

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 MAVERICK TECHNOLOGIES, 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 **Programming Professional Services, PSA2021-001-2**, to provide qualified staff as described in Attachment "A", Scope of Work; and Attachment "A1", Rules of Engagement, and,

WHEREAS, CONSULTANT is qualified to provide the necessary services in connection with these requirements and has agreed to provide the requisite personnel and experience, and is capable of performing such 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, OC SAN shall manage selection of a Consultant for Task Order(s) and Task Directive(s) when requested after award of this AGREEMENT based on the most appropriate qualifications and fit; and,

WHEREAS, at its regular meeting on April 27, 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 qualified staff to accomplish the Scope of Work attached hereto as "Attachment A". Attachment "A" is hereby incorporated into this AGREEMENT. In the event of a conflict between the Scope of Work and this AGREEMENT, the terms of this AGREEMENT shall prevail.

2. COMPENSATION

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

A. Time and Material: Not to Exceed Aggregate Amount

OC SAN shall compensate CONSULTANT for services performed under this AGREEMENT on a time and materials basis, not to exceed a maximum aggregate amount of Four Million Nine Hundred Thousand Dollars (\$4,900,000) (“Total Compensation”) during the term of the AGREEMENT.

B. Hourly Rates

As a portion of the total compensation to be paid to CONSULTANT, OC SAN shall pay to CONSULTANT a sum equal to the work performed and validated by OC SAN and paid to the personnel of CONSULTANT per **Attachment “E”**. OC SAN shall also pay to CONSULTANT a sum equal to the premium costs for overtime, charged on an hourly-rate basis, actually paid by CONSULTANT to the non-exempt personnel of CONSULTANT. **Attachment “E”** is hereby incorporated by reference. Upon request of OC SAN, CONSULTANT shall provide OC SAN with certified payroll records of all employees’ work that is charged to this AGREEMENT.

C. Profit

As a portion of the total compensation to be paid to CONSULTANT and Subconsultants, OC SAN and CONSULTANT agree that profit is included in the hourly rates as stated in Attachment “E” to this AGREEMENT. There will be no separate payment for profit made to the CONSULTANT for all services rendered by CONSULTANT and Subconsultants for this AGREEMENT.

D. Subconsultants

For all Subconsultants, CONSULTANT may pay to Subconsultants total compensation on an hourly-rate basis per **Attachment “E”** – Fee Proposal Form and as specified in the Scope of Work. OC SAN shall pay to CONSULTANT the actual costs of Subconsultants, without markup.

E. Escalation

For purposes of calculating hourly billing rates of CONSULTANT employees and any Subconsultant employees performing services under this AGREEMENT, the Hourly Rates as defined in **Attachment “E”** shall be adjusted annually on January 1st of each year based on the most recently released Employment Cost Index (ECI) of Los Angeles-Long Beach-Anaheim, California. This rate is from the United States Department of Labor Bureau of Labor Statistics.

F. 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 or 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 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.

Any additional expense not included in the per diem rates (e.g., airfare, car rentals and airport parking) shall be paid to CONSULTANT by OC SAN at cost plus 12%.

OC SAN shall also pay to CONSULTANT actual costs for equipment rentals, leases or purchases with prior approval of OC SAN.

OC SAN will not pay per diem for Field Office Staff nor will it pay for any relocation of staff to be assigned under this AGREEMENT.

G. Limitation of Costs

If, at any time, CONSULTANT estimates the cost of performing the services described in CONSULTANT’s Task Authorizations will exceed seventy-five

percent (75%) of the not-to-exceed amount of the Task Authorization, 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. KEY POSITIONS

CONSULTANT shall notify OC SAN in advance changes to any key CONSULTANT employees performing services under this AGREEMENT. Positions considered to be Key Positions are Point of Contact and any staff leading Task Authorizations and Task Directives under the AGREEMENT. Should a CONSULTANT employee within one of these categories become no longer available to OC SAN, CONSULTANT shall submit the resume and qualifications of the proposed replacement to OC SAN for approval as soon as possible, but in no event later than seven (7) calendar days prior to the departure of the incumbent Key Position unless CONSULTANT is not provided with such notice by the departing staff.

5. PAYMENT

- A. Monthly Invoice: CONSULTANT shall include in its monthly invoice, a detailed breakdown of costs associated with the performance of any work for that invoicing period, in a format acceptable to OC SAN. 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 Section 14 Audit Provisions.
- B. Upon receipt of a properly prepared invoice, as described above, payment shall be made by OC SAN to CONSULTANT within sixty (60) calendar days.
- 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.

6. TERM

This AGREEMENT shall commence upon the effective date first written above, and shall continue in full force and effect through April 30, 2025, (“Initial Term”) unless earlier terminated or extended as provided in the AGREEMENT. OC SAN, at its sole discretion, may elect to extend the term of this AGREEMENT up to an additional twelve (12) months, commencing May 1, 2025, and continuing through April 30, 2026, (“Option Term 1”), and thereupon require CONSULTANT to continue to provide services, and otherwise perform, in accordance with **Attachment “A”**, entitled “Scope of Work” and **Attachment “A1”**, entitled “Rules of Engagement”.

OC SAN, at its sole discretion, may elect to extend the term of this AGREEMENT up to an additional twelve (12) months, commencing May 1, 2026, and continuing through April 30, 2027, (“Option Term 2”), and thereupon require CONSULTANT to continue to provide services, and otherwise perform, in accordance with **Attachment “A”**, entitled “Scope of Work” and **Attachment “A1”**, entitled “Rules of Engagement”.

OC SAN’s election to extend the AGREEMENT beyond the Initial Term shall not diminish its right to terminate the AGREEMENT for OC SAN’s convenience or CONSULTANT’s default as provided elsewhere in this AGREEMENT. The “maximum term” of this AGREEMENT shall be from the effective date first written above through April 30, 2027, which period encompasses the Initial Term and two (2) Option Terms.

7. 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.

8. 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).

9. INDEPENDENT CONTRACTOR

The CONSULTANT and Subconsultants shall be independent contractors and not agents of OC SAN. Any provisions of this AGREEMENT that may appear to give OC SAN the right to direct the CONSULTANT concerning the details of performing the professional services, or to exercise any control over such performance, shall mean only that the CONSULTANT shall follow the direction of OC SAN concerning the end results of the performance.

10. 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. OC SAN acknowledges that documents prepared through Professional Services must be revised and sealed by a professional engineer prior to their reuse on another project. OC SAN acknowledges that it assumes all risk associated with reuse of such documents, which are not undertaken by CONSULTANT.

- 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.

11. 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 limits of liability coverage: Two Million Dollars (\$2,000,000) per occurrence with Four Million Dollars (\$4,000,000) 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, 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. 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. 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 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 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 limit of liability coverage: Combined single limit of Five Hundred Thousand Dollars (\$500,000). 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. Cyber Liability Insurance

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

G. 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 limit of One Million Dollars (\$1,000,000) per occurrence. If an exposure to Jones Act liability may exist, the insurance required herein shall include coverage for Jones Act claims.

H. 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 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 prior to the expiration of each policy term.

I. 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. 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 2010 and CG 2037

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.
- 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.

J. 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

K. 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.

L. Separation of Insured

The General and Automobile Liability policies shall contain a "Separation of Insureds" clause.

M. Non-Limiting (if applicable)

Nothing in this document shall be construed as limiting or expanding in any way, nor shall it limit or expand 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.

N. Deductibles and Self-Insured Retentions

Any deductible and/or self-insured retention must be declared to OC SAN on the Certificate of Insurance.

O. 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.

P. 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.

12. CHANGES

In the event of a change in the Scope of Work or a change in Key Personnel, or change in hourly rates, as requested by either Party, the Parties hereto shall execute an Amendment to this AGREEMENT setting forth with particularity all terms of the new AGREEMENT. CONSULTANT's compensation for additional services authorized and performed in accordance with this AGREEMENT shall be agreed to by OC SAN and CONSULTANT in writing prior to the time that the additional services are authorized. An Amendment shall be executed to document the change.

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.

13. PROJECT TEAM AND SUBCONSULTANTS

Neither this AGREEMENT nor any interest herein nor claim hereunder may be assigned by CONSULTANT either voluntarily or by operation of law, nor may all or any part of the AGREEMENT be subcontracted by CONSULTANT, without the prior written consent of OC SAN. Consent by OC SAN shall not be deemed to relieve CONSULTANT of its obligation to comply fully with all terms and conditions of this AGREEMENT.

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 team member. CONSULTANT shall include the respective compensation amounts for CONSULTANT and each Subconsultant, broken down as indicated in Section 2- COMPENSATION.

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

14. AUDIT PROVISIONS

- A. OC SAN retains the reasonable right to access, review, examine, and audit 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 solely to records related to 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 solely to records related to 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 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.

15. 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.

To the fullest extent permitted by law, CONSULTANT shall defend and indemnify OC SAN from and against any and all claims by CONSULTANT, its principals, officers, agents, employees, former employees, suppliers, Subconsultants, subcontractors, and/or anyone employed directly or indirectly by any of them for benefits provided to employees of OC SAN, including, but not limited to: worker's compensation, unemployment compensation, participation in the Orange County Employees Retirement System, paid time off, medical insurance, dental insurance, vision insurance, life/accidental death and dismemberment insurance, disability insurance, etc. In addition, CONSULTANT shall be required to indemnify the Indemnified Parties for any costs related to such claims.

16. 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: Diane Marzano, Senior Contracts Administrator
Copy: Frank Steiger, Engineering Supervisor

CONSULTANT:

MAVERICK TECHNOLOGIES, LLC
10805 Holder Street, Ste 300
Cypress, CA 90630
Attention: Vidal Arista, Business Development Manager

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

17. DELAYS

In the event that performance of the services and/or delivery of the deliverables is delayed by circumstances beyond the reasonable control of CONSULTANT (including without limitation changes to the scope of work, delays by OC SAN in providing information, fire, natural disasters, civil disturbances, acts of governmental authorities, labor disputes, unavailability of materials or shipping delays or pandemic), CONSULTANT will promptly notify OC SAN of such circumstances in writing and CONSULTANT will be granted an equitable extension of the time to meet its obligations under the AGREEMENT.

18. 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 16 - NOTICES.

19. 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.

20. 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.

21. 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.

22. 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.

23. 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.

24. 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 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.

25. LIMITATION OF LIABILITY

TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR ANY BUSINESS INTERRUPTION OR LOSS OF PROFIT, REVENUE, MATERIALS, ANTICIPATED SAVINGS, DATA, CONTRACT, GOODWILL, OR THE LIKE (WHETHER DIRECT OR INDIRECT IN NATURE) OR FOR ANY OTHER FORM OF INCIDENTAL, INDIRECT, OR CONSEQUENTIAL DAMAGES OF ANY KIND. EACH PARTY'S MAXIMUM CUMULATIVE LIABILITY RELATIVE TO ALL OTHER CLAIMS AND LIABILITIES, INCLUDING OBLIGATIONS UNDER ANY INDEMNITY, WHETHER OR NOT INSURED, WILL NOT EXCEED THE LESSER OF \$2,000,000 OR THE COST OF THE WORK. CONSULTANT DISCLAIMS ALL LIABILITY RELATIVE TO GRATUITOUS INFORMATION OR ASSISTANCE PROVIDED BY BUT NOT REQUIRED OF CONSULTANT BY THE STATEMENT OF WORK. ANY ACTION BY EITHER PARTY MUST BE BROUGHT WITHIN THE APPLICABLE STATUTE OF LIMITATIONS. THESE DISCLAIMERS AND LIMITATIONS OF LIABILITY WILL APPLY REGARDLESS OF ANY OTHER CONTRARY PROVISION AND REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE AND STRICT LIABILITY), OR OTHERWISE. EACH PROVISION OF THIS AGREEMENT THAT PROVIDES FOR A LIMITATION OF LIABILITY, DISCLAIMER OF WARRANTY OR CONDITION OR EXCLUSION OF DAMAGES IS SEVERABLE AND INDEPENDENT

OF ANY OTHER PROVISION. THIS PROVISION EXTENDS TO THE BENEFIT OF CONSULTANT'S PARENT, SUBSIDIARIES, AFFILIATES, VENDORS, APPOINTED DISTRIBUTORS, AND OTHER AUTHORIZED RESELLERS AS THIRD-PARTY BENEFICIARIES.

26. 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.

27. 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.

28. PROHIBITION

During the term of this AGREEMENT, CONSULTANT and its Subconsultants may not propose on any construction work advertised by or on behalf of OC SAN, if such work

presents actual or perceived conflict of interest with CONSULTANT's assignments with OC SAN.

CONSULTANT and its Subconsultants shall promptly disclose to OC SAN when such conflict exists prior to participating in any work as advertised by OC SAN or on its behalf.

CONSULTANT and its Subconsultants acknowledge and agree that OC SAN's determination regarding such conflicts, that may impact CONSULTANT's and its Subconsultants' ability to propose on the work as described herein, shall be final and cannot be appealed.

29. WARRANTY

(a) Warranty for the Work: CONSULTANT warrants to OC SAN for the lesser period of 18 months from delivery or 12 months from startup, that the Work will perform as stated in the Statement of Work and the Products will be free of defects in material, fabrication, and workmanship provided that: (1) the operating conditions and use of the Work are in accordance with any standards set forth in the Statement of Work, CONSULTANT's published specifications, and applicable recommendations of CONSULTANT; and (2) the installation, adjustment, tuning, and start-up of the Work have been properly performed in accordance with CONSULTANT's published specifications and any applicable recommendations of CONSULTANT. Repaired or replacement Products provided pursuant to subparagraph (d) below are similarly warranted for the longer period of six months from date of shipment or the remainder of the original warranty term.

(b) Products Warranty: CONSULTANT warrants to OC SAN for the period of 18 months from shipment, that the Products will be free of defects in material, fabrication, and workmanship provided that: (1) the operating conditions and use of the Products are in accordance with any standards set forth in the Statement of Work, CONSULTANT's published specifications, and applicable recommendations of CONSULTANT; and (2) the installation, adjustment, tuning, and start-up of the Products have been properly performed in accordance with CONSULTANT's published specifications and any applicable recommendations of CONSULTANT. Repaired or replacement Products provided pursuant to subparagraph (d) below are similarly warranted for the longer period of six months from date of shipment or the remainder of the original warranty term.

(c) Services Warranty: CONSULTANT warrants to OC SAN for the period of 30 days from the date services are provided that services shall be performed in a workmanlike manner conforming to standard industry practice.

(d) Remedies: Remedies under this warranty will be limited to, at CONSULTANT's discretion, replacement, repair, re-performance, modification, or issuance of a credit for the purchase price of the Products involved, but only after CONSULTANT's receipt of OC SAN's written notification of non-conforming Products or Work and the return of such products pursuant to CONSULTANT's instructions. Replacement Products, at CONSULTANT's discretion, may be new, remanufactured, refurbished, or reconditioned. If the repair, re-performance, or replacement does not cure the defective performance, OC SAN may request emergency on-site service, which will be at CONSULTANT's

expense (consisting of time, travel, and expenses incurred by CONSULTANT related to such services). If the defective performance is not due to warranted defects in the Work or Products, the on-site service will be at OC SAN's expense. On-site warranty services performed at CONSULTANT expense shall not include removal or reinstallation costs related to large-scale assemblies such as motors or transformers. The foregoing will be the exclusive remedies for any breach of warranty or breach of contract arising from warranted defects.

(e) General: Warranty satisfaction is available only if (a) CONSULTANT is provided prompt written notice of the warranty claim, and (b) CONSULTANT's examination discloses that any alleged defect has not been caused by misuse, neglect, improper installation, operation, maintenance, repair, alteration, or modification by other than CONSULTANT, accident, or unusual deterioration or degradation of the Products or Work or parts thereof due to physical environment or electrical or electromagnetic noise environment.

(f) THE ABOVE WARRANTIES ARE IN LIEU OF ALL OTHER WARRANTIES AND CONDITIONS, WHETHER EXPRESSED; IMPLIED OR STATUTORY, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR USE.

30. 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: MAVERICK TECHNOLOGIES, LLC

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 "A1" – Rules of Engagement
Attachment "B" – Not Used
Attachment "C" – Not Attached
Attachment "D" – Allowable Direct Costs
Attachment "E" – Fee Proposal
Attachment "F" – Not Used
Attachment "G" – Not Used
Attachment "H" – Not Attached
Attachment "I" – Not Attached
Attachment "J" – Not Used
Attachment "K" – Contractor Safety Standards

ATTACHMENT “A”

SCOPE OF WORK

ATTACHMENT A

SCOPE OF WORK

I. SUMMARY

The Orange County Sanitation District (OC SAN) is a special district responsible for wastewater conveyance and treatment for metropolitan Orange County, California. It has been in existence since 1954 and is the third largest wastewater treatment agency west of the Mississippi River. OC SAN is soliciting Proposals to provide Programming Professional Services (PPS) to support its engineering projects, which includes large and small capital projects and operationally funded repair projects. OC SAN's facilities consists of Water Reclamation Plant No. 1, Treatment Plant No. 2 and 15 pump stations.

II. BACKGROUND

OC SAN has budgeted for a 10-year \$3.0 billion capital improvement program, the vast majority of which is managed by the Engineering Department. OC SAN also has an active asset management program which includes many repair projects that, due to their complexity, are managed by its Engineering Department.

OC SAN's Process Control Integration Group (PCI) performs all programming of programmable logic controllers (PLCs) and human machine interface (HMI) for all plant and pump station projects along with the associated commissioning. OC SAN utilizes Modicon Quantum PLC hardware and has recently migrated to Modicon M580 due to obsolescence. The HMI utilizes Copland Roland Interpreted Sequential Processor (CRISP), which is a VAX based system. OC SAN recently finalized the procurement of a new control system for the plants and pump stations and selected an ABB distributed control system (DCS). Starting in late 2021, Project No. J-120 Process Control Systems Upgrades will replace the existing HMI for the plants and pump stations. The existing PLCs will be replaced under future Capital Improvement Program (CIP) projects as part of a replacement or rehabilitation project. Over the next 5 years, there is a significant increase in the PCI workload due to construction projects and J-120, requiring the need for programming professional services.

III. PROFESSIONAL SERVICES REQUIRED

Following award of an agreement, OC SAN will determine when specific services are required. The mechanisms for requesting, reviewing, authorizing, and terminating services under this agreement are documented in Attachment "A1" – Rules of Engagement. As described in that attachment, work assignments will fall into one of the following types:

- Task Authorizations. Task Authorizations have formal scopes of work and firm upper limits.
- Task Directives. Task Directives are typically smaller than Task Authorizations, but do not have a firm upper limit.

The selected firm will assist PCI by providing highly skilled and experienced resources to program, test, and commission PLCs and HMI graphics; support, maintain and upgrade the SCADA system historian, HMI clients, servers and databases; design, program and configure control system networks and fiber optics; perform security configurations and patches on control system equipment; and review process and instrument diagrams (P&IDs), control strategies, motor control schematics, panel drawings, and PLC communication networks. The selected firm shall provide qualified resources to execute the work through Task Authorizations and Task Directives. The provided resources shall include the appropriate experience balance that provides a high-quality, cost-effective project execution. Task Authorizations will be developed for a specific scope of work such as the programming of a PLC or the development of HMI screens for a specific process area. Task Authorization duties include but are not limited to: Programming and documenting Modicon Quantum and M580 PLCs and CRISP or new HMI system screens using OC SAN programming standards, reviewing PLC and remote input/output (I/O) panel shop drawings, reviewing and updating I/O lists (also known as SCADA Administrative Tool (SAT)), coordinating the programming with PCI staff, coordinating with OC SAN commissioning coordinator, bench testing programs, and commissioning programs during Operational Readiness Test (ORT), Functional Acceptance Testing (FAT), and Reliability Acceptance Testing (RAT). See Section 17410 Programming Using OC SAN Standards and associated attachments for OC SAN’s programming requirements.

The selected firm’s staff shall have a thorough working knowledge and understanding of programmable logic controllers (using ladder logic and function block) and configuration of HMI systems and graphics. Staff shall be able to interpret engineering drawings and documents such as P&IDs, control strategies, motor control schematics, panel drawings, and PLC communication networks. All staff shall be trained on OC SAN standards prior to working on Task Authorizations and Task Directives and shall be located within daily driving distance from Plant No. 1 in Fountain Valley, CA.

Estimated Full-Time Staff Required

The following staff levels are estimated based on projected programming and commissioning workloads. The actual number of staff will be based on the required hours for the selected firm to complete the assigned programming and commissioning scope of work.

| | Staff Needed by Contract Year | | | | |
|----------------------|--------------------------------------|----------------|----------------|----------------|----------------|
| Function | Year 1 | Year 2 | Year 3 | Year 4 | Year 5 |
| Fiscal Year | FY21-22 | FY22-23 | FY23-24 | FY24-25 | FY25-26 |
| PLC/SCADA Programmer | 6.0 | 6.0 | 6.0 | 6.0 | 5.0 |

IV. TASK ASSIGNMENTS

OC SAN will authorize specific tasks to be completed by CONSULTANT. These tasks will vary widely in size, cost, and complexity. Tasks will be authorized as either a Task Authorization or a Task Directive, as described in **Attachment “A1” – Rules of Engagement**.

Task Authorizations have a formal scope of work and a fixed upper limit. Task Directives also have an explicit scope of work, but the level of detail may be lower. Task Directives need a budgetary estimate, but not a firm upper limit.

V. PERSONNEL ASSIGNMENTS

OC SAN will require CONSULTANT to provide staff to fill specific roles on specific projects, and, in some cases, for its Engineering Program, as described in **Attachment “A1”** – Rules of Engagement.

Personnel Authorizations

Personnel Authorizations authorize a particular individual to work on Task Directives

VI. LOGISTICS AND CONTRACT MANAGEMENT

Work Location

CONSULTANT's on-site staff shall be located at OC SAN's facilities in Fountain Valley or Huntington Beach, California. At times, work may be required at other OC SAN facilities or at job site locations away from OC SAN facilities. At the CONSULTANT's discretion and concurrence with the OC SAN representative, the assigned CONSULTANT staff may be located at CONSULTANT's home office when performing programming. All bench testing and commissioning shall be performed at OC SAN's facilities. Advanced coordination with OC SAN may be required for CONSULTANT staff working at OC SAN facilities on OC SAN holidays.

Point of Contact/Supervision

CONSULTANT shall designate an individual as the single point of contact to direct efforts in fulfilling contracted obligations under this Agreement. The selected designee shall be responsible for the direct supervision of assigned staff, including such activities as work schedules, quality of work performed, technical oversight, vacation requests, discipline, etc. The selected designee shall not be changed without prior written notification to the OC SAN representative.

CONSULTANT is responsible for supervision of its entire staff, including the requirements defined in **Attachment “A1”** – Rules of Engagement:

OC SAN Project Procedures

CONSULTANT's staff assigned to work on OC San projects shall save project related deliverables, documents and/or records in OC San accessible locations i.e., OC San SharePoint servers and/or OC San licensed cloud-based applications such as Bluebeam, PMWeb or One Drive, as applicable to the project assignment, to comply with Public Records Act requirements. Accessibility to these locations shall be provided by OC San.

Provided Facilities & Equipment

OC SAN will provide the following for CONSULTANT's on-site staff:

- Furnished office space at OC SAN
- Computers, software, network, and printing capabilities
- Office telephone

Personal Protective Equipment

CONSULTANT staff assigned to OC SAN facilities may be exposed to known plant process and work hazards and therefore will be required to have appropriate Personal Protective Equipment (PPE) such as: eye and face protection (safety glasses), head protection (hard hat), hand protection (gloves), foot protection (safety toed shoes), high visibility clothing (Class 3 vests), hearing protection, personal gas monitor (4 gas), and other forms of PPE. CONSULTANT shall provide all equipment and training necessary to comply with OC SAN safety polices. Refer to Contractor Safety Standards – Attachment “K”.

Time Tracking & Invoicing

CONSULTANT shall submit invoices, including cost and hours, monthly. Invoice shall be submitted no later than the 15th of each month. OC SAN maintains a project controls system containing detailed cost and hours information for all Engineering Projects. The format for reporting hours shall be in an importable format, such as Microsoft Excel, and contain, at a minimum, the following items:

| Column | Description |
|---------------------|---|
| Project Number | OC SAN will provide a list of project numbers. These numbers are subject to change as new projects are added and existing projects are completed. |
| Work Package Number | OC SAN will provide a list of work package numbers. The work package numbers are subject to change as a project transitions from one phase to the next. |
| Employee ID | Each employee included in the hours report must contain a unique identification number. |
| Employee Name | Employee name. |
| Work Date | The week ending date when work was performed. |
| Hours by Week | The total number of hours worked for the week. In addition, it may be necessary to report overtime hours which will require a separate report. |
| Total Burdened Cost | The total burdened cost shall include actual salary, fringe costs, overhead, and profit by person. |

Performance Requirements

Assigned staff must perform their duties to OC SAN's satisfaction. OC SAN reserves the right to reject any proposed staff or replace any assigned staff at any time. The Point of Contact shall replace staff upon OC SAN's request.

Work Quality

CONSULTANT shall be responsible for the professional quality and technical competence of assigned staff supplied to OC SAN. Additionally, the firm shall be responsible for the coordination of all efforts and other services furnished under the agreement.

Management of Resource Assignments

OC SAN will maintain a cloud-based workflow tool to request, review, authorize, and close resource assignments. That workflow tool is currently PMWeb. CONSULTANT's Point of Contact will be required to utilize this tool to track all requests through their life cycles. OC SAN will use this workflow tool to verify that any invoiced costs have been duly approved through the workflow tool. Section 01701 Resource Assignment Management System for requirements.

Attachments

- Section 01701 Resource Assignment Management System
- Section 17410 Programming Using OC SAN Standards
- Section 17410 Attachment A – SAT Data Dictionary
- Section 17410 Attachment B – Sample Technical Memorandum
- Section 17410 Attachment C – Sample Test Sheet
- Section 17410 Attachment D – Sample Program Flowchart
- Section 17410 Attachment E – Section 01810 Commissioning

ATTACHMENT “A1”

RULES OF ENGAGEMENT

ATTACHMENT A1

RULES OF ENGAGEMENT

This document describes options for OC San to utilize a Programming Professional Services (PPS) agreement to maintain the Engineering Project program while complying with Independent Contractor expectations.

There are two mechanisms by which professional services can be supplied through the PPS agreement:

- Task Authorizations
- Task Directives

Task Directives assignments require that anyone working under the mechanism also have an approved Personnel Authorization.

These Terms of Engagement are intended to document how services are to be requested, authorized, and managed.

Task Authorizations

Task Authorizations have a formal scope of work, and a fixed upper limit. Distinguishing aspects of Task Authorizations include the following:

- Requests for Task Authorization Proposals (RFTAPs) require a scope of work prepared by OC San staff.
- RFTAPs and Task Authorizations must be approved by the Director of Engineering (DOE).
- The scope of work should have the same level of detail as used for a Design Task Order or Planning Study Task Order, including schedule requirements, task, deliverables, and assumptions.
- Task Authorization must specify a firm negotiated upper limit which may not be exceeded. If changes require a revision to that upper limit, it must be processed as a formal Task Authorization Amendment prior to the work being authorized and performed.
- The PPS Consultant shall report costs incurred for the Task Authorization in their monthly invoices, with the total costs incurred to date, and the unused budget remaining.
- The PPS Consultant may use any of their staff, whether they have an approved Personnel Authorization or not.
- The time that PPS Consultant staff charge to Task Authorizations does not count against their approved number of hours for Personnel Authorizations.

Task Directive

Task Directives also have an explicit scope of work, but the level of detail may be lower. Task Directives need a negotiated budgetary estimate, but it is not a firm upper limit.

- The scope of work for Task Directives may be less detailed than what is required for a Task Authorization.
- A schedule to complete the work should generally be specified but is not always required.
- Costs are tracked separately on invoices.

- Personnel Authorizations are required for any staff working on a Task Directive.

Personnel Authorizations

Personnel authorizations (PA's) provide the DOE's approval for a particular individual to work on Task Directives. They also designate the following:

- The Project Role
- Their location as either Home Office or Site. This impacts the overhead rate to be used for billing.
- The number of hours per week, or just a set number of hours as needed.
- The total bill rate, including actual salary, overhead, and profit.
- Any reimbursable expenses. This is typically used when travel is required or when a staff member needs a vehicle assigned to them due to the nature of their assignments.

The following apply to Personnel Authorization:

- They require approval by the DOE.
- They are specific to one person.
- They need not be project specific.
- For on-site PA's, the PA authorizes key cards.

Staff Supervision

The PPS Consultant is responsible for supervision of its entire staff, including the following:

- Administrative Supervision (PPS Consultant staff only)
 - Performance Reviews
 - Timecard Approvals
 - Work Hours
- Supervision of Assigned Scope Deliverables
 - Work Prioritization
 - Technical input, guidance, and direction
- Quality Control for
 - Task Authorizations
 - Task Directives, when Quality Control is specified in the scope of work

OC San will not be responsible for supervision of PPS Consultant staff. OC San will however provide direction as an Owner. Examples include the following:

- Project decisions and priorities
- Design standards
- OC San's preferences
- Financial considerations
- Risk considerations
- Review for compliance with OC San Policies and Procedures
- Coordination with other OC San projects and activities