of the Work of CONTRACTOR on the premises.

SECTION – 7 EXCUSABLE DELAYS

CONTRACTOR shall only be excused for any delay in the prosecution or completion of the Project as specifically provided in General Conditions, “Extension of Time for Delay”, and the General Requirements, “By CONTRACTOR or Others – Unknown Utilities during Contract Work”. Extensions of time and extra compensation arising from such excusable delays will be determined in accordance with the General Conditions, “Extension of Time for Delay” and “Contract Price Adjustments and Payments”, and extensions of time and extra compensation as a result of incurring undisclosed utilities will be determined in accordance with General Requirements, “By CONTRACTOR or Others – Unknown Utilities during Contract Work”. OC SAN's decision will be conclusive on all parties to this Contract.

SECTION – 8 EXTRA WORK

The Contract Price as set forth in Section 11, includes compensation for all Work performed by CONTRACTOR, unless CONTRACTOR obtains a Change Order signed by a designated representative of OC SAN specifying the exact nature of the Extra Work and the amount of extra compensation to be paid all as more particularly set forth in Section 9 hereof and the General Conditions, “Request for Change (Changes at CONTRACTOR’s Request)”, “OWNER Initiated Changes”, and “Contract Price Adjustments and Payments”.

In the event a Change Order is issued by OC SAN pursuant to the Contract Documents, OC SAN shall extend the time fixed in Section 5 for completion of the Project by the number of days, if any, reasonably required for CONTRACTOR to perform the Extra Work, as determined by OC SAN’s ENGINEER. The decision of the ENGINEER shall be final.

SECTION – 9 CHANGES IN PROJECT

OC SAN may at any time, without notice to any Surety, by Change Order, make any changes in the Work within the general scope of the Contract Document, including but not limited to changes:

1. In the Specifications (including Drawings and designs);
2. In the time, method or manner of performance of the Work;
3. In OC SAN-furnished facilities, equipment, materials, services or site; or
4. Directing acceleration in the performance of the Work.

No change of period of performance or Contract Price, or any other change in the Contract Documents, shall be binding until the Contract is modified by a fully executed Change Order.

All Change Orders shall be issued in accordance with the requirements set forth in the General Conditions, "Request for Change (Changes at CONTRACTOR's Request)" and "OWNER Initiated Changes".

SECTION – 10 LIQUIDATED DAMAGES FOR DELAY

Liquidated Damages shall be payable in the amounts and upon the occurrence of such events or failure to meet such requirements or deadlines as provided in the Special Provisions, "Liquidated Damages and Incentives."

SECTION – 11 CONTRACT PRICE AND METHOD OF PAYMENT

A. OC SAN agrees to pay and the CONTRACTOR agrees to accept as full consideration for the faithful performance of this Contract, subject to any additions or deductions as provided in approved Change Orders, the sum of One Million Four Hundred Thirty-Three Thousand Dollars (\$1,433,000) as itemized on the Attached Exhibit "A".

Upon satisfaction of the conditions precedent to payment set forth in the General Requirements, Additional General Requirements and General Conditions (including but

not limited to Sections entitled “Mobilization Payment Requirements” and “Payment Itemized Breakdown of Contract Lump Sum Prices”), there shall be paid to the CONTRACTOR an initial Net Progress Payment for mobilization. OC SAN shall issue at the commencement of the job a schedule which shows:

1. A minimum of one payment to be made to the CONTRACTOR for each successive four (4) week period as the Work progresses, and
2. The due dates for the CONTRACTOR to submit requests for payment to meet the payment schedule.

After the initial Net Progress Payment, and provided the CONTRACTOR submits the request for payment prior to the end of the day required to meet the payment schedule, the CONTRACTOR shall be paid a Net Progress Payment on the corresponding monthly payment date set forth in the schedule.

Payments shall be made on demands drawn in the manner required by law, accompanied by a certificate signed by the ENGINEER, stating that the Work for which payment is demanded has been performed in accordance with the terms of the Contract Documents, and that the amount stated in the certificate is due under the terms of the Contract.

Payment applications shall also be accompanied with all documentation, records, and releases as required by the Contract, Exhibit A, Schedule of Prices, and General Conditions, “Payment for Work – General”. The Total amount of Progress Payments shall not exceed the actual value of the Work completed as certified by OC SAN’s ENGINEER. The processing of payments shall not be considered as an acceptance of any part of the Work.

- B. As used in this Section, the following defined terms shall have the following meanings:
1. **“Net Progress Payment”** means a sum equal to the Progress Payment less the Retention Amount and other qualified deductions (Liquidated Damages, stop payment notices, etc.).
 2. **“Progress Payment”** means a sum equal to:
 - a. the value of the actual Work completed since the commencement of the Work as determined by OC SAN;
 - b. plus the value of material suitably stored at the worksite, treatment plant or approved storage yards subject to or under the control of OC SAN since the commencement of the Work as determined by OC SAN;
 - c. less all previous Net Progress Payments;
 - d. less all amounts of previously qualified deductions;
 - e. less all amounts previously retained as Retention Amounts.
 3. **“Retention Amount”** for each Progress Payment means the percentage of each Progress Payment to be retained by OC SAN to assure satisfactory completion of the Contract. The amount to be retained from each Progress Payment shall be determined as provided in the General Conditions –“Retained Funds; Substitution of Securities.”

SECTION – 12 SUBSTITUTION OF SECURITIES IN LIEU OF RETENTION OF FUNDS

Pursuant to Public Contract Code Section 22300 et seq., the CONTRACTOR may, at its sole expense, substitute securities as provided in General Conditions – “Retained Funds; Substitution of Securities.”

SECTION – 13 COMPLETION

Final Completion and Final Acceptance shall occur at the time and in the manner specified in the General Conditions, “Final Acceptance and Final Completion”, “Final Payment” and Exhibit A - Schedule of Prices.

Upon receipt of all documentation, records, and releases as required by the Contract from the CONTRACTOR, OC SAN shall proceed with the Final Acceptance as specified in General Conditions.

SECTION – 14 CONTRACTOR’S EMPLOYEES COMPENSATION

A. Davis-Bacon Act:

CONTRACTOR will pay and will require all Subcontractors to pay all employees on said Project a salary or wage at least equal to the prevailing rate of per diem wages as determined by the Secretary of Labor in accordance with the Davis-Bacon Act for each craft or type of worker needed to perform the Contract. The provisions of the Davis-Bacon Act shall apply only if the Contract is in excess of Two Thousand Dollars (\$2,000.00) and when twenty-five percent (25%) or more of the Contract is funded by federal assistance. If the aforesaid conditions are met, a copy of the provisions of the Davis-Bacon Act to be complied with are incorporated herein as a part of this Contract and referred to by reference.

B. General Prevailing Rate:

OC SAN has been advised by the State of California Director of Industrial Relations of its determination of the general prevailing rate of per diem wages and the general prevailing rate for legal holiday and overtime Work in the locality in which the Work is to be performed for each craft or type of Work needed to execute this Contract, and copies of the same are on file in the Office of the ENGINEER of OC SAN. The CONTRACTOR agrees that not less than said prevailing rates shall be paid to workers employed on this

public works Contract as required by Labor Code Section 1774 of the State of California. Per California Labor Code 1773.2, OC SAN will have on file copies of the prevailing rate of per diem wages at its principal office and at each job site, which shall be made available to any interested party upon request.

C. Forfeiture for Violation:

CONTRACTOR shall, as a penalty to OC SAN, forfeit Two Hundred Dollars (\$200.00) for each calendar day or portion thereof for each worker paid (either by the CONTRACTOR or any Subcontractor under it) less than the prevailing rate of per diem wages as set by the Director of Industrial Relations, in accordance with Sections 1770-1780 of the California Labor Code for the Work provided for in this Contract, all in accordance with Section 1775 of the Labor Code of the State of California.

D. Apprentices:

Sections 1777.5, 1777.6, 1777.7 of the Labor Code of the State of California, regarding the employment of apprentices are applicable to this Contract and the CONTRACTOR shall comply therewith if the prime contract involves Thirty Thousand Dollars (\$30,000.00) or more.

E. Workday:

In the performance of this Contract, not more than eight (8) hours shall constitute a day's work, and the CONTRACTOR shall not require more than eight (8) hours of labor in a day from any person employed by him hereunder except as provided in paragraph (B) above. CONTRACTOR shall conform to Article 3, Chapter 1, Part 7 (Section 1810 et seq.) of the Labor Code of the State of California and shall forfeit to OC SAN as a penalty, the sum of Twenty-five Dollars (\$25.00) for each worker employed in the execution of this Contract by CONTRACTOR or any Subcontractor for each calendar day during which any worker is required or permitted to labor more than eight (8) hours in any one calendar day and forty

(40) hours in any one week in violation of said Article. CONTRACTOR shall keep an accurate record showing the name and actual hours worked each calendar day and each calendar week by each worker employed by CONTRACTOR in connection with the Project.

F. Registration; Record of Wages; Inspection:

CONTRACTOR shall comply with the registration requirements of Labor Code Section 1725.5. Pursuant to Labor Code Section 1771.4, the Work is subject to compliance monitoring by the California Department of Industrial Relations. CONTRACTOR shall maintain accurate payroll records and shall submit payroll records to the Labor Commissioner pursuant to Labor Code Section 1771.4(a)(3). Penalties for non-compliance with the requirements of Section 1776 may be deducted from progress payments per Section 1776.

CONTRACTOR shall comply with the job site notices posting requirements established by the Labor Commissioner per Title 8, California Code of Regulations Section 16461(e).

SECTION – 15 SURETY BONDS

CONTRACTOR shall, before entering upon the performance of this Contract, furnish Bonds approved by OC SAN's General Counsel – one in the amount of one hundred percent (100%) of the Contract amount, to guarantee the faithful performance of the Work, and the other in the amount of one hundred percent (100%) of the Contract amount to guarantee payment of all claims for labor and materials furnished. As changes to the Contract occur via approved Change Orders, the CONTRACTOR shall assure that the amounts of the Bonds are adjusted to maintain 100% of the Contract Price. This Contract shall not become effective until such Bonds are supplied to and approved by OC SAN. Bonds must be issued by a Surety authorized by the State Insurance Commissioner to do business in California. The Performance Bond shall remain in full force and effect through the warranty period, as specified in Section 19 below. All Bonds required to be submitted relating to this Contract must comply with California Code of

Civil Procedure Section 995.630. Each Bond shall be executed in the name of the Surety insurer under penalty of perjury, or the fact of execution of each Bond shall be duly acknowledged before an officer authorized to take and certify acknowledgments, and either one of the following conditions shall be satisfied:

- A. A copy of the transcript or record of the unrevoked appointment, power of attorney, by-laws, or other instrument, duly certified by the proper authority and attested by the seal of the insurer entitling or authorizing the person who executed the Bond to do so for and on behalf of the insurer, is on file in the Office of the County Clerk of the County of Orange; or
- B. A copy of a valid power of attorney is attached to the Bond.

SECTION – 16 INSURANCE

CONTRACTOR shall purchase and maintain, for the duration of the Contract, insurance against claims for injuries to persons, or damages to property which may arise from or in connection with the performance of the Work hereunder, and the results of that Work by CONTRACTOR, its agents, representatives, employees, or Subcontractors, in amounts equal to the requirements set forth below. CONTRACTOR shall not commence Work under this Contract until all insurance required under this Section is obtained in a form acceptable to OC SAN, nor shall CONTRACTOR allow any Subcontractor to commence Work on a subcontract until all insurance required of the Subcontractor has been obtained. CONTRACTOR shall maintain all of the foregoing insurance coverages in force through the point at which the Work under this Contract is fully completed and accepted by OC SAN pursuant to the provisions of the General Conditions, "Final Acceptance and Final Completion". Furthermore, CONTRACTOR shall maintain all of the foregoing insurance coverages in full force and effect throughout the warranty period, commencing on the date of Final Acceptance. The requirement for carrying the foregoing insurance shall not derogate from the provisions for indemnification of OC SAN by CONTRACTOR under Section 17 of this Contract. Notwithstanding nor diminishing the

obligations of CONTRACTOR with respect to the foregoing, CONTRACTOR shall subscribe for and maintain in full force and effect during the life of this Contract, inclusive of all changes to the Contract Documents made in accordance with the provisions of the General Conditions, "Request for Change (Changes at CONTRACTOR's Request)" and/or "OWNER Initiated Changes", the following insurance in amounts not less than the amounts specified. OC SAN reserves the right to amend the required limits of insurance commensurate with the CONTRACTOR's risk at any time during the course of the Project. No vehicles may enter OC SAN premises/worksite without possessing the required insurance coverage.

CONTRACTOR's insurance shall also comply with all insurance requirements prescribed by agencies from whom permits shall be obtained for the Work and any other third parties from whom third party agreements are necessary to perform the Work (collectively, the "Third Parties"), The Special Provisions may list such requirements and sample forms and requirements from such Third Parties may be included in an attachment to the General Requirements. CONTRACTOR bears the responsibility to discover and comply with all requirements of Third Parties, including meeting specific insurance requirements, that are necessary for the complete performance of the Work. To the extent there is a conflict between the Third Parties' insurance requirements and those set forth by OC SAN herein, the requirement(s) providing the more protective coverage for both OC SAN and the Third Parties shall control and be purchased and maintained by CONTRACTOR.

Where permitted by law, CONTRACTOR hereby waives all rights of recovery by subrogation because of deductible clauses, inadequacy of limits of any insurance policy, limitations or exclusions of coverage, or any other reason against OC SAN, its or their officers, agents, or employees performing Work or rendering services on behalf of OC SAN in connection with the planning, development and construction of the Project. In all its insurance coverages (except for Professional Liability/Errors and Omissions coverages, if applicable) related to the Work,

CONTRACTOR shall include clauses providing that each insurer shall waive all of its rights of recovery by subrogation against OC SAN, its or their officers, agents, or employees performing Work or rendering services at the Project. Where permitted by law, CONTRACTOR shall require similar written express waivers and insurance clauses from each of its Subcontractors of every tier. A waiver of subrogation shall be effective as to any individual or entity, even if such individual or entity (a) would otherwise have a duty of indemnification, contractual or otherwise, (b) did not pay the insurance premium, directly or indirectly, and (c) whether or not such individual or entity has an insurable interest in the property damaged.

A. Limits of Insurance

1. General Liability: Two Million Dollars (\$2,000,000) per occurrence and a general aggregate limit of Four Million Dollars (\$4,000,000) for bodily injury, personal injury and property damage. If aggregate limits apply separately to this contract (as evidenced by submission of ISO form CG 25 03 or CG 25 04), then the aggregate limit may be equivalent to the per occurrence limit. Coverage shall include each of the following:
 - a. Premises-Operations.
 - b. Products and Completed Operations, with limits of at least Two Million Dollars (\$2,000,000) per occurrence and a general aggregate limit of Four Million Dollars (\$4,000,000) which shall be in effect at all times during the warranty period set forth in the Warranty section herein, and as set forth in the General Conditions, "Warranty (CONTRACTOR's Guarantee)", plus any additional extension or continuation of time to said warranty period that may be required or authorized by said provisions. If aggregate limits apply separately to this contract (as evidenced by submission of ISO form CG 25 03 or CG 25 04), then the aggregate limit may be equivalent to the per occurrence limit.

- c. Broad Form Property Damage, expressly including damage arising out of explosion, collapse, or underground damage.
- d. Contractual Liability, expressly including the indemnity provisions assumed under this Contract.
- e. Separation of Insured Clause, providing that coverage applies separately to each insured, except with respect to the limits of liability.
- f. Independent CONTRACTOR's Liability.

To the extent first dollar coverage, including defense of any claim, is not available to OC SAN or any other additional insured because of any SIR, deductible, or any other form of self insurance, CONTRACTOR is obligated to assume responsibility of insurer until the deductible, SIR or other condition of insurer assuming its defense and/or indemnity has been satisfied.

CONTRACTOR shall be responsible to pay any deductible or SIR.

- g. If a crane will be used, the general liability insurance will be endorsed to add Riggers Liability coverage or its equivalent to cover the usage of the crane and exposures with regard to the crane operators, riggers and others involved in using the crane.
 - h. If divers will be used, the general liability insurance will be endorsed to cover marine liability or its equivalent to cover the usage of divers.
2. Automobile Liability: The CONTRACTOR shall maintain a policy of automobile liability insurance on a comprehensive form covering all owned, non-owned, and hired automobiles, trucks, and other vehicles providing the following minimum limit of liability coverage: combined single limit of One Million Dollars (\$1,000,000) for bodily injury, personal injury, and property damage.

3. Umbrella Excess Liability: The minimum limits of general liability and automobile liability insurance required, as set forth above, shall be provided for either in a single policy of primary insurance or a combination of policies of primary and umbrella excess coverage. Excess liability coverage shall be issued with limits of liability which, when combined with the primary insurance, will equal the minimum limits for general liability and automobile liability.
4. Drone Liability Insurance: If a drone will be used, drone liability insurance must be maintained by CONTRACTOR in the amount of One Million Dollars (\$1,000,000) in a form acceptable to OC SAN.
5. Workers' Compensation/Employer's Liability: CONTRACTOR shall provide such workers' compensation insurance as required by the Labor Code of the State of California, including employer's liability with a minimum limit of One Million Dollars (\$1,000,000) per accident for bodily injury or disease. If an exposure to Jones Act liability may exist, the insurance required herein shall include coverage with regard to Jones Act claims.

B. Self-Insured Retentions

Any self-insured retentions must be declared to and approved by OC SAN. At the option of OC SAN, either: the Insurer shall reduce or eliminate such self-insured retentions as respects OC SAN, its Directors, officers, agents, consultants, and employees; or CONTRACTOR shall provide a financial guarantee satisfactory to OC SAN guaranteeing payment of losses and related investigations, claim administration, and defense expenses.

C. Other Insurance Provisions

1. Each such policy of general liability insurance and automobile liability insurance shall be endorsed to contain, the following provisions:

- a. OC SAN, its directors, officers, agents, consultants, and employees, and all public agencies from whom permits will be obtained, and their directors, officers, agents, and employees are hereby declared to be additional insureds under the terms of this policy, but only with respect to the operations of CONTRACTOR at or from any of the sites of OC SAN in connection with this Contract, or acts and omissions of the additional insured in connection with its general supervision or inspection of said operations related to this Contract.
 - b. Insurance afforded by the additional insured endorsement shall apply as primary insurance, and other insurance maintained by OC SAN shall be excess only and not contributing with insurance provided under this policy.
2. Cancellation and Policy Change Notice.

The CONTRACTOR is required to notify OC SAN in writing of any insurance cancellation notice it receives or other knowledge of pending or actual insurance policy cancellation within two (2) working days of receipt of such notice or acquisition of such knowledge. Additionally, the CONTRACTOR is required to notify OC SAN in writing of any change in the terms of insurance, including reduction in coverage or increase in deductible/SIR, within two (2) working days of receipt of such notice or knowledge of same.

Said notices shall be mailed to OC SAN at:

ORANGE COUNTY SANITATION DISTRICT
10844 Ellis Avenue
Fountain Valley, CA 92708
Attention: Contracts, Purchasing & Materials Management Division

3. Coverage shall not extend to any indemnity coverage for the active negligence of any additional insured in any case where an agreement to indemnify the additional insured would be invalid under California Civil Code Section 2782(b).

4. If required by a public agency from whom permit(s) will be obtained, each policy of general liability insurance and automobile liability insurance shall be endorsed to specify by name the public agency and its legislative members, officers, agents, consultants, and employees, to be additional insureds.

D. Acceptability of Insurers

Insurers must have an "A-", or better, Policyholder's Rating, and a Financial Rating of at least Class VIII, or better, in accordance with the most current A.M. Best Rating Guide. OC SAN recognizes that State Compensation Insurance Fund has withdrawn from participation in the A.M. Best Rating Guide process. Nevertheless, OC SAN will accept State Compensation Insurance Fund for the required policy of worker's compensation insurance, subject to OC SAN's option, at any time during the term of this Contract, to require a change in insurer upon twenty (20) days written notice. Further, OC SAN will require CONTRACTOR to substitute any insurer whose rating drops below the levels herein specified. Said substitution shall occur within twenty (20) days of written notice to CONTRACTOR by OC SAN or its agent.

E. Verification of Coverage

CONTRACTOR shall furnish OC SAN with original certificates and mandatory endorsements affecting coverage. Said policies and endorsements shall conform to the requirements herein stated. All certificates and endorsements are to be received and approved by OC SAN before Work commences. OC SAN reserves the right to require complete, certified copies of all required insurance policies, including endorsements, affecting the coverage required by these Specifications at any time.

F. Subcontractors

CONTRACTOR shall be responsible to establish insurance requirements for any Subcontractors hired by CONTRACTOR. The insurance shall be in amounts and types

reasonably sufficient to deal with the risk of loss involving the Subcontractor's operations and work. OC SAN and any public agency issuing permits for the Project must be named as "Additional Insured" on any general liability or automobile liability policy obtained by a Subcontractor. The CONTRACTOR must obtain copies and maintain current versions of all Subcontractors' certificate of liability and mandatory endorsements effecting coverage. Upon request, CONTRACTOR must furnish OC SAN with the above referenced required documents.

G. Required Forms and Endorsements

1. Required ACORD Form

- | | | |
|----|--------------------------|---|
| a. | Certificate of Liability | ACORD Form 25 or other equivalent certificate of insurance form |
|----|--------------------------|---|

2. Required Insurance Services Office, Inc. Endorsements (when alternative forms are shown, they are listed in order of preference)

In the event any of the following forms are cancelled by Insurance Services Office, Inc. (ISO), or are updated, the ISO replacement form or equivalent must be supplied.

- | | | |
|----|---|--|
| a. | Commercial General Liability | Form CG 00 01 |
| b. | Additional Insured Including Products-Completed Operations | Form CG 20 10 and
Form CG 20 37
All other additional insured endorsements must be submitted for approval by OC SAN, and OC SAN may reject alternatives that provide different or less coverage to OC SAN. |
| c. | Waiver of Transfer of Rights of Recovery Against Others to Us/
Waiver of Subrogation | Form CG 24 04 |

3. Required State Compensation Insurance Fund Endorsements

- | | | |
|----|-----------------------|---|
| a. | Waiver of Subrogation | Submit workers' compensation waiver of subrogation endorsement provided by carrier for OC SAN approval. |
|----|-----------------------|---|

b. Cancellation Notice

No endorsement is required. However, CONTRACTOR is responsible for notifying OC SAN of any pending or actual insurance policy cancellation, as described in Article C.2., Cancellation and Policy Change Notice, above.

4. Additional Required Endorsements

a. Notice of Policy Termination

Manuscript Endorsement

SECTION – 17 RISK AND INDEMNIFICATION

All Work covered by this Contract done at the site of construction or in preparing or delivering materials to the site shall be at the risk of CONTRACTOR alone. CONTRACTOR shall save, indemnify, defend, and keep OC SAN and others harmless as more specifically set forth in General Conditions, “General Indemnification”.

SECTION – 18 TERMINATION

This Contract may be terminated in whole or in part in writing by OC SAN in the event of substantial failure by the CONTRACTOR to fulfill its obligations under this Agreement, or it may be terminated by OC SAN for its convenience provided that such termination is effectuated in a manner and upon such conditions set forth more particularly in General Conditions, “Termination for Default” and/or “Termination for Convenience”, provided that no termination may be effected unless proper notice is provided to CONTRACTOR at the time and in the manner provided in said General Conditions. If termination for default or convenience is effected by OC SAN, an equitable adjustment in the price provided for in this Contract shall be made at the time and in the manner provided in the General Conditions, “Termination for Default” and “Termination for Convenience”.

SECTION – 19 WARRANTY

The CONTRACTOR agrees to perform all Work under this Contract in accordance with the Contract Documents, including OC SAN’s designs, Drawings and Specifications.

The CONTRACTOR guarantees for a period of at least one (1) year from the date of Final Acceptance of the Work, pursuant to the General Conditions, "Final Acceptance and Final Completion" that the completed Work is free from all defects due to faulty materials, equipment or workmanship and that it shall promptly make whatever adjustments or corrections which may be necessary to cure any defects, including repairs of any damage to other parts of the system resulting from such defects. OC SAN shall promptly give notice to the CONTRACTOR of observed defects. In the event that the CONTRACTOR fails to make adjustments, repairs, corrections or other work made necessary by such defects, OC SAN may do so and charge the CONTRACTOR the cost incurred. The CONTRACTOR's warranty shall continue as to any corrected deficiency until the later of (1) the remainder of the original one-year warranty period; or (2) one year after acceptance by OC SAN of the corrected Work. The Performance Bond and the Payment Bond shall remain in full force and effect through the guarantee period.

The CONTRACTOR's obligations under this clause are in addition to the CONTRACTOR's other express or implied assurances under this Contract, including but not limited to specific manufacturer or other extended warranties specified in the Plans and Specifications, or state law and in no way diminish any other rights that OC SAN may have against the CONTRACTOR for faulty materials, equipment or Work.

SECTION – 20 ASSIGNMENT

No assignment by the CONTRACTOR of this Contract or any part hereof, or of funds to be received hereunder, will be recognized by OC SAN unless such assignment has had prior written approval and consent of OC SAN and the Surety.

SECTION – 21 RESOLUTION OF DISPUTES

OC SAN and the CONTRACTOR shall comply with the provisions of California Public Contract Code Section 20104 et. seq., regarding resolution of construction claims for any Claims which

arise between the CONTRACTOR and OC SAN, as well as all applicable dispute and Claims provisions as set forth in the General Conditions and as otherwise required by law.

SECTION – 22 SAFETY & HEALTH

CONTRACTOR shall comply with all applicable safety and health requirements mandated by federal, state, city and/or public agency codes, permits, ordinances, regulations, and laws, as well as these Contract Documents, including but not limited to the General Requirements, Section entitled “Safety” and Exhibit B Contractor Safety Standards.

SECTION – 23 NOTICES

Any notice required or permitted under this Contract shall be sent by certified mail, return receipt requested, at the address set forth below. Any party whose address changes shall notify the other party in writing.

TO OC SAN: Orange County Sanitation District
10844 Ellis Avenue
Fountain Valley, California 92708-7018
Attn: Clerk of the Board

Copy to: Orange County Sanitation District
10844 Ellis Avenue
Fountain Valley, California 92708-7018
Attn: Construction Manager

Bradley R. Hogin, Esquire
Woodruff, Spradlin & Smart
555 Anton Boulevard
Suite 1200
Costa Mesa, California 92626

TO CONTRACTOR: ACS Engineering
33 Hammond, Suite 209
Irvine, CA 92618

Copy to: Babak Kavoossi
ACS Engineering
33 Hammond, Suite 209
Irvine, CA 92618

IN WITNESS WHEREOF, the parties hereto have executed this Contract Agreement as the date first hereinabove written.

CONTRACTOR: ACS Engineering
33 Hammond, Suite 209
Irvine, CA 92618

By _____ Date _____

Printed Name

Its _____

CONTRACTOR's State License No. 962264 (Expiration Date 06/30/2023)

OC SAN: Orange County Sanitation District

By _____ Date _____

John B. Withers
Board Chairman

By _____ Date _____

Kelly A. Lore
Clerk of the Board

By _____ Date _____

Ruth Zintzun
Purchasing & Contracts Manager

EXHIBIT A
SCHEDULE OF PRICES

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SCHEDULE OF PRICES

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EXHIBIT A

SCHEDULE OF PRICES

EXA-1 BASIS OF COMPENSATION

CONTRACTOR will be paid the Contract Price according to the Schedule of Prices, and all other applicable terms and conditions of the Contract Documents.

EXA-2 PROGRESS PAYMENTS

Progress payments will be made in accordance with all applicable terms and conditions of the Contract Documents, including, but not limited to:

1. Contract Agreement – Section 11 – “Contract Price and Method of Payment;”
2. General Conditions – “Payment – General”;
3. General Conditions – “Payment – Applications for Payment”;
4. General Conditions – “Payment – Mobilization Payment Requirements;”
5. General Conditions – “Payment – Itemized Breakdown of Contract Lump Sum Prices”;
6. General Conditions – “Contract Price Adjustments and Payments”;
7. General Conditions – “Suspension of Payments”;
8. General Conditions – “OC SAN’s Right to Withhold Certain Amounts and Make Application Thereof”; and
9. General Conditions – “Final Payment.”

EXA-3 RETENTION AND ESCROW ACCOUNTS

A. Retention:

OC SAN shall retain a percentage of each progress payment to assure satisfactory completion of the Work. The amount to be retained from each progress payment shall be determined as provided in General Conditions – “Retained Funds; Substitution of Securities”. In all contracts between CONTRACTOR and its Subcontractors and/or Suppliers, the retention may not exceed the percentage specified in the Contract Documents.

B. Substitution of Securities:

CONTRACTOR may, at its sole expense, substitute securities as provided in General Conditions – “Retained Funds; Substitution of Securities.” Payment of Escrow Agent:

In lieu of substitution of securities as provided above, the CONTRACTOR may request and OC SAN shall make payment of retention earned directly to the escrow agent at the expense of the CONTRACTOR. At the expense of the CONTRACTOR, the CONTRACTOR may direct the investment of the payments into securities consistent with Government Code §16430 and the CONTRACTOR shall receive the interest earned on the investments upon the same terms provided for in this article for securities deposited by the CONTRACTOR. Upon satisfactory completion of the Contract, the CONTRACTOR shall receive from the escrow agent all securities, interest and payments received by the escrow agent from OC SAN, pursuant to the terms of this article. The CONTRACTOR shall pay to each Subcontractor, not later than twenty (20) calendar days after receipt of the payment, the respective amount of interest earned, net of costs attributed to retention withheld from each Subcontractor, on the amount of retention withheld to ensure the performance of the Subcontractor. The escrow agreement used by the escrow agent pursuant to this article shall be substantially similar to the form set forth in §22300 of the California Public Contract Code.

C. Release of Retention:

Upon Final Acceptance of the Work, the CONTRACTOR shall submit an invoice for release of retention in accordance with the terms of the Contract.

D. Additional Deductibles:

In addition to the retentions described above, OC SAN may deduct from each progress payment any or all of the following:

1. Liquidated Damages that have occurred as of the date of the application for progress payment;
2. Deductions from previous progress payments already paid, due to OC SAN's discovery of deficiencies in the Work or non-compliance with the Specifications or any other requirement of the Contract;
3. Sums expended by OC SAN in performing any of the CONTRACTOR'S obligations under the Contract that the CONTRACTOR has failed to perform, and;
4. Other sums that OC SAN is entitled to recover from the CONTRACTOR under the terms of the Contract, including without limitation insurance deductibles and assessments.

The failure of OC SAN to deduct any of the above-identified sums from a progress payment shall not constitute a waiver of OC SAN's right to such sums or to deduct them from a later progress payment.

EXA-4 STOP PAYMENT NOTICE

In addition to other amounts properly withheld under this article or under other provisions of the Contract, OC SAN shall retain from progress payments otherwise due the CONTRACTOR an amount equal to one hundred twenty-five percent (125%) of the amount claimed under any stop payment notice under Civil Code §9350 et. seq. or other lien filed against the CONTRACTOR for labor, materials, supplies, equipment, and any other thing of value claimed to have been furnished to and/or incorporated into the Work; or for any other alleged contribution thereto. In addition to the foregoing and in accordance with Civil Code §9358 OC SAN may also satisfy its duty to withhold funds for stop payment notices by refusing to release funds held in escrow pursuant to public receipt of a release of stop payment notice executed by a stop payment notice claimant, a stop payment notice release bond, an order of a court of competent jurisdiction, or other evidence satisfactory to OC SAN that the CONTRACTOR has resolved such claim by settlement.

EXA-5 PAYMENT TO SUBCONTRACTORS

Requirements

1. The CONTRACTOR shall pay all Subcontractors for and on account of Work performed by such Subcontractors, not later than seven (7) days after receipt of each progress payment as required by the California Business and Professions Code §7108.5. Such payments to Subcontractors shall be based on the measurements and estimates made pursuant to article progress payments provided herein.
2. Except as specifically provided by law, the CONTRACTOR shall pay all Subcontractors any and all retention due and owing for and on account of Work performed by such Subcontractors not later than seven (7) days after CONTRACTOR'S receipt of said retention proceeds from OC SAN as required by the California Public Contract Code §7107.

EXA-6 PAYMENT OF TAXES

Unless otherwise specifically provided in this Contract, the Contract Price includes full compensation to the CONTRACTOR for all taxes. The CONTRACTOR shall pay all federal, state, and local taxes, and duties applicable to and assessable against any Work, including but not limited to retail sales and use, transportation, export, import, business, and special taxes. The CONTRACTOR shall ascertain and pay the taxes when due. The CONTRACTOR will maintain auditable records, subject to OC SAN reviews, confirming that tax payments are current at all times.

EXA-7 FINAL PAYMENT

After Final Acceptance of the Work, as more particularly set forth in the General Conditions, "Final Acceptance and Final Completion", and after Resolution of the Board authorizing final payment and satisfaction of the requirements as more particularly set forth in General Conditions – "Final Payment", a final payment will be made as follows:

1. Prior to Final Acceptance, the CONTRACTOR shall prepare and submit an application for Final Payment to OC SAN, including:
 - a. The proposed total amount due the CONTRACTOR, segregated by items on the payment schedule, amendments, Change Orders, and other bases for payment;
 - b. Deductions for prior progress payments;
 - c. Amounts retained;
 - d. A conditional waiver and release on final payment for each Subcontractor (per Civil Code Section 8136);
 - e. A conditional waiver and release on final payment on behalf of the CONTRACTOR (per Civil Code Section 8136);
 - f. List of Claims the CONTRACTOR intends to file at that time or a statement that no Claims will be filed,
 - g. List of pending unsettled claims, stating claimed amounts, and copies of any and all complaints and/or demands for arbitration received by the CONTRACTOR; and
 - h. For each and every claim that resulted in litigation or arbitration which the CONTRACTOR has settled, a conformed copy of the Request for Dismissal with prejudice or other satisfactory evidence the arbitration is resolved.
2. The application for Final Payment shall include complete and legally effective releases or waivers of liens and stop payment notices satisfactory to OC SAN, arising out of or filed in connection with the Work. Prior progress payments shall be subject to correction in OC SAN's review of the application for Final Payment. Claims filed with the application for Final Payment must be otherwise timely under the Contract and applicable law.
3. Within a reasonable time, OC SAN will review the CONTRACTOR'S application for Final Payment. Any recommended changes or corrections will then be forwarded to the CONTRACTOR. Within ten (10) calendar days after receipt of recommended changes from OC SAN, the CONTRACTOR will make the changes, or list Claims that will be filed as a result of the changes, and shall submit the revised application for Final Payment. Upon

acceptance by OC SAN, the revised application for Final Payment will become the approved application for Final Payment.

4. If no Claims have been filed with the initial or any revised application for Final Payment, and no Claims remain unsettled within thirty-five (35) calendar days after Final Acceptance of the Work by OC SAN, and agreements are reached on all issues regarding the application for Final Payment, OC SAN, in exchange for an executed release, satisfactory in form and substance to OC SAN, will pay the entire sum found due on the approved application for Final Payment, including the amount, if any, allowed on settled Claims.
5. The release from the CONTRACTOR shall be from any and all Claims arising under the Contract, except for Claims that with the concurrence of OC SAN are specifically reserved, and shall release and waive all unreserved Claims against OC SAN and its officers, directors, employees and authorized representatives. The release shall be accompanied by a certification by the CONTRACTOR that:
 - a. It has resolved all Subcontractors, Suppliers and other Claims that are related to the settled Claims included in the Final Payment;
 - b. It has no reason to believe that any party has a valid claim against the CONTRACTOR or OC SAN which has not been communicated in writing by the CONTRACTOR to OC SAN as of the date of the certificate;
 - c. All warranties are in full force and effect, and;
 - d. The releases and the warranties shall survive Final Payment.
6. If any claims remain open, OC SAN may make Final Payment subject to resolution of those claims. OC SAN may withhold from the Final Payment an amount not to exceed one hundred fifty percent (150%) of the sum of the amounts of the open claims, and one hundred twenty-five percent (125%) of the amounts of open stop payment notices referred to in article entitled stop payment notices herein.
7. The CONTRACTOR shall provide an unconditional waiver and release on final payment from each Subcontractor and Supplier providing Work under the Contract (per Civil Code Section 8138) and an unconditional waiver and release on final payment on behalf of the CONTRACTOR (per Civil Code Section 8138) within thirty (30) days of receipt of Final Payment.

EXA-8 DISCOVERY OF DEFICIENCIES BEFORE AND AFTER FINAL PAYMENT

Notwithstanding OC SAN's acceptance of the application for Final Payment and irrespective of whether it is before or after Final Payment has been made, OC SAN shall not be precluded from subsequently showing that:

1. The true and correct amount payable for the Work is different from that previously accepted;

2. The previously accepted Work did not in fact conform to the Contract requirements, or;
3. A previous payment or portion thereof for Work was improperly made.

OC SAN also shall not be stopped from demanding and recovering damages from the CONTRACTOR, as appropriate, under any of the foregoing circumstances as permitted under the Contract or applicable law.

ATTACHMENT 1 – CERTIFICATION FOR REQUEST FOR PAYMENT

I hereby certify under penalty of perjury as follows:

That the claim for payment is in all respects true, correct; that the services mentioned herein were actually rendered and/or supplies delivered to OC SAN in accordance with the Contract.

I understand that it is a violation of both the federal and California False Claims Acts to knowingly present or cause to be presented to OC SAN a false claim for payment or approval.

A claim includes a demand or request for money. It is also a violation of the False Claims Acts to knowingly make use of a false record or statement to get a false claim paid. The term "knowingly" includes either actual knowledge of the information, deliberate ignorance of the truth or falsity of the information, or reckless disregard for the truth or falsity of the information. Proof of specific intent to defraud is not necessary under the False Claims Acts. I understand that the penalties under the Federal False Claims Act and State of California False Claims Act are non-exclusive, and are in addition to any other remedies which OC SAN may have either under contract or law.

I hereby further certify, to the best of my knowledge and belief, that:

1. The amounts requested are only for performance in accordance with the Specifications, terms, and conditions of the Contract;
2. Payments to Subcontractors and Suppliers have been made from previous payments received under the Contract, and timely payments will be made from the proceeds of the payment covered by this certification;
3. This request for progress payments does not include any amounts which the prime CONTRACTOR intends to withhold or retain from a Subcontractor or Supplier in accordance with the terms and conditions of the subcontract; and
4. This certification is not to be construed as Final Acceptance of a Subcontractor's performance.

Name

Title

Date

ATTACHMENT 2 – SCHEDULE OF PRICES

See next pages for Bid Submittal Forms: ACS Engineering.

BF-14 SCHEDULE OF PRICES, Pages 1 – 2

Bid Submitted By: ACSE (Name of Firm)

BF-14 SCHEDULE OF PRICES

INSTRUCTIONS

A. General

For Unit Prices, it is understood that the following quantities are approximate only and are solely for the purpose of estimating the comparison of Bids, and that the actual value of Work will be computed based upon the actual quantities in the completed Work, whether they be more or less than those shown. CONTRACTOR's compensation for the Work under the Contract Documents will be computed based upon the lump sum amount of the Contract at time of award, plus any additional or deleted costs approved by OC SAN via approved Change Orders, pursuant to the Contract Documents.

Bidder shall separately price and accurately reflect costs associated with each line item, leaving no blanks. Any and all modifications to the Bid must be initialed by an authorized representative of the Bidder in accordance with the Instructions to Bidders, Preparation of Bid.

Bidders are reminded of Instruction to Bidders, Discrepancy in Bid Items, which, in summary, provides that the total price for each item shall be based on the Unit Price listed for each item multiplied by the quantity; and the correct Total Price for each item shall be totaled to determine the Total Amount of Bid.

All applicable costs including overhead and profit shall be reflected in the respective unit costs and the TOTAL AMOUNT OF BID. The Bid price shall include all costs to complete the Work, including profit, overhead, etc., unless otherwise specified in the Contract Documents. All applicable sales taxes, state and/or federal, and any other special taxes, patent rights or royalties shall be included in the prices quoted in this Bid.

B. Basis of Award

AWARD OF THE CONTRACT WILL BE MADE ON THE BASIS OF THE LOWEST RESPONSIVE AND RESPONSIBLE BID.

Note 1: Base Bid. Includes all costs necessary to furnish all labor, materials, equipment and services for the construction of the Project per the Contract Documents.

Bid Submitted By: ACSE (Name of Firm)

**EXHIBIT A
SCHEDULE OF PRICES**

BASE BID ITEMS (Refer to Note 1 in the Instructions):

Item No.	Description	Unit of Measurement	Approx Qty	Unit Price	Extended Price
1.	<p>Mobilization: This line item shall include all fees, labor, materials, and equipment required for all mobilization activities performed by the CONTRACTOR as described in Division 01, Section 01155 and in conformance with the Contract Documents...</p> <p>All amounts included in this line item that are greater than the allowable maximum amount of \$30,000 shall be paid as part of line item no. 2</p>	Lump Sum			= \$ 30,000
2.	<p>Secondary Treatment and Plant Water VFD Replacement:</p> <p>All other portions of the Work set forth in the Contract Documents except for the Work performed in Bid item no. 1. Work under this item shall include all labor, equipment, materials, and services necessary for all other Work not specified in Bid item no. 1.</p>	Lump Sum			= \$ 1,403,000

TOTAL AMOUNT OF BID (BASIS OF AWARD)

\$ 1,433,000



OPERATIONS COMMITTEE

Administration Building
10844 Ellis Avenue
Fountain Valley, CA 92708
(714) 593-7433

Agenda Report

File #: 2022-2158

Agenda Date: 3/16/2022

Agenda Item No: 10.

FROM: James D. Herberg, General Manager
Originator: Kathy Millea, Director of Engineering

SUBJECT:

STAFFING STRATEGY TO DELIVER CAPITAL IMPROVEMENT PROGRAM

GENERAL MANAGER'S RECOMMENDATION

RECOMMENDATION:

Information Item.

BACKGROUND

The Orange County Sanitation District's (OC San) Engineering Department manages the execution of the capital improvement program, as well as many of the more complex repair projects. The department includes 99 full time staff in a variety of engineering, inspection, administrative, and engineering support roles; plus 13 supervisors, four managers, and the Director of Engineering.

OC San anticipates capital improvement program expenditures of approximately \$1.5 billion from July 2022 through June 2027, with annual expenditures doubling between 2021 and 2023. This program will require a temporary increase in the number of engineering and project support professionals over the next five years. Each year, as part of its program management activities, the Engineering Department forecasts staffing levels needed over time to properly control and deliver the program.

Staff will present how estimates are developed for the inspection, engineering, project management, programming, and other project support required for delivering capital projects. The presentation will support a discussion of proposed Supplemental Engineering Services and Programming Services contracts to be presented at the Operations Committee in April 2022.

RELEVANT STANDARDS

- Sustain 1, 5, 20-year planning horizons
- Maintain a proactive asset management program

ATTACHMENT

The following attachment(s) may be viewed on-line at the OC San website (www.ocsan.gov) with the complete agenda package:

- Presentation

JM:dm

Capital Improvement Program Delivery Strategy

Jeff Mohr
Engineering
Manager

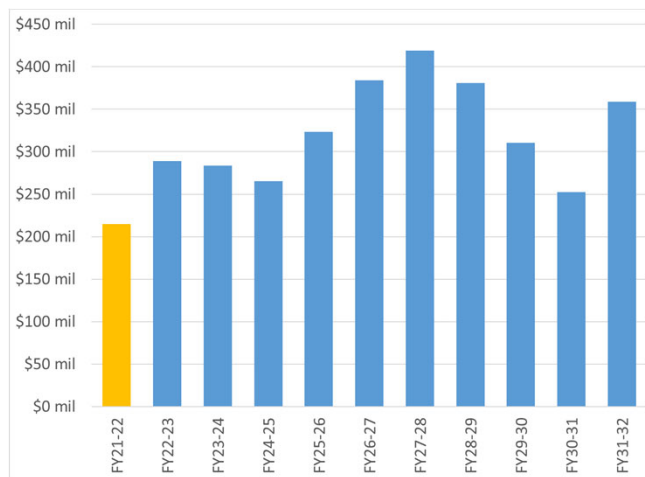
Operations
Committee
March 16, 2022



1

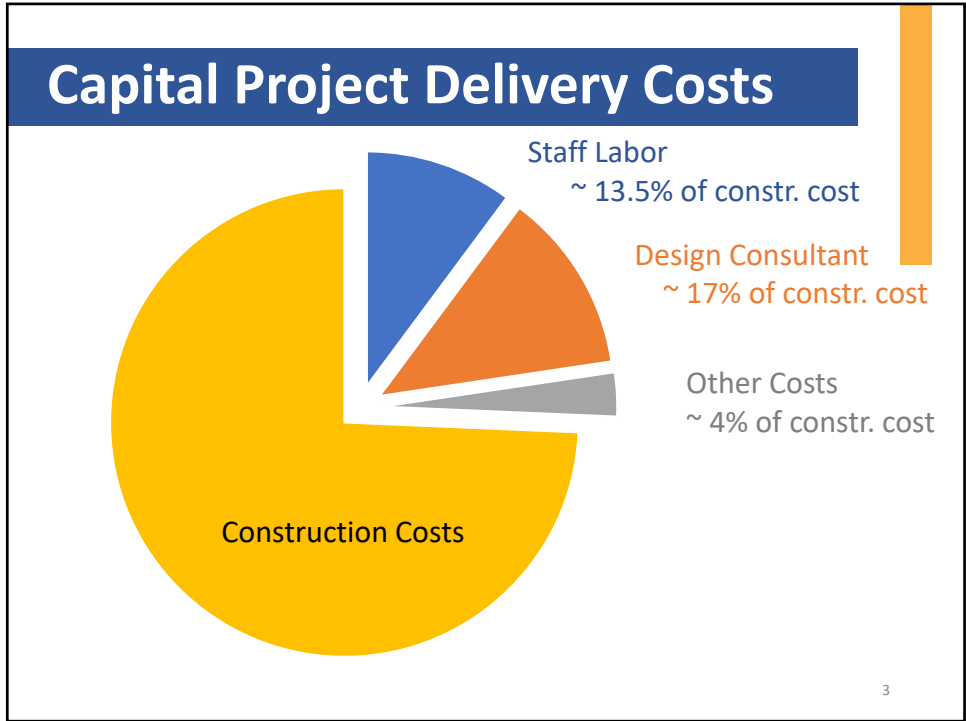
Forecasted CIP Expenditures

43 active designs - \$100 million design fees
46 construction contracts - \$700 million

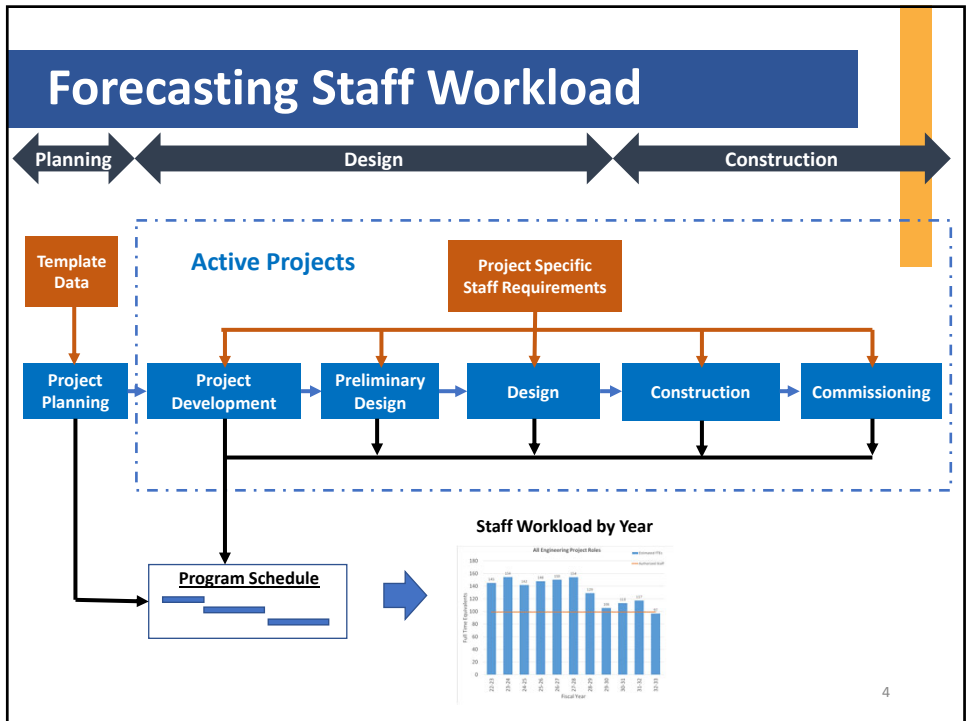


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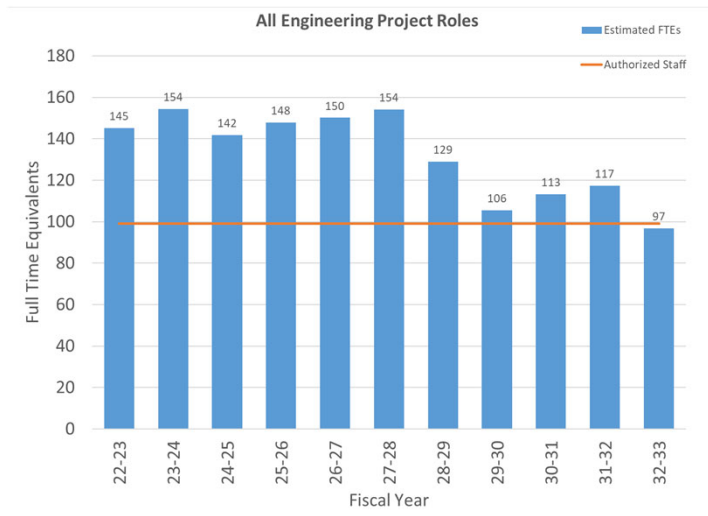


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Forecasted Engineering Workloads

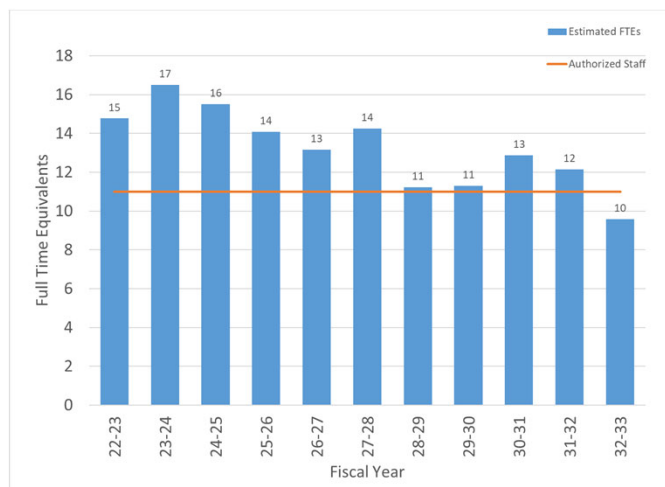


Note: This graph based on on-going budget reviews and is subject to change

5

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Programming Workload



Note: This graph based on on-going budget reviews and are subject to change

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Supplemental Services Contracts

- Surges in project staff workloads
- Technical Expertise
 - Structural
 - Architectural
 - Subject matter experts
- Small or urgent tasks
- 3rd Party Reviews
 - Value Engineering
 - Constructability Reviews

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Next Steps

- Award two Supplemental Engineering Services Agreements
- Award two Professional Programming Services Agreements

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ORANGE COUNTY SANITATION DISTRICT COMMON ACRONYMS

ACWA	Association of California Water Agencies	LOS	Level Of Service	RFP	Request For Proposal
APWA	American Public Works Association	MGD	Million Gallons Per Day	RWQCB	Regional Water Quality Control Board
AQMD	Air Quality Management District	MOU	Memorandum of Understanding	SARFPA	Santa Ana River Flood Protection Agency
ASCE	American Society of Civil Engineers	NACWA	National Association of Clean Water Agencies	SARI	Santa Ana River Interceptor
BOD	Biochemical Oxygen Demand	NEPA	National Environmental Policy Act	SARWQCB	Santa Ana Regional Water Quality Control Board
CARB	California Air Resources Board	NGOs	Non-Governmental Organizations	SAWPA	Santa Ana Watershed Project Authority
CASA	California Association of Sanitation Agencies	NPDES	National Pollutant Discharge Elimination System	SCADA	Supervisory Control And Data Acquisition
CCTV	Closed Circuit Television	NWRI	National Water Research Institute	SCAP	Southern California Alliance of Publicly Owned Treatment Works
CEQA	California Environmental Quality Act	O & M	Operations & Maintenance	SCAQMD	South Coast Air Quality Management District
CIP	Capital Improvement Program	OCCOG	Orange County Council of Governments	SOCWA	South Orange County Wastewater Authority
CRWQCB	California Regional Water Quality Control Board	OCHCA	Orange County Health Care Agency	SRF	Clean Water State Revolving Fund
CWA	Clean Water Act	OCSD	Orange County Sanitation District	SSMP	Sewer System Management Plan
CWEA	California Water Environment Association	OCWD	Orange County Water District	SSO	Sanitary Sewer Overflow
EIR	Environmental Impact Report	OOBS	Ocean Outfall Booster Station	SWRCB	State Water Resources Control Board
EMT	Executive Management Team	OSHA	Occupational Safety and Health Administration	TDS	Total Dissolved Solids
EPA	US Environmental Protection Agency	PCSA	Professional Consultant/Construction Services Agreement	TMDL	Total Maximum Daily Load
FOG	Fats, Oils, and Grease	PDSA	Professional Design Services Agreement	TSS	Total Suspended Solids
gpd	gallons per day	PFAS	Per- and Polyfluoroalkyl Substances	WDR	Waste Discharge Requirements
GWRS	Groundwater Replenishment System	PFOA	Perfluorooctanoic Acid	WEF	Water Environment Federation
ICS	Incident Command System	PFOS	Perfluorooctanesulfonic Acid	WERF	Water Environment & Reuse Foundation
IERP	Integrated Emergency Response Plan	POTW	Publicly Owned Treatment Works	WIFIA	Water Infrastructure Finance and Innovation Act
JPA	Joint Powers Authority	ppm	parts per million	WIIN	Water Infrastructure Improvements for the Nation Act
LAFCO	Local Agency Formation Commission	PSA	Professional Services Agreement	WRDA	Water Resources Development Act

ORANGE COUNTY SANITATION DISTRICT GLOSSARY OF TERMS

ACTIVATED SLUDGE PROCESS – A secondary biological wastewater treatment process where bacteria reproduce at a high rate with the introduction of excess air or oxygen and consume dissolved nutrients in the wastewater.

BENTHOS – The community of organisms, such as sea stars, worms, and shrimp, which live on, in, or near the seabed, also known as the benthic zone.

BIOCHEMICAL OXYGEN DEMAND (BOD) – The amount of oxygen used when organic matter undergoes decomposition by microorganisms. Testing for BOD is done to assess the amount of organic matter in water.

BIOGAS – A gas that is produced by the action of anaerobic bacteria on organic waste matter in a digester tank that can be used as a fuel.

BIOSOLIDS – Biosolids are nutrient rich organic and highly treated solid materials produced by the wastewater treatment process. This high-quality product can be recycled as a soil amendment on farmland or further processed as an earth-like product for commercial and home gardens to improve and maintain fertile soil and stimulate plant growth.

CAPITAL IMPROVEMENT PROGRAM (CIP) – Projects for repair, rehabilitation, and replacement of assets. Also includes treatment improvements, additional capacity, and projects for the support facilities.

COLIFORM BACTERIA – A group of bacteria found in the intestines of humans and other animals, but also occasionally found elsewhere, used as indicators of sewage pollution. E. coli are the most common bacteria in wastewater.

COLLECTIONS SYSTEM – In wastewater, it is the system of typically underground pipes that receive and convey sanitary wastewater or storm water.

CERTIFICATE OF PARTICIPATION (COP) – A type of financing where an investor purchases a share of the lease revenues of a program rather than the bond being secured by those revenues.

CONTAMINANTS OF POTENTIAL CONCERN (CPC) – Pharmaceuticals, hormones, and other organic wastewater contaminants.

DILUTION TO THRESHOLD (D/T) – The dilution at which the majority of people detect the odor becomes the D/T for that air sample.

GREENHOUSE GASES (GHG) – In the order of relative abundance water vapor, carbon dioxide, methane, nitrous oxide, and ozone gases that are considered the cause of global warming (“greenhouse effect”).

GROUNDWATER REPLENISHMENT SYSTEM (GWRS) – A joint water reclamation project that proactively responds to Southern California’s current and future water needs. This joint project between the Orange County Water District and OCSD provides 70 million gallons per day of drinking quality water to replenish the local groundwater supply.

LEVEL OF SERVICE (LOS) – Goals to support environmental and public expectations for performance.

N-NITROSODIMETHYLAMINE (NDMA) – A N-nitrosamine suspected cancer-causing agent. It has been found in the GWRS process and is eliminated using hydrogen peroxide with extra ultra-violet treatment.

NATIONAL BIOSOLIDS PARTNERSHIP (NBP) – An alliance of the NACWA and WEF, with advisory support from the EPA. NBP is committed to developing and advancing environmentally sound and sustainable biosolids management practices that go beyond regulatory compliance and promote public participation to enhance the credibility of local agency biosolids programs and improved communications that lead to public acceptance.

PER- AND POLYFLUOROALKYL SUBSTANCES (PFAS) – A large group (over 6,000) of human-made compounds that are resistant to heat, water, and oil and used for a variety of applications including firefighting foam, stain and water-resistant clothing, cosmetics, and food packaging. Two PFAS compounds, perfluorooctanesulfonic acid (PFOS) and perfluorooctanoic acid (PFOA) have been the focus of increasing regulatory scrutiny in drinking water and may result in adverse health effects including developmental effects to fetuses during pregnancy, cancer, liver damage, immunosuppression, thyroid effects, and other effects.

PERFLUOROCTANOIC ACID (PFOA) – An ingredient for several industrial applications including carpeting, upholstery, apparel, floor wax, textiles, sealants, food packaging, and cookware (Teflon).

PERFLUOROCTANESULFONIC ACID (PFOS) – A key ingredient in Scotchgard, a fabric protector made by 3M, and used in numerous stain repellents.

PLUME – A visible or measurable concentration of discharge from a stationary source or fixed facility.

PUBLICLY OWNED TREATMENT WORKS (POTW) – A municipal wastewater treatment plant.

SANTA ANA RIVER INTERCEPTOR (SARI) LINE – A regional brine line designed to convey 30 million gallons per day of non-reclaimable wastewater from the upper Santa Ana River basin to the ocean for disposal, after treatment.

SANITARY SEWER – Separate sewer systems specifically for the carrying of domestic and industrial wastewater.

SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT (SCAQMD) – Regional regulatory agency that develops plans and regulations designed to achieve public health standards by reducing emissions from business and industry.

SECONDARY TREATMENT – Biological wastewater treatment, particularly the activated sludge process, where bacteria and other microorganisms consume dissolved nutrients in wastewater.

SLUDGE – Untreated solid material created by the treatment of wastewater.

TOTAL SUSPENDED SOLIDS (TSS) – The amount of solids floating and in suspension in wastewater.

ORANGE COUNTY SANITATION DISTRICT GLOSSARY OF TERMS

TRICKLING FILTER – A biological secondary treatment process in which bacteria and other microorganisms, growing as slime on the surface of rocks or plastic media, consume nutrients in wastewater as it trickles over them.

URBAN RUNOFF – Water from city streets and domestic properties that carry pollutants into the storm drains, rivers, lakes, and oceans.

WASTEWATER – Any water that enters the sanitary sewer.

WATERSHED – A land area from which water drains to a particular water body. OCSD's service area is in the Santa Ana River Watershed.