

PROFESSIONAL CONSULTANT SERVICES AGREEMENT
Construction Outreach Support
Specification No. CS-2022-1329BD

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

RECITALS

WHEREAS, OC San desires to obtain Construction Outreach Support as described in Exhibit “A” attached hereto and incorporated herein by this reference (“Services”); and

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

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

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

WHEREAS, on November 16, 2022, OC San’s Board of Directors, by minute order, authorized execution of this Agreement.

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

1. General.

- 1.1 This Agreement and all exhibits hereto are made by OC San and the Consultant.
- 1.2 The following exhibits, in order of precedence, are incorporated by reference and made part of this Agreement.

Exhibit “A” – Scope of Work
Exhibit “B” – Proposal
Exhibit “C” – Determined Insurance Requirement Form
Exhibit “D” – Contractor Safety Standards
Exhibit “E” – Human Resources Policies
- 1.3 In the event of any conflict or inconsistency between the provisions of this Agreement and any of the provisions of the exhibits hereto, the provisions in the Agreement shall control and thereafter the provisions in the document highest in precedence shall be controlling.
- 1.4 Except as expressly provided otherwise, OC San accepts no liability for any expenses, losses, or actions incurred or undertaken by Consultant as a result of work performed in anticipation of purchases of the Services by OC San.
- 1.5 Work Hours: The work required under the Agreement may include normal business hours, evenings, and weekends. OC San will not pay for travel time.

- 1.6 Days: Shall mean calendar days, unless otherwise noted.
- 1.7 OC San holidays (non-working days) are as follows: New Year's Day, Martin Luther King, Jr. Day, Presidents' Day, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving Day, Day after Thanksgiving, Christmas Eve, and Christmas Day.
- 1.8 The provisions of this Agreement may be amended or waived only by an amendment executed by authorized representatives of both Parties.
- 1.9 The various headings in this Agreement are inserted for convenience only and shall not affect the meaning or interpretation of this Agreement or any paragraph or provision hereof.

2. Scope of Work.

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

3. Agreement Term.

- 3.1 The term of this Agreement shall be for three (3) years commencing on the effective date of the Notice to Proceed.
- 3.2 Renewals. At its sole discretion, OC San may exercise the option to renew this Agreement for up to two (2) one-year periods. This Agreement may be renewed by an OC San Purchase Order. OC San shall have no obligation to renew the Agreement nor to give a reason if it elects not to renew it.
- 3.3 Extensions. The term of this Agreement may be extended only by an amendment signed by both Parties.

4. Compensation.

- 4.1 As compensation for the Services provided under this Agreement, OC San shall pay Consultant a total amount not to exceed Four Hundred Fifty Thousand Dollars (\$450,000).

4.2 Consultant shall provide OC San with all required premiums and/or overtime work at no charge beyond the amount specified above.

5. Payments and Invoicing.

5.1 OC San shall pay itemized invoices submitted monthly for work completed in accordance with Exhibit "A" thirty (30) days from receipt of the invoice and after approval by OC San's Project Manager or designee. OC San shall be the determining party, in its sole discretion, as to whether the Services have been satisfactorily completed.

5.2 Consultant shall submit its invoices to OC San Accounts Payable by electronic mail to APStaff@OCSan.gov. In the subject line include "INVOICE" and the Purchase Order Number.

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

6.1 To the extent Consultant's employees and/or its subconsultants perform work related to this Agreement for which Prevailing Wage Determinations have been issued by the California Department of Industrial Relations (DIR) as more specifically defined under Labor Code section 1720 et seq., prevailing wages are required to be paid for applicable work under this Agreement. It is Consultant's responsibility to interpret and implement any prevailing wage requirements and Consultant agrees to pay any penalty or civil damages resulting from a violation of the prevailing wage laws.

6.2 Consultant and its subconsultants shall comply with the registration requirements of Labor Code section 1725.5. Pursuant to Labor Code section 1771.4(a)(1), the work is subject to compliance monitoring and enforcement by the California Department of Industrial Relations (DIR).

6.3 Pursuant to Labor Code section 1773.2, a copy of the prevailing rate of per diem wages is available upon request at OC San's principal office. The prevailing rate of per diem wages may also be found at the DIR website for prevailing wage determinations at <http://www.dir.ca.gov/DLSR/PWD>.

6.4 Consultant and its subconsultants shall comply with the job site notices posting requirements established by the Labor Commissioner per Title 8, California Code of Regulations section 16461(e). Pursuant to Labor Code sections 1773.2 and 1771.4(a)(2), Consultant shall post a copy of the prevailing rate of per diem wages at the job site.

6.5 Consultant and its subconsultants shall maintain accurate payroll records and shall comply with all the provisions of Labor Code section 1776. Consultant and its subconsultants shall submit payroll records to the Labor Commissioner pursuant to Labor Code section 1771.4(a)(3). Pursuant to Labor Code section 1776, the Consultant and its subconsultants shall furnish a copy of all certified payroll records to OC San and/or the general public upon request, provided the public request is made through OC San, the Division of Apprenticeship Standards, or the Division of Labor Standards Enforcement of the Department of Industrial Relations. Pursuant to Labor Code section 1776(h), penalties for non-compliance with a request for payroll records may be deducted from progress payments.

6.5.1 As a condition to receiving payments, Consultant agrees to present to OC San, along with any request for payment, all applicable and necessary certified payrolls and other required documents for the period covering such payment

request. Pursuant to Title 8, California Code of Regulations section 16463, OC San shall withhold any portion of a payment, up to and including the entire payment amount, until certified payroll forms and any other required documents are properly submitted. In the event certified payroll forms do not comply with the requirements of Labor Code section 1776, OC San may continue to withhold sufficient funds to cover estimated wages and penalties under the Agreement.

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

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

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

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

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

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

“I am aware of the provisions of section 3700 of the Labor Code which require every employer to be insured against liability for workers’ compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract.”

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

7. **Davis-Bacon Act (NOT USED)**

8. **Key Personnel.** Personnel, as provided in Exhibit “B,” are considered “key” to the work under this Agreement and will be available for the term of the Agreement. No person designated as key under this Agreement shall be removed or replaced without prior written consent of OC San. If OC San asks Consultant to remove a person designated as key under this Agreement, Consultant agrees to do so immediately regardless of the reason, or the lack of reason, for OC San’s request. Consultant shall assign only competent personnel to perform Services under this Agreement.

9. **Ownership of Documents.** All drawings, specifications, reports, records, documents, memoranda, correspondence, computations, and other materials prepared by Consultant, its employees, subconsultants, and agents in the performance of this Agreement shall be the property of OC San and shall be promptly delivered to OC San upon request of OC San’s Project Manager or designee or upon the termination of this Agreement and Consultant shall have no claim for further employment or additional compensation as a result of the exercise by OC San of its full rights of ownership of the documents and materials hereunder. Any use of such completed documents for other projects and/or use of incomplete documents without specific written authorization by the Consultant will be at OC San’s sole risk and without liability to Consultant. Consultant shall ensure that all its contracts with its subconsultants provide for assignment to OC San of any documents or materials prepared by them.

10. **Ownership of Intellectual Property.**

10.1 Consultant agrees that all designs, plans, reports, specifications, drawings, schematics, prototypes, models, inventions, and all other information and items made during the course of this Agreement and arising from the Services (hereinafter referred to as “New Developments”) shall be and are assigned to OC San as its sole and exclusive property.

10.2 Consultant agrees to promptly disclose to OC San all such New Developments. Upon OC San’s request, Consultant agrees to assist OC San, at OC San’s expense, to obtain patents or copyrights for such New Developments, including the disclosure of all pertinent information and data with respect thereto, the execution of all applications, specifications, assignments, and all other instruments and papers which OC San shall deem necessary to apply for and to assign or convey to OC San, its successors and assigns, the sole and exclusive right, title, and interest in such New Developments. Consultant agrees to obtain or has obtained written assurances from its employees and contract personnel of their agreement to the terms hereof regarding New Developments and confidential information.

10.3 Consultant warrants that Consultant will have good title to any New Developments and the right to assign New Developments to OC San free of any proprietary rights of any other party or any other encumbrance whatever.

10.4 The originals of all computations, drawings, designs, graphics, studies, reports, manuals, photographs, videotapes, data, computer files, and other documents prepared or caused to be prepared by Consultant or its subconsultants in connection with the Services hereunder shall be delivered to and shall become the exclusive property of OC San. OC San may utilize such documents, at its own risk, for OC San’s applications on other projects or extensions of this project.

11. Right to Review Services, Facilities, and Records.

11.1 OC San reserves the right to review any portion of the Services performed by Consultant under this Agreement and Consultant agrees to cooperate to the fullest extent possible in such endeavor.

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

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

12. Conflict of Interest and Reporting.

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

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

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

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

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

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

17. Insurance. Consultant and all its subconsultants shall purchase and maintain, throughout the term of this Agreement and any periods of warranty or extensions, insurance in amounts equal to the requirements set forth in the signed Exhibit "C" – Determined Insurance

Requirement Form. Consultant shall not commence work under this Agreement until all required insurance is obtained in a form acceptable to OC San, nor shall Consultant allow any subconsultant to commence service pursuant to a subcontract until all insurance required of the subconsultant has been obtained. Failure to obtain and maintain the required insurance coverage shall result in termination of this Agreement.

18. Indemnification and Hold Harmless Provision. Consultant shall assume all responsibility for damages to property and/or injuries to persons, including accidental death, which may arise out of or may be caused by Consultant's Services under this Agreement, or by its subconsultant(s), or by anyone directly or indirectly employed by Consultant, and whether such damage or injury shall accrue or be discovered before or after the termination of the Agreement. Except as to the sole active negligence of or willful misconduct of OC San, Consultant shall indemnify, protect, defend, and hold harmless OC San, its elected and appointed officials, officers, agents, and employees from and against any and all claims, liabilities, damages, or expenses of any nature, including attorneys' fees: (a) for injury to or death of any person, or damage to property, or interference with the use of property arising out of or in connection with Consultant's performance under the Agreement, and/or (b) on account of use of any copyrighted or uncopyrighted material, composition, or process; or any patented or unpatented invention, article, or appliance furnished or used under the Agreement, and/or (c) on account of any goods and services provided under this Agreement. This indemnification provision shall apply to any acts or omissions, willful misconduct, or negligent misconduct, whether active or passive, on the part of Consultant or anyone employed by or working under Consultant. To the maximum extent permitted by law, Consultant's duty to defend shall apply whether or not such claims, allegations, lawsuits, or proceedings have merit or are meritless, or which involve claims or allegations that any of the parties to be defended were actively, passively, or concurrently negligent, or which otherwise assert that the parties to be defended are responsible, in whole or in part, for any loss, damage, or injury. Consultant agrees to provide this defense immediately upon written notice from OC San, and with well qualified, adequately insured, and experienced legal counsel acceptable to OC San. This section shall survive the expiration or early termination of the Agreement.

19. Independent Contractor.

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

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

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

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

for conducting the Services hereunder.

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

19.6 Consultant shall not be eligible to join or participate in any benefit plans offered to those individuals listed on OC San's payroll as regular employees. Consultant shall remain ineligible for such benefits or participation in such benefit plans even if a court later decides that OC San misclassified Consultant for tax purposes.

20. Subcontracting and Assignment. Consultant shall not delegate any duties nor assign any rights under this Agreement without the prior written consent of OC San. Any such attempted delegation or assignment shall be void.

21. No Solicitation of Employees.

21.1 Consultant agrees that it shall not, during the term of this Agreement and for a period of one (1) year immediately following expiration or termination of this Agreement or any extension hereof, call on, solicit, or take away any of the employees whom Consultant became aware of as a result of Consultant's Services to OC San.

21.2 Consultant acknowledges that OC San's employees are critical to its business and OC San expends significant resources to hire, employ, and train employees. Should Consultant employ or otherwise engage OC San's employees during the term of this Agreement and for a period of one (1) year following expiration or termination of this Agreement, Consultant shall pay OC San fifty percent (50%) of the former employee's most recent annual salary earned at OC San to accurately reflect the reasonable value of OC San's time and costs. This payment is in addition to any other rights and remedies OC San may have at law.

22. Confidentiality and Non-Disclosure.

22.1 Consultant acknowledges that, in performing the Services hereunder, OC San may have to disclose to Consultant, orally and in writing, certain confidential information that OC San considers proprietary and has developed at great expense and effort.

22.2 Consultant agrees to maintain in confidence and not disclose to any person, firm, or corporation, without OC San's prior written consent, any trade secret, confidential information, knowledge, or data relating to the products, process, or operation of OC San.

22.3 Consultant further agrees to maintain in confidence and not to disclose to any person, firm, or corporation any data, information, technology, or material developed or obtained by Consultant during the term of this Agreement.

22.4 Consultant agrees as follows:

22.4.1 To use the confidential information only for the purposes described herein; to not reproduce the confidential information; to hold in confidence and protect the confidential information from dissemination to and use by anyone not a party to this Agreement; and to not use the confidential information to benefit itself or others.

- 22.4.2 To restrict access to the confidential information to its subconsultant or personnel of Consultant who (1) have a need to have such access and (2) have been advised of and have agreed in writing to treat such information in accordance with the terms of this Agreement.
- 22.4.3 To return all confidential information in Consultant's possession upon termination of this Agreement or upon OC San's request, whichever occurs first.
- 22.4.4 To hold in confidence information and materials, if any, developed pursuant to the Services hereunder.
- 22.4.5 The provisions of this section shall survive termination or expiration of this Agreement and shall continue for so long as the material remains confidential.
23. **Non-Liability of OC San Officers and Employees.** No officer or employee of OC San shall be personally liable to Consultant, or any successor-in-interest, in the event of any default or breach by OC San or for any amount which may become due to Consultant or to its successor, or for breach of any obligation under the terms of this Agreement.
24. **Third-Party Rights.** Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than OC San and Consultant.
25. **Applicable Laws and Regulations.** Consultant shall comply with all applicable Federal, State, and local laws, rules, and regulations. Consultant also agrees to indemnify and hold OC San harmless from any and all damages and liabilities assessed against OC San as a result of Consultant's noncompliance therewith. Any provision required by law to be included herein shall be deemed included as a part of this Agreement whether or not specifically included or referenced.
26. **Licenses, Permits, Ordinances, and Regulations.** Consultant represents and warrants to OC San that it has obtained all licenses, permits, qualifications, and approvals of whatever nature that are legally required to provide the Services. Any and all fees required by Federal, State, County, City, and/or municipal laws, codes, and/or tariffs that pertain to the work performed under this Agreement will be paid by Consultant.
27. **Regulatory Requirements.** Consultant shall perform all work under this Agreement in strict conformance with applicable Federal, State, and local regulatory requirements including, but not limited to, 40 CFR 122, 123, 124, 257, 258, 260, 261, and 503, Title 22, 23, and Water Codes Division 2.
28. **Environmental Compliance.** Consultant shall, at its own cost and expense, comply with all Federal, State, and local environmental laws, regulations, and policies which apply to the Consultant, its subconsultants, subcontractors, and the Services, including, but not limited to, all applicable Federal, State, and local air pollution control laws and regulations.
29. **Dispute Resolution.**
- 29.1 In the event of a dispute as to the construction or interpretation of this Agreement, or any rights or obligations hereunder, the Parties shall first attempt, in good faith, to resolve the dispute by mediation. The Parties shall mutually select a mediator to facilitate the resolution of the dispute. If the Parties are unable to agree on a mediator, the mediation shall be conducted in accordance with the Commercial Mediation Rules of the American Arbitration Agreement, through the alternate dispute resolution

procedures of Judicial Arbitration through Mediation Services of Orange County (“JAMS”), or any similar organization or entity conducting an alternate dispute resolution process.

29.2 In the event the Parties are unable to timely resolve the dispute through mediation, the issues in dispute shall be submitted to arbitration pursuant to Code of Civil Procedure, Part 3, Title 9, sections 1280 et seq. For such purpose, an agreed arbitrator shall be selected, or in the absence of agreement, each party shall select an arbitrator, and those two (2) arbitrators shall select a third. Discovery may be conducted in connection with the arbitration proceeding pursuant to Code of Civil Procedure section 1283.05. The arbitrator, or three (3) arbitrators acting as a board, shall take such evidence and make such investigation as deemed appropriate and shall render a written decision on the matter in question. The arbitrator shall decide each and every dispute in accordance with the laws of the State of California. The arbitrator’s decision and award shall be subject to review for errors of fact or law in the Superior Court for the County of Orange, with a right of appeal from any judgment issued therein.

30. **Remedies.** In addition to other remedies available in law or equity, if the Consultant fails to make delivery of the goods or Services or repudiates its obligations under this Agreement, or if OC San rejects the goods or Services or revokes acceptance of the goods or Services, OC San may (a) cancel the Agreement; (b) recover whatever amount of the purchase price OC San has paid, and/or (c) “cover” by purchasing, or contracting to purchase, substitute goods or services for those due from Consultant. In the event OC San elects to “cover” as described in (c), OC San shall be entitled to recover from Consultant as damages the difference between the cost of the substitute goods or services and the Agreement price, together with any incidental or consequential damages.

31. **Force Majeure.** Neither party shall be liable for delays caused by accident, flood, acts of God, fire, labor trouble, war, acts of government, or any other cause beyond its control, but the affected party shall use reasonable efforts to minimize the extent of the delay. Work affected by a force majeure condition may be rescheduled by mutual consent of the Parties.

32. **Termination.**

32.1 OC San reserves the right to terminate this Agreement for its convenience, with or without cause, in whole or in part, at any time, by written notice from OC San. Upon receipt of a termination notice, Consultant shall immediately discontinue all work under this Agreement (unless the notice directs otherwise). OC San shall thereafter, within thirty (30) days, pay Consultant for work performed (cost and fee) through the date of termination. Consultant expressly waives any claim to receive anticipated profits to be earned during the uncompleted portion of this Agreement. Such notice of termination shall terminate this Agreement and release OC San from any further fee, cost, or claim hereunder by Consultant other than for work performed through the date of termination.

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

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

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

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

33. **Attorney's Fees.** If any action at law or in equity or if any proceeding in the form of an Alternative Dispute Resolution (ADR) is necessary to enforce or interpret the terms of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees, costs, and necessary disbursements in addition to any other relief to which the prevailing party may be entitled.
34. **Waiver.** The waiver by either party of any breach or violation of, or default under, any provision of this Agreement, shall not be deemed a continuing waiver by such party of any other provision or of any subsequent breach or violation of this Agreement or default thereunder. Any breach by Consultant to which OC San does not object shall not operate as a waiver of OC San's rights to seek remedies available to it for any subsequent breach.
35. **Severability.** If any section, subsection, or provision of this Agreement, or any agreement or instrument contemplated hereby, or the application of such section, subsection, or provision is held invalid, the remainder of this Agreement or instrument in the application of such section, subsection, or provision to persons or circumstances other than those to which it is held invalid, shall not be affected thereby, unless the effect of such invalidity shall be to substantially frustrate the expectations of the Parties.
36. **Survival.** The provisions of this Agreement dealing with payment, warranty, indemnity, and forum for enforcement shall survive expiration or early termination of this Agreement.
37. **Governing Law.** This Agreement shall be governed by and interpreted under the laws of the State of California and the Parties submit to jurisdiction in the County of Orange in the event any action is brought in connection with this Agreement or the performance thereof.
38. **Notices.**
 38.1 All notices under this Agreement must be in writing. Written notice shall be delivered by personal service, by electronic telecommunication, or sent by registered or certified mail, postage prepaid, return receipt requested, or by any other overnight delivery service which delivers to the noticed destination and provides proof of delivery to the sender. Rejection or other refusal to accept or the inability to deliver because of changed address for which no notice was given as provided hereunder shall be deemed to be receipt of the notice, demand, or request sent. All notices shall be effective when first received at the following addresses:

OC San: Jackie Lagade
Principal Buyer
Orange County Sanitation District
10844 Ellis Avenue
Fountain Valley, CA 92708
jlagade@ocsan.gov

Consultant: Sarah Rossetto
Senior Director
Katz & Associates, Inc.
591 Camino De La Reina, Suite 407
San Diego, CA 92108
srossetto@katzandassociates.com

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

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

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

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

ORANGE COUNTY SANITATION DISTRICT

Dated: _____

By: _____
Chad P. Wanke
Chair, Board of Directors

Dated: _____

By: _____
Kelly A. Lore
Clerk of the Board

Dated: _____

By: _____
Ruth Zintzun
Purchasing & Contracts Manager

KATZ & ASSOCIATES, INC.

Dated: _____

By: _____

Sara Katz
President and CEO

DM

Exhibit “A”
SCOPE OF WORK

EXHIBIT A
SCOPE OF WORK
Construction Outreach Support
SPECIFICATION NO. CS-2022-1329BD

EXECUTIVE SUMMARY/OVERVIEW

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

Each day we treat approximately 185 million gallons of wastewater, enough water to fill Anaheim stadium over two and a quarter times. About 80 percent of the wastewater comes from homes – sinks, toilets, showers, laundry, and dishwashers. The remaining come from businesses – retail stores, restaurants, manufacturers, hotels, offices, and other industries.

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

Our employees are on duty protecting health and the environment by ensuring the sewer system efficiently operates 24 hours a day, 7 days a week and 365 days a year. We are very proud of the job we do and take pride in providing our customers with quality service.

1 Purpose

OC San is seeking on-call consultant services to assist with planning and executing various public outreach and community relations support services for its Capital Improvement Program (CIP) projects within OC San's service area. The primary focus will be on collection system projects; however, assistance may be needed on projects throughout the CIP that may include plant projects.

The outreach will create awareness of OC San, the CIP, and help gain community support for the project, manage expectations, and foster trusted relationships.

2 Description

OC San has budgeted for a 10-year \$3 billion capital improvement program and is seeking consultant assistance for a comprehensive construction outreach program. The program is to share with the public the general scope of the project(s), construction impacts, and the project's progress. The Consultant will possess a full range of professional public outreach skills and an understanding of the issues, audiences and technical process required to inform the community. The Consultant and its team shall have a demonstrated an understanding of Orange County and the full range of utility issues. The Consultant will report directly to the designated OC San outreach program manager.

3 Project/Work Elements

OC San seeks a Consultant team with demonstrated skills, experience, and knowledge conducting community outreach during all phases of capital improvement projects and the ability to:

- Inform the public prior to the start of construction to minimize surprises that can become the sources of complaints.
- Inform and remind the public of the long-term benefits of the project.
- Reassure the public that neighborhood impacts have been thoroughly assessed and that mitigation of those impacts is a high priority of OC San.
- Help the impacted public feel involved and part of the process.
- Demonstrate concern and good faith by responding quickly and earnestly to address issues and provide reasonable solutions to concerns or complaints.
- Inform OC San's policymakers of important outreach activities and major community issues.
- Provide support and material to inform the elected officials impacted by the project of important outreach activities and major community issues that affect their respective jurisdictions.
- Maintain project information and updates on OC San's website.

3.1 Professional Services

There may be times when construction outreach support is needed. OC San may seek assistance in the following, but not limited to:

- Community Outreach Planning - Develop outreach plans, schedules, and budgets. It should identify the outreach area, local community concerns related to construction, strategies, demographics, and language needs. Document and track community interests and events.
- Stakeholder Outreach – Research and identify a comprehensive list of stakeholders. Develop a strategy to reach each stakeholder and their preferred communication methods. Stakeholders should include property owners, tenants, businesses, community associations, churches, schools, elected officials, motorists, and general public.
- Public meetings – Plan, organize, and coordinate public meetings. Includes logistics and any staffing such as sign-in table. Duties may include presentation development, and written meeting summary. This should include in-person and virtual meetings options.
- Canvassing – Door-to-door or neighborhood outreach to impacted residents and businesses.
- Collateral Material Development – Develop and design collateral material such as fact sheets, notifications, letters, alerts, press releases, website updates, map development, reports, etc. that build upon OC San's brand and messaging. Duties include graphic design (web, social media, and print), translation assistance, and mail house printing coordination and distribution.
- Research – Identify issues of concern in project area that can pose a problem during construction of the project. Identify any community events, projects and schedules within the project area, such as annual parades, marathons, and other construction projects. Identify outreach outlets/tools such as local newspapers, city newsletters, community newsletters, HOA's, business groups, social media, etc.
- Crisis planning – Develop a crisis plan to be implemented during construction. This includes but not limited to an injury, sewer spill, community uproar, unexpected odors, etc.

- Reporting - Prepare outreach summaries and documentation on a monthly basis and upon completion of each project.
- Additional communication and community outreach as needed.

4 Resources Available

The OC San website has a page dedicated to the CIP with subsequent links and information of current and some upcoming projects.

Outreach may be needed for the following projects (additional details in Appendix A-1):

- Project No. 7-65, Gisler-Red Hill Interceptor and Baker Force Main Rehabilitation
- Project No. 3-67, Seal Beach Pump Station Replacement
- Project No. 3-64C, Los Alamitos Sub-Trunk and Westside Relief Interceptor
- Project No. 7-68, MacArthur Force Main Improvement
- Project No. 5-67, Bay Bridge Pump Station Replacement & Force Main
- Project No. 2-49, Taft Branch Improvements
- Project No. 1-23, Santa Ana Trunk Sewer Rehabilitation
- Project No. 1-24, Greenville Trunk Improvements
- Project No. 6-20, Fairview Trunk Rehabilitation
- Project No. 11-33, Edinger Pump Station Replacement
- Project No. 11-34, Slater Pump Station Replacement
- Project No. 3-60, Beach Relief Trunk/Knott Interceptor/Miller Holder Trunk Rehabilitation
- Project No. 7-69, North Trunk Improvements
- FE21-06, Chemical Dosing Station Installation at Westside Pump Station
- P2-128, TPAD Digester Facility at Plant No. 2
- P2-128A, TPAD Perimeter Wall
- P2-138, Operations and Maintenance Complex at Plant No. 2

5 Project Schedule

Because the consultant services are on an as-needed basis, a detailed project schedule is not applicable. However, the Consultant shall provide the anticipated levels of support over the entire contract period. The contract period shall be for three (3) years with two (2) optional one (1) year renewal periods.

6 Project Management

Consultant shall provide a summary report upon project task completion or otherwise stated by the OC San Outreach Program Manager. Consultant shall keep OC San apprised of the status of each assigned project including schedule and costs.

Consultant shall provide personnel as described in their proposal. Consultant shall not reassign key personnel without prior approval of OC San. OC San may request reassignment of any Consultant's personnel.

6.1 Project Kick-Off Meeting

Within two weeks of contract award, a kick-off meeting should be scheduled to discuss timeline, introduce team, set expectations, and discuss next steps. Consultant shall be responsible for setting meeting and preparing agenda.

6.2 Project Coordination Conferences

Consultant and outreach team should meet no less than monthly to discuss project progress and outreach issues/concerns. Based on project need, it may be required to meet more frequently.

7 Deliverables

Outreach Plan, Monthly Reports and Updates, research, meeting agendas and meetings.

7.1 Outreach Plan

When assigned to a specific project, a draft outreach plan must be developed and submitted within two (2) weeks of initial assignment. It must be kept up to date throughout the course of the assigned project OC San apprised of any updates. The outreach plan should be provided in a Microsoft Word document or PDF format. The Outreach Plan should at a minimum include the following:

- Goals and objectives
- A detailed overall outreach strategy to reach the appropriate stakeholders.
- Key messages
- Tools and tactics for communicating with identified stakeholders.
- Stakeholder research information including names, contact information, location as it relates to the project, and any other relevant information to communicate.
- A detailed schedule of outreach tasks to be performed and how they relate to the project schedule
- A list of known potential issues and risks, including appropriate response, mitigation and monitoring. The plan must be approved by OC San Outreach Project Manager before implementation.

Once reviewed by the OC San Outreach Project Manager, a final version of the Outreach Plan shall be submitted to OC San within two (2) weeks of OC San Project Manager acceptance.

7.2 Contract Progress Reports

Monthly progress reports are required throughout the course of the contract and should document the services provided. Progress report summaries should be submitted per each project assigned, unless otherwise stated by the OC San Outreach Program Manager. Contract Progress Reports should at minimum include the following:

- Contract status narrative
- List of tasks accomplishments during the reporting period
- List of upcoming or anticipated outreach tasks
- Identify any anticipated schedule or risk concerns
- Log of communication with members of the public
- Cost breakdown and any anticipated budget concerns
- Meeting minutes

7.3 Project Final Reports

At the end of each project assignment, Consultant shall submit a final report within 3 weeks of the last outreach task performed for the project. Reports should be provided in a Microsoft Word document and in a PDF format. The project final report should include the following:

- Summary of all tasks performed
- Copies of all collateral materials that were developed and distributed
- For each task performed, include number of staff hours worked and other direct costs
- Comprehensive log of calls/emails/direct communication with members of the public.
- Any lessons learned

7.4 Contract Final Report

A final contract report will be due upon completion of the contract period. The Report should be provided in a Microsoft Word document and in a PDF format. The Contract Final Report should include the following:

- Summary of all projects assigned including a brief description of the project and tasks performed
- Cost report summary of all costs incurred throughout the duration of the contract
- Any outstanding outreach tasks that could not be completed during the contract period.

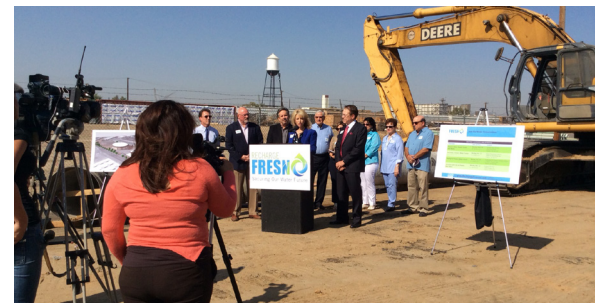
8 Staff Assistance

The Consultant will be assigned a single point of contact for each task assigned. Any meetings and/or correspondence shall be scheduled and approved by the Project Manager.

SEPTEMBER 23, 2022

ORANGE COUNTY SANITATION DISTRICT

Construction Outreach Support Services
CS-2022-1329BD: **Best and Final Offer**





September 23, 2022

Jackie Lagade
Principal Buyer
Contracts, Purchasing & Materials Management
Orange County Sanitation District

Submitted electronically

Re: RFP to Provide Construction Outreach Support Services to Orange County Sanitation District – Best and Final Offer

Dear Ms. Lagade and members of the selection committee:

Thank you for the opportunity to submit a Best and Final Offer (BAFO) for RFP Specification No. CS-2022-1329 Construction Outreach Support Services. With our combined level of expertise and direct experience in all key areas of the District's scope of work, we are confident that the Katz & Associates (K&A) team can deliver the highest quality construction outreach support services that meaningfully engage Orange County residents.

When preparing our proposal, our goal was to ensure our budget meets and exceeds the District's needs, maintains a high level of quality and efficiency, and provides maximum flexibility and value for the District. To meet that goal, several value-added elements were included in our original budget, including:

- **Discounted hourly rates.** The rates included in our original proposal were marked down from the traditional rates that we charge government agency clients for similar projects.
- **No escalation for the first 3 years.** K&A usually implements a 3%- to 5% annual rate increase, but because of our utmost excitement to perform this work for the District, K&A will waive the escalation of our hourly rates for the first 3 years of this contract.
- **We only bill for work completed.** While K&A brings a deep bench of experience and services, we understand that the work requested as part of this contract may fluctuate based on the District's priorities and needs. Our team will only bill for work authorized and completed as part of the Time and Materials contract, and we will never perform services without prior authorization from the District. The bottom line budget amount allows for flexibility by the District to use our services when they are needed.
- **No markup for rush and/or emergency services.** Many consulting firms charge clients a higher hourly rate for rush and/or emergency/crisis response services. At K&A, we know that our clients depend on us to be trusted extensions of their team and understand the wide range of issues that can arise during construction projects. If the District calls upon K&A in a rush and/or emergency situation outside of normal business hours, our team is capable of responding and will charge our standard hourly rates for these services.
- **Budget flexibility.** Our proposed budget allows for maximum flexibility to ensure the appropriate resources are assigned based on the District's needs. For example, if the District assigns K&A a project that does not require senior-level project management support, hours allocated for our project manager could be moved to a community liaison or field outreach support staff at lower hourly rates. K&A will work closely with the District on a project-by-project basis to ensure the correct resources are in place while providing the highest value possible.

COVER LETTER

In addition to the value-added elements that were included in our original proposal, as part of this opportunity to provide a BAFO to the District, K&A would like to offer the following pro bono services:

- **Crisis Communications & Rapid Response Training.** We understand that crisis communication and emergency rapid response can be one of the most challenging but important aspects of construction outreach. We offer ten (10) pro bono hours total by up to two senior strategists for the planning and implementation of crisis communications/rapid response team training. K&A will work with the District to determine the most effective audience – leadership, public information officers, project managers or potentially contractors who many not be familiar with District best practices for interacting with the community.

We are experts in construction outreach, and our team members have devoted their careers to public information and public involvement toward advancing public infrastructure projects. We are confident that our unmatched industry experience providing construction outreach makes K&A the ideal firm to assist the District with a full slate of upcoming capital projects.

We are excited about the possibility of working on these important initiatives and look forward to hearing from you regarding next steps. If you have any additional questions related to our proposal or BAFO, please do not hesitate to reach out to us.

Sincerely,



Sarah Rossetto
K&A Project Manager
Senior Director
858.926.4007
srossetto@katzandassociates.com

BEST & FINAL OFFER - CONSTRUCTION OUTREACH SUPPORT SERVICES CS-2022-1329BD

Cost Proposal*

For budgeting purposes, K&A developed a budget with the needs as anticipated based on the understanding of the range of capital projects called for in the RFP. Certainly, one size does not fit all in terms of outreach needs, and we expect that the linear projects in the public right-of-way will require significantly more outreach than will “behind-the-fence line” projects. That being said, “behind-the-fence line” projects will certainly require communication and outreach to neighbors and stakeholders.

	Project Manager Sarah Rossetto		Community Liaison Sarah Bowles		Community Liaison Derek Keeley		Community Liaison Marissa Twite		Community Liaison Alec Phillipp		Art Director Matthew Bennett		Project Support		Total Labor		Expenses	Total Cost
	\$225.00		\$160.00		\$160.00		\$160.00		\$160.00		\$175.00		\$110.00					
	Hrs.	Cost	Hrs.	Cost	Hrs.	Cost	Hrs.	Cost	Hrs.	Cost	Hrs.	Cost	Hrs.	Cost				
TASK 1: Outreach Plan																		
Outreach Plan Development	36	\$8,100	72	\$11,520	72	\$11,520	72	\$11,520	72	\$11,520	0	\$0	36	\$3,960	360	\$58,140	\$0	\$58,140
Stakeholder Database Development	0	\$0	12	\$1,920	12	\$1,920	12	\$1,920	12	\$1,920	0	\$0	72	\$7,920	120	\$15,600	\$0	\$15,600
Subtotal	36	\$8,100	84	\$13,440	84	\$13,440	84	\$13,440	84	\$13,440	0	\$0	108	\$11,880	480	\$73,740	\$0	\$73,740
TASK 2: Collateral Materials																		
Collateral Materials	12	\$2,700	80	\$12,800	80	\$12,800	80	\$12,800	80	\$12,800	96	\$16,800	72	\$7,920	500	\$78,620	\$0	\$78,620
Subtotal	12	\$2,700	80	\$12,800	80	\$12,800	80	\$12,800	80	\$12,800	96	\$16,800	72	\$7,920	500	\$78,620	\$0	\$78,620
TASK 3: Notifications																		
Notifications	0	\$0	72	\$11,520	72	\$11,520	72	\$11,520	72	\$11,520	96	\$16,800	72	\$7,920	456	\$70,800	\$0	\$70,800
Subtotal	0	\$0	72	\$11,520	72	\$11,520	72	\$11,520	72	\$11,520	96	\$16,800	72	\$7,920	456	\$70,800	\$0	\$70,800
TASK 4: Stakeholder Engagement (Meetings and Neighborhood Outreach/Canvassing)																		
Community Meetings	12	\$2,700	72	\$11,520	72	\$11,520	72	\$11,520	72	\$11,520	0	\$0	160	\$17,600	460	\$66,380	\$4,000	\$71,380

*Period of Performance: 36 months. Scope and budget would need to be revisited if the two optional years are authorized beyond the 36-month period of performance.

BEST & FINAL OFFER - CONSTRUCTION OUTREACH SUPPORT SERVICES CS-2022-1329BD

Cost Proposal Continued*

	Project Manager Sarah Rossetto		Community Liaison Sarah Bowles		Community Liaison Derek Keeley		Community Liaison Marissa Twite		Community Liaison Alec Phillipp		Art Director Matthew Bennett		Project Support		Total Labor		Expenses	Total Cost
	\$225.00		\$160.00		\$160.00		\$160.00		\$160.00		\$175.00		\$110.00		Hrs.	Cost		
	Hrs.	Cost	Hrs.	Cost	Hrs.	Cost	Hrs.	Cost	Hrs.	Cost	Hrs.	Cost	Hrs.	Cost				
One-on-one/ Small Group Stakeholder Meetings - assumes all virtual meetings/calls	0	\$0	64	\$10,240	64	\$10,240	64	\$10,240	64	\$10,240	0	\$0	72	\$7,920	328	\$48,880	\$0	\$48,880
Canvassing - assumes in person notification distribution support	0	\$0	36	\$5,760	36	\$5,760	36	\$5,760	36	\$5,760	0	\$0	180	\$19,800	324	\$42,840	\$2,500	\$45,340
Subtotal	12	\$2,700	172	\$27,520	172	\$27,520	172	\$27,520	172	\$27,520	0	\$0	412	\$45,320	1,112	\$158,100	\$7,500	\$165,600
TASK 5: Crisis Planning and Rapid Response																		
Crisis Planning and Rapid Response: Protocol Development and Team Trainings	12	\$2,700	4	\$640	4	\$640	4	\$640	4	\$640	0	\$0	0	\$0	28	\$5,260	\$0	\$5,260
Subtotal	12	\$2,700	4	\$640	4	\$640	4	\$640	4	\$640	0	\$0	0	\$0	28	\$5,260	\$0	\$5,260
TASK 6: Team Coordination and Meetings																		
Monthly project meetings, project kick-off meetings	12	\$2,700	40	\$6,400	40	\$6,400	40	\$6,400	40	\$6,400	0	\$0	36	\$3,960	208	\$32,260	\$0	\$32,260
Subtotal	12	\$2,700	40	\$6,400	40	\$6,400	40	\$6,400	40	\$6,400	0	\$0	36	\$3,960	208	\$32,260	\$0	\$32,260

*Period of Performance: 36 months. Scope and budget would need to be revisited if the two optional years are authorized beyond the 36-month period of performance.

Cost Proposal Continued*

	Project Manager Sarah Rossetto		Community Liaison Sarah Bowles		Community Liaison Derek Keeley		Community Liaison Marissa Twite		Community Liaison Alec Phillip		Art Director Matthew Bennett		Project Support		Total Labor		Expenses	Total Cost
	\$225.00		\$160.00		\$160.00		\$160.00		\$160.00		\$175.00		\$110.00					
	Hrs.	Cost	Hrs.	Cost	Hrs.	Cost	Hrs.	Cost	Hrs.	Cost	Hrs.	Cost	Hrs.	Cost	Hrs.	Cost		
TASK 7: Project Management																		
Monthly activity summary, project summaries, final contract summary	24	\$5,400	24	\$3,840	24	\$3,840	24	\$3,840	24	\$3,840	0	\$0	36	\$3,960	156	\$24,720	\$0	\$24,720
Subtotal	24	\$5,400	24	\$3,840	24	\$3,840	24	\$3,840	24	\$3,840	0	\$0	36	\$3,960	156	\$24,720	\$0	\$24,720
GRAND TOTAL	108	\$24,300	476	\$76,160	476	\$76,160	476	\$76,160	476	\$76,160	192	\$33,600	736	\$80,960	2,940	\$443,500	\$6,500	\$450,000

*Period of Performance: 36 months. Scope and budget would need to be revisited if the two optional years are authorized beyond the 36-month period of performance.