



**SPECIAL NOTICE**  
**PUBLIC ATTENDANCE & PARTICIPATION AT PUBLIC MEETINGS**  
***Operations Committee Meeting***  
***Wednesday, July 5, 2023***  
***5:00 p.m.***

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

**IN-PERSON MEETING ATTENDANCE**

You may attend the meeting in-person at the following location:

Orange County Sanitation District  
Administration Building  
10844 Ellis Avenue  
Fountain Valley, CA 92708

**ONLINE MEETING PARTICIPATION**

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

[Click here to join the meeting](#)

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

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

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

## **HOW TO PARTICIPATE IN THE MEETING BY TELEPHONE**

To join the meeting from your phone: Dial (213) 279-1455  
When prompted, enter the Phone Conference ID: 953 084 925#

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

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

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

## **WATCH THE MEETING ONLINE**

The meeting will be available for online viewing at:

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

## **SUBMIT A COMMENT**

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

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

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

*For any questions and/or concerns, please contact the Clerk of the Board's office at 714-593-7433. Thank you for your interest in OC San!*

June 28, 2023

**NOTICE OF REGULAR MEETING**

**OPERATIONS COMMITTEE  
ORANGE COUNTY SANITATION DISTRICT**

**Wednesday, July 5, 2023 – 5:00 P.M.**

Administration Building  
10844 Ellis Avenue  
Fountain Valley, CA 92708

**ACCESSIBILITY FOR THE GENERAL PUBLIC**

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

The Regular Meeting of the Operations Committee of the Orange County Sanitation District will be held at the above location and in the manner indicated on Wednesday, July 5, 2023 at 5:00 p.m.

  
\_\_\_\_\_  
Clerk of the Board

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

OPERATIONS COMMITTEE MEETING DATE	BOARD MEETING DATE
07/05/23	07/26/23
<b>AUGUST DARK</b>	08/23/23
09/06/23	09/27/23
10/04/23	10/25/23
11/01/23	<b>11/15/23 *</b>
12/06/23	<b>12/14/23 **</b>
<b>JANUARY DARK</b>	01/24/24
02/07/24	02/28/24
03/06/24	03/27/24
04/03/24	04/24/24
05/01/24	05/22/24
06/05/24	06/26/24

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

*\*\* Meeting will be held on the second Thursday of the month*



## ROLL CALL

### OPERATIONS COMMITTEE Engineering and Operations & Maintenance

Meeting Date: July 5, 2023

Time: 5:00 p.m.

Adjourn: \_\_\_\_\_

#### **COMMITTEE MEMBERS (14)**

Marshall Goodman (Chair)	
Bob Ooten (Vice-Chair)	
Brad Avery	
Doug Chaffee	
Jon Dumitru	
Stephen Faessel	
Phil Hawkins	
Johnathan Ryan Hernandez	
Steve Jones	
Scott Minikus	
Schelly Sustarsic	
Bruce Whitaker	
Chad Wanke (Board Chair)	
Ryan Gallagher (Board Vice-Chair)	

#### **OTHERS**

Brad Hogin, General Counsel	
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#### **STAFF**

Rob Thompson, General Manager	
Lorenzo Tyner, Assistant General Manager	
Mike Dorman, Director of Engineering	
Laura Maravilla, Director of Human Resources	
Riaz Moinuddin, Director of Operations & Maintenance	
Wally Ritchie, Director of Finance	
Lan Wiborg, Director of Environmental Services	
Kelly Lore, Clerk of the Board	

**ORANGE COUNTY SANITATION DISTRICT**  
**BOARD OF DIRECTORS**  
**Complete Roster**

Effective 03/13/2023

<b>AGENCY/CITIES</b>	<b>ACTIVE DIRECTOR</b>	<b>ALTERNATE DIRECTOR</b>
Anaheim	Stephen Faessel	Natalie Meeks
Brea	Christine Marick	Cecilia Hupp
Buena Park	Susan Sonne	Art Brown
Cypress	Scott Minikus	Bonnie Peat
Fountain Valley	Glenn Grandis	Ted Bui
Fullerton	Bruce Whitaker	Nick Dunlap
Garden Grove	Steve Jones	John O'Neill
Huntington Beach	Pat Burns	Gracey Van Der Mark
Irvine	Farrah N. Khan	Tammy Kim
La Habra	Rose Espinoza	Jose Medrano
La Palma	Marshall Goodman	Debbie Baker
Los Alamitos	Jordan Nefulda	Emily Hibard
Newport Beach	Brad Avery	Erik Weigand
Orange	Jon Dumitru	John Gyllenhammer
Placentia	Chad Wanke	Ward Smith
Santa Ana	Johnathan Ryan Hernandez	Benjamin Vazquez
Seal Beach	Schelly Sustarsic	Nathan Steele
Stanton	David Shawver	Carol Warren
Tustin	Ryan Gallagher	Austin Lumbard
Villa Park	Robbie Pitts	Jordan Wu

**Sanitary/Water Districts**

Costa Mesa Sanitary District	Bob Ooten	Art Perry
Midway City Sanitary District	Andrew Nguyen	Mark Nguyen
Irvine Ranch Water District	John Withers	Douglas Reinhart
Yorba Linda Water District	Phil Hawkins	Tom Lindsey

**County Areas**

Board of Supervisors	Doug Chaffee	Donald P. Wagner
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**OPERATIONS COMMITTEE**  
**Regular Meeting Agenda**  
**Wednesday, July 5, 2023 - 5:00 PM**  
**Board Room**  
**Administration Building**  
**10844 Ellis Avenue**  
**Fountain Valley, CA 92708**  
**(714) 593-7433**

**ACCOMMODATIONS FOR THE DISABLED:** If you require any special disability related accommodations, please contact the Orange County Sanitation District (OC San) Clerk of the Board's office at (714) 593-7433 at least 72 hours prior to the scheduled meeting. Requests must specify the nature of the disability and the type of accommodation requested.

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

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

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

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

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

General Manager: Rob Thompson, [rthompson@ocsan.gov](mailto:rthompson@ocsan.gov) / (714) 593-7110  
Asst. General Manager: Lorenzo Tyner, [ltyner@ocsan.gov](mailto:ltyner@ocsan.gov) / (714) 593-7550  
Director of Engineering: Mike Dorman, [mdorman@ocsan.gov](mailto:mdorman@ocsan.gov) / (714) 593-7014  
Director of Environmental Services: Lan Wiborg, [lwiborg@ocsan.gov](mailto:lwiborg@ocsan.gov) / (714) 593-7450  
Director of Finance: Wally Ritchie, [writchie@ocsan.gov](mailto:writchie@ocsan.gov) / (714) 593-7570  
Director of Human Resources: Laura Maravilla, [lmavilla@ocsan.gov](mailto:lmavilla@ocsan.gov) / (714) 593-7007  
Director of Operations & Maintenance: Riaz Moinuddin, [rmoinuddin@ocsan.gov](mailto:rmoinuddin@ocsan.gov) / (714) 593-7269

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

Clerk of the Board

**PUBLIC COMMENTS:**

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

**REPORTS:**

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

**CONSENT CALENDAR:**

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

**1. APPROVAL OF MINUTES****[2023-3067](#)****RECOMMENDATION:**

Approve Minutes of the Regular meeting of the Operations Committee held June 7, 2023.

**Originator:** Kelly Lore

**Attachments:** [Agenda Report](#)  
[06-07-2023 Operations Committee Minutes](#)

**2. MACARTHUR FORCE MAIN IMPROVEMENTS, PROJECT NO. 7-68****[2023-2895](#)****RECOMMENDATION:** Recommend to the Board of Directors to:

- A. Receive and file Bid Tabulation and Recommendation for MacArthur Force Main Improvements, Project No. 7-68;
- B. Receive and file Orange County Sanitation District's Notice of Intent to Award dated June 13, 2023;

- C. Receive and file Award Protest Statement from James W. Fowler Co. dated June 13, 2023, protesting award to SRK Engineering;
- D. Receive and file the Award Protest Response letter from SRK Engineering dated June 16, 2023, responding to the award protest;
- E. Receive and file Orange County Sanitation District's determination letter dated June 26, 2023, to James W. Fowler Co. responding to award protest;
- F. Award a Construction Contract to SRK Engineering for MacArthur Force Main Improvements, Project No. 7-68, for a total amount not to exceed \$3,897,000; and
- G. Approve a contingency of \$389,700 (10%).

**Originator:** Mike Dorman

**Attachments:** [Agenda Report](#)  
[Notice of Intent to Award-SRK Engineering Dated 6-13-23](#)  
[Award Protest Statement-James W Fowler Co. Dated 6-13-23](#)  
[Award Protest Response-SRK Engineering Dated 6-16-23](#)  
[Determination Letter to James W. Fowler Dated 6-26-23](#)  
[7-68 Contract Agreement](#)

**3. MACARTHUR FORCE MAIN IMPROVEMENTS, PROJECT NO. 7-68 [2023-2896](#)**

RECOMMENDATION: Recommend to the Board of Directors to:

- A. Approve a Professional Construction Services Agreement with Michael Baker International, Inc. to provide construction support services for MacArthur Force Main Improvements, Project No. 7-68, for a total amount not to exceed \$272,002; and
- B. Approve a contingency of \$27,200 (10%).

**Originator:** Mike Dorman

**Attachments:** [Agenda Report](#)  
[7-68 Professional Construction Services Agreement](#)

**4. HEADQUARTERS COMPLEX AT PLANT NO. 1, PROJECT NO. P1-128A [2023-3069](#)**

RECOMMENDATION: Recommend to the Board of Directors to:

Approve a contingency increase of \$98,000 (2%) to the Professional Construction Services Agreement with HDR Engineering, Inc. for Headquarters Complex at Plant No. 1, Project No. P1-128A, for a total contingency of \$588,000 (12%) and a total amount not to exceed \$5,488,000.

**Originator:** Mike Dorman

**Attachments:** [Agenda Report](#)

**NON-CONSENT:**

**5. COLLECTIONS YARD RELOCATION AND WAREHOUSE DEMOLITION [2023-2867](#)  
AT PLANT NO. 2, PROJECT NO. P2-127**

**RECOMMENDATION:** Recommend to the Board of Directors to:

- A. Receive and file Bid Tabulation and Recommendation for Collections Yard Relocation and Warehouse Demolition at Plant No. 2, Project No. P2-127;
- B. Receive and file Orange County Sanitation District's Notice of Intent to Award dated June 2, 2023;
- C. Receive and file Award Protest from Fasone Construction, Inc. dated June 8, 2023 concerning award to Archico Design Build Inc.;
- D. Receive and file the Award Protest Response letter from Archico Design Build Inc. dated June 14, 2023, responding to the award protest;
- E. Receive and file Orange County Sanitation District's determination letter dated June 22, 2023 to Fasone Construction, Inc. responding to award protest;
- F. Approve a project budget increase of \$2,100,000 for Collections Yard Relocation and Warehouse Demolition at Plant No. 2, Project No. P2-127, for a new total project budget of \$8,800,000;
- G. Award a Construction Contract to Archico Design Build Inc. for Collections Yard Relocation and Warehouse Demolition at Plant No. 2, Project No. P2-127, for a total amount not to exceed \$6,500,000; and
- H. Approve a construction contingency of \$650,000 (10%).

**Originator:** Mike Dorman

**Attachments:** [Agenda Report](#)  
[Notice of Intent to Award-Archico Design Build Dated 6-2-23](#)  
[Award Protest Statement-Fasone Construction Dated 6-8-23](#)  
[Award Protest Response-Archico Design Build Dated 6-14-23](#)  
[Determination Letter to Fasone Construction Dated 6-22-23](#)  
[P2-127 Contract Agreement](#)  
[Presentation - P2-127 Construction Award](#)

**INFORMATION ITEMS:**

6. **ORANGE COUNTY SANITATION DISTRICT ENVIRONMENTAL SERVICES: RESOURCE PROTECTION DIVISION** [2023-2765](#)

**RECOMMENDATION:**

Information Item.

**Originator:** Lan Wiborg

**Attachments:** [Agenda Report](#)  
[Presentation - Resource Protection](#)

7. **RISK REGISTER PRESENTATION** [2023-3066](#)

**RECOMMENDATION:**

Information Item.

**Originator:** Wally Ritchie

**Attachments:** [Agenda Report](#)  
[Presentation - Risk Register](#)

**DEPARTMENT HEAD REPORTS:****CLOSED SESSION:**

None.

**OTHER BUSINESS AND COMMUNICATIONS OR SUPPLEMENTAL AGENDA ITEMS, IF ANY:****BOARD OF DIRECTORS INITIATED ITEMS FOR A FUTURE MEETING:**

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

**ADJOURNMENT:**

Adjourn the meeting until the Regular Meeting of the Operations Committee on September 6, 2023 at 5:00 p.m.



# OPERATIONS COMMITTEE

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

## Agenda Report

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**File #:** 2023-3067

**Agenda Date:** 7/5/2023

**Agenda Item No:** 1.

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**FROM:** Robert Thompson, General Manager  
Originator: Kelly A. Lore, Clerk of the Board

**SUBJECT:**

**APPROVAL OF MINUTES**

**GENERAL MANAGER'S RECOMMENDATION**

RECOMMENDATION:

Approve Minutes of the Regular meeting of the Operations Committee held June 7, 2023.

**BACKGROUND**

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

**RELEVANT STANDARDS**

- Resolution No. OC SAN 22-37

**ATTACHMENT**

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

- June 7, 2023 Operations Committee meeting minutes





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**CALL TO ORDER**

A regular meeting of the Operations Committee of the Orange County Sanitation District was called to order by Committee Chairman Marshall Goodman on Wednesday, June 7, 2023 at 5:01 p.m. in the Administration Building of the Orange County Sanitation District. Chair Goodman led the Pledge of Allegiance.

**ROLL CALL AND DECLARATION OF QUORUM:**

The Clerk of the Board declared a quorum present as follows:

- PRESENT:** Brad Avery, Doug Chaffee, Jon Dumitru, Ryan Gallagher, Marshall Goodman, Stephen Faessel, Johnathan Ryan Hernandez, Robert Ooten, Schelly Sustarsic, Chad Wanke, Bruce Whitaker and Bonnie Peat (Alternate)
- ABSENT:** Phil Hawkins and Steve Jones

**STAFF PRESENT:** Lorenzo Tyner, Assistant General Manager; Michael Dorman, Director of Engineering; Laura Maravilla, Director of Human Resources; Riaz Moinuddin, Director of Operations and Maintenance; Wally Ritchie, Director of Finance; Lan Wiborg, Director of Environmental Services; Kelly Lore, Clerk of the Board; Jennifer Cabral; Mortimer Caparas; Sam Choi; Tanya Chong; Raul Cuellar; Rhea DeGuzman; Thys DeVries; Justin Fenton; Al Garcia; Valerie Ratto; Steve Speakman; Don Stokes; Eros Yong; and Ruth Zintzun were present in the Board Room. Martin Dix, Tina Knapp, Rob Michaels, Bob Tran, and Thomas Vu were present telephonically.

**OTHERS PRESENT:** Brad Hogin, General Counsel, Jesus Gaona Perez, and Jeff Mohr were present in the Board Room.

**PUBLIC COMMENTS:**

None.

Clerk of the Board Kelly Lore stated that late communication regarding Item Nos. 7-9 had been provided to the Committee and made available to the public.

**REPORTS:**

Chair Goodman and Assistant General Manager Lorenzo Tyner did not provide reports.

**CONSENT CALENDAR:****1. APPROVAL OF MINUTES**[2023-3021](#)**Originator:** Kelly Lore

MOVED, SECONDED, AND DULY CARRIED TO:

Approve Minutes of the Regular meeting of the Operations Committee held May 3, 2023.

**AYES:** Brad Avery, Doug Chaffee, Jon Dumitru, Ryan Gallagher, Marshall Goodman, Stephen Faessel, Robert Ooten, Schelly Sustarsic, Chad Wanke, Bruce Whitaker and Bonnie Peat (Alternate)**NOES:** None**ABSENT:** Phil Hawkins, Johnathan Ryan Hernandez and Steve Jones**ABSTENTIONS:** None**2. INFLUENT PUMP STATION PLANT WATER PIPING REPAIR AT PLANT NO. 2, PROJECT NO. FR2-0029**[2022-2619](#)**Originator:** Mike Dorman

MOVED, SECONDED, AND DULY CARRIED TO:

A. Receive and file Bid Tabulation and Recommendation for Influent Pump Station Plant Water Piping Repair at Plant No. 2, Project No. FR2-0029;

B. Award a Construction Contract to W.A. Rasic Construction Company, Inc. for Influent Pump Station Plant Water Piping Repair at Plant No. 2, Project No. FR2-0029, for a total amount not to exceed \$177,063; and

C. Approve a contingency of \$35,400 (20%).

**AYES:** Brad Avery, Doug Chaffee, Jon Dumitru, Ryan Gallagher, Marshall Goodman, Stephen Faessel, Robert Ooten, Schelly Sustarsic, Chad Wanke, Bruce Whitaker and Bonnie Peat (Alternate)**NOES:** None**ABSENT:** Phil Hawkins, Johnathan Ryan Hernandez and Steve Jones**ABSTENTIONS:** None**3. ENGINEERING PROGRAM CONTRACT PERFORMANCE REPORT**[2023-2849](#)**Originator:** Mike Dorman

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

Receive and file the Engineering Program Contract Performance Report for the period ending March 31, 2023.

**AYES:** Brad Avery, Doug Chaffee, Jon Dumitru, Ryan Gallagher, Marshall Goodman, Stephen Faessel, Robert Ooten, Schelly Sustarsic, Chad Wanke, Bruce Whitaker and Bonnie Peat (Alternate)

**NOES:** None

**ABSENT:** Phil Hawkins, Johnathan Ryan Hernandez and Steve Jones

**ABSTENTIONS:** None

**4. LIQUID OXYGEN (LOX) PURCHASE, SPECIFICATION NO. [2023-3001](#)  
C-2023-1398BD**

**Originator:** Riaz Moinuddin

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

- A. Approve a Chemical Supplier Agreement to Airgas USA, LLC for the purchase of liquid oxygen, Specification No. C-2023-1398BD for the period beginning August 21, 2023 through August 20, 2024, for a unit price of \$0.53 per centum cubic feet (ccf) delivered, plus applicable sales tax, for a total estimated annual amount of \$912,000; with four one-year renewal options; and
- B. Authorize unit price adjustment of up to 15% annually using mutually acceptable price indices for subsequent agreement renewal periods.

**AYES:** Brad Avery, Doug Chaffee, Jon Dumitru, Ryan Gallagher, Marshall Goodman, Stephen Faessel, Robert Ooten, Schelly Sustarsic, Chad Wanke, Bruce Whitaker and Bonnie Peat (Alternate)

**NOES:** None

**ABSENT:** Phil Hawkins, Johnathan Ryan Hernandez and Steve Jones

**ABSTENTIONS:** None

**5. MANHOLE REHABILITATION SERVICES, SPECIFICATION NO. [2023-3022](#)  
S-2023-1391BD**

**Originator:** Riaz Moinuddin

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

- A. Approve a General Services Contract to Ayala Engineering, Inc. to provide Manhole Rehabilitation Services, Specification No. S-2023-1391BD for a total amount not to exceed \$881,750 for the period beginning July 1, 2023 through June 30, 2024, with four one-year renewal options; and
- B. Approve an annual contingency of \$132,263 (15%).

**AYES:** Brad Avery, Doug Chaffee, Jon Dumitru, Ryan Gallagher, Marshall Goodman, Stephen Faessel, Robert Ooten, Schelly Sustarsic, Chad Wanke, Bruce Whitaker and Bonnie Peat (Alternate)  
**NOES:** None  
**ABSENT:** Phil Hawkins, Johnathan Ryan Hernandez and Steve Jones  
**ABSTENTIONS:** None

**NON-CONSENT:**

6. **EPSA ELECTRICAL BUILDING AND DISTRIBUTION CENTER H HVAC SYSTEM REPLACEMENT AT PLANT NO. 2, PROJECT NO. SC22-01** [2023-2952](#)

**Originator:** Mike Dorman

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

- A. Approve a Purchase Order Contract to Trane U.S. Inc. for the EPSA Electrical Building and Distribution Center H HVAC System Replacement at Plant No. 2, Project No. SC22-01, utilizing the Omnia Cooperative Purchasing Agreement, Contract Number 3341, for a total amount not to exceed \$3,862,000; and
- B. Approve a contingency of \$386,200 (10%).

**AYES:** Brad Avery, Doug Chaffee, Jon Dumitru, Ryan Gallagher, Marshall Goodman, Stephen Faessel, Robert Ooten, Schelly Sustarsic, Chad Wanke, Bruce Whitaker and Bonnie Peat (Alternate)  
**NOES:** None  
**ABSENT:** Phil Hawkins, Johnathan Ryan Hernandez and Steve Jones  
**ABSTENTIONS:** None

*Director Johnathan Ryan Hernandez arrived at the meeting at 5:08 p.m.*

7. **APPROVAL OF COOPERATIVE AGREEMENT WITH THE CITY OF FOUNTAIN VALLEY** [2023-3005](#)

**Originator:** Mike Dorman

Director of Engineering Mike Dorman provided a PowerPoint presentation which included information on the current exit options and location details of OC San's current and future Headquarters buildings, the limited accessibility, the Cooperative Agreement with the City of Fountain Valley, and the changes to the estimated total project costs.

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

Approve the Cooperative Agreement between Orange County Sanitation District and the City of Fountain Valley for installation of a traffic signal and authorize its execution and implementation.

**AYES:** Brad Avery, Doug Chaffee, Jon Dumitru, Ryan Gallagher, Marshall Goodman, Stephen Faessel, Johnathan Ryan Hernandez, Robert Ooten, Schelly Sustarsic, Chad Wanke, Bruce Whitaker and Bonnie Peat (Alternate)

**NOES:** None

**ABSENT:** Phil Hawkins and Steve Jones

**ABSTENTIONS:** None

### **INFORMATION ITEMS:**

**8. FY 2023-24 BUDGET UPDATE PRESENTATION [2023-3004](#)**

**Originator:** Wally Ritchie

Director of Finance Wally Ritchie provided a PowerPoint presentation recapping the proposed FY 2023-24 budget update. The presentation included an overview of revenue, rates, expenses, the Capital Improvement Program, and an overview of debt service.

ITEM RECEIVED AS AN:

Information Item.

**9. ORANGE COUNTY SANITATION DISTRICT ENVIRONMENTAL SERVICES LABORATORY AND OCEAN MONITORING UPDATE [2023-2997](#)**

**Originator:** Lan Wiborg

Environmental Protection Manager Samuel Choi provided a PowerPoint presentation regarding the Environmental Services Laboratory and Ocean Monitoring update. The presentation included an overview of the Environmental Services Department, environmental monitoring, accreditations, the Laboratory and Ocean Monitoring Division, laboratory tests and instruments, the 2021-2022 OC Beach Report Card, research and innovation, OC San partners, and public outreach.

ITEM RECEIVED AS AN:

Information Item.

**10. STRATEGIC PLANNING - CORE VALUES [2023-3003](#)**

**Originator:** Rob Thompson

Administration Manager Jennifer Cabral provided a PowerPoint presentation regarding OC San's core values. The presentation also included an overview of upcoming topics including the risk register to be presented to the Operations and Administration Committees in July, the Strategic Plan draft for Board review in September, and adoption of the Strategic Plan in November.

ITEM RECEIVED AS AN:

Information Item.

**DEPARTMENT HEAD REPORTS:**

None.

**CLOSED SESSION:**

None.

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

None.

**BOARD OF DIRECTORS INITIATED ITEMS FOR A FUTURE MEETING:**

None.

**ADJOURNMENT:**

Chair Goodman declared the meeting adjourned at 5:48 p.m. to the next Regular Operations Committee meeting to be held on Wednesday, July 5, 2023 at 5:00 p.m.

Submitted by:

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Kelly A. Lore, MMC  
Clerk of the Board



# OPERATIONS COMMITTEE

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

## Agenda Report

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**File #:** 2023-2895

**Agenda Date:** 7/5/2023

**Agenda Item No:** 2.

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**FROM:** Robert Thompson, General Manager  
Originator: Mike Dorman, Director of Engineering

**SUBJECT:**

**MACARTHUR FORCE MAIN IMPROVEMENTS, PROJECT NO. 7-68**

**GENERAL MANAGER'S RECOMMENDATION**

RECOMMENDATION: Recommend to the Board of Directors to:

- A. Receive and file Bid Tabulation and Recommendation for MacArthur Force Main Improvements, Project No. 7-68;
- B. Receive and file Orange County Sanitation District's Notice of Intent to Award dated June 13, 2023;
- C. Receive and file Award Protest Statement from James W. Fowler Co. dated June 13, 2023, protesting award to SRK Engineering;
- D. Receive and file the Award Protest Response letter from SRK Engineering dated June 16, 2023, responding to the award protest;
- E. Receive and file Orange County Sanitation District's determination letter dated June 26, 2023, to James W. Fowler Co. responding to award protest;
- F. Award a Construction Contract to SRK Engineering for MacArthur Force Main Improvements, Project No. 7-68, for a total amount not to exceed \$3,897,000; and
- G. Approve a contingency of \$389,700 (10%).

**BACKGROUND**

The Orange County Sanitation District (OC San) owns and operates a 12-inch asbestos cement force main that conveys flows from the MacArthur Pump Station and discharges into a manhole in Birch Street in the City of Newport Beach. This force main, built in the 1960s, is approximately 2,100 feet long, and is located in OC San's easement below the sidewalk on MacArthur Boulevard.

**RELEVANT STANDARDS**

- Achieve less than 2.1 sewer spills per 100 miles

- Comply with California Public Contract Code Section 20103.8, award construction contract to lowest responsive, responsible bidder
- Operate and maintain facilities to minimize impacts on surrounding communities including odor, noise, and lighting

## **PROBLEM**

The existing force main is near the end of its useful life. In addition, there is only a single force main, which does not allow flexibility in redundancy during operations and maintenance. The pump station valve vault, valves, and piping are also deteriorated and at the end of their useful life.

## **PROPOSED SOLUTION**

Award a construction contract for MacArthur Force Main Improvements, Project No. 7-68. This project will construct two new 1,860-foot long, 10-inch high-density polyethylene force mains. The project will also replace 160 feet of 18-inch vitrified clay gravity pipe and valve vault, including valves and piping. A short segment of the existing asbestos pipe will be removed to support construction of the valve vault. The remaining asbestos pipe will be abandoned in place and filled with grout.

## **TIMING CONCERNS**

Delaying the project award will allow corrosion of the existing force main to continue, increasing the risk of the probability of failure. The City of Newport Beach has plans to reconstruct MacArthur Boulevard in late 2024, which is often followed by a street pavement moratorium, meaning the City of Newport Beach will not permit any construction for five years. This work needs to be completed ahead of any potential moratorium.

## **RAMIFICATIONS OF NOT TAKING ACTION**

Not reconstructing the force main now will increase the risk of failure, potentially leading to a sewage spill.

## **PRIOR COMMITTEE/BOARD ACTIONS**

N/A

## **ADDITIONAL INFORMATION**

OC San advertised MacArthur Force Main Improvements, Project No. 7-68 for bids on April 3, 2023, and four sealed bids were received on May 16, 2023. A summary of the bid opening follows:

Engineer's Estimate	\$ 4,596,000
<u>Bidder</u>	<u>Amount of Bid</u>
SRK Engineering	\$ 3,897,000
James W. Fowler Co.	\$ 4,150,000
W.A. Rasic Construction Company, Inc.	\$ 5,635,000
Charles King Company	\$ 5,664,000



The bids were evaluated in accordance with OC San's policies and procedures. A notice was sent to all bidders on June 13, 2023 informing them of the intent of OC San staff to recommend the award of the construction contract to SRK Engineering.

James W. Fowler Co. sent a formal protest of the award to OC San on June 13, 2023. SRK Engineering issued a response to OC San in defense of their bid. OC San reviewed and responded to this protest and has determined that the protest does not merit a change to the award recommendation.

Staff recommends awarding a construction contract to the lowest responsive and responsible bidder, SRK Engineering, for a total amount not to exceed \$3,897,000.

## **CEQA**

The project is exempt from CEQA under the statutory exemption set forth in the Public Resources Code section 21080.21 and categorical exempt under the Class 1, 2, and 3 set forth in California Code of Regulations sections 15301, 15302, and 15303. A Notice of Exemption will be filed with the OC Clerk-Recorder after OC San Board of Directors approval of the MacArthur Force Main Improvements, Project No. 7-68, Construction Contract.

## **FINANCIAL CONSIDERATIONS**

This request complies with the authority levels of OC San's Purchasing Ordinance. This item has been budgeted (Budget Update, Fiscal Years 2023-2024, Appendix A, Page 7, MacArthur Force Main Improvements, Project No. 7-68) and the budget is sufficient for the recommended action.

## **ATTACHMENT**

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

- Notice of Intent to Award - SRK Engineering, Dated June 13, 2023
- Award Protest Statement from James W. Fowler Co., Dated June 13, 2023
- Award Protest Response from SRK Engineering, Dated June 16, 2023
- Determination Letter to James W. Fowler Co., Dated June 26, 2023
- Contract Agreement

HK:tk

June 13, 2023

By Email: [skirkpatrick@srkeng.com](mailto:skirkpatrick@srkeng.com)

Sherry Kirkpatrick  
SRK Engineering  
2615 Auto Park Way  
Escondido, CA 92029

**SUBJECT: Award Recommendation Notice**  
**Project No. 7-68, MacArthur Force Main Improvements**

The Orange County Sanitation District (OC SAN) completed its evaluation of the bids submitted in response to the Invitation for Bids for the subject project. The lowest responsive and responsible bidder is SRK Engineering. The Evaluation Team is recommending SRK Engineering for contract award.

The Evaluation Team’s recommendation for contract award will be included as an item on OC SAN’s Operations Committee agenda.

The Operations Committee Meeting is scheduled for:

Date: July 5, 2023  
Time: 5:00 p.m.  
Location: Orange County Sanitation District  
Board Room, Administration Building  
10844 Ellis Avenue, Fountain Valley, CA 92708

If approved by the Operations Committee, the award recommendation will be forwarded to OC SAN’s Board of Directors for contract award.

The Board of Directors Meeting is scheduled for:

Date: July 26, 2023  
Time: 6:00 p.m.  
Location: Orange County Sanitation District  
Board Room, Administration Building  
10844 Ellis Avenue, Fountain Valley, CA 92708

The final Agenda Report will be posted not less than 72 hours prior to the Operations Committee and Board of Directors Meetings. Should you wish to determine if the item has been placed on the agenda, please contact OC SAN’s Clerk of the Board at (714) 593-7433.

**Roberson, Larry** Digitally signed by Roberson, Larry  
Date: 2023.06.13 12:29:40 -07'00'

Larry Roberson  
Senior Contracts Administrator

LDR:yp

cc: M. Dorman, H. Khublall, W. Smith, N. Dubrovski, K. Lore

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  - Placentia
  - Santa Ana
  - Seal Beach
  - Stanton
  - Tustin
  - Villa Park
  - County of Orange
  - Costa Mesa Sanitary District
  - Midway City Sanitary District
  - Irvine Ranch Water District
  - Yorba Linda Water District



June 13, 2023

**Larry Roberson**

*Senior Contracts Administrator*  
Orange County Sanitation District  
Fountain Valley, California

Re: PROJECT NO. 7-68: Award Protest Statement – Bid Protest of Low Bidder

Dear Larry Roberson,

J.W. Fowler Co. (JWF) has reviewed SRK Engineering's (SRK) bid documentation and discovered an error in their proposal as described below.

In the Technical Specifications of Project 7-68, Section 01510 Traffic Control, subsection 1.4 A.1 requires the installer, responsible for the setup and maintenance of traffic control, possesses a C31 class license as a "Construction Zone Traffic Control Contractor." SRK does not possess this class of license, according to the California Contractor's State License Board. In addition, they did not list any subcontractor for this work on form BF-2.

On Bid Form BF-2, the Bidder is to list the subcontractors of all tiers it plans to utilize on the project.

*In accordance with California Public Contract Code section, 4100 et seq., the name and location of the principal place of business of each Subcontractor who will perform work or labor or render service to the CONTRACTOR in or about the construction of the Work of improvements in an amount in excess of one-half of one percent (0.5%) of the CONTRACTOR's total Bid, the Subcontractor license number, and the portion of the Work which will be done by each Subcontractor is set forth below. Also, for each Subcontractor listed below, the Subcontractor's Department of Industrial Relations (DIR) registration number and Subcontract amount is provided.*

Two of the four bidders (JWF & Rasic) listed traffic control subcontractors – each for \$200,000 or more for this scope of work. As all subcontractors are to be listed over one half of one percent (0.5%), SRK would be required to list any non-self-performed work ( $\$3,897,000.00 \times 0.5\%$ ) = \$19,485. Since the traffic control work exceeds the listing requirement, it appears SRK failed to list a traffic control subcontractor for that portion of work.

*And, although a listed subcontractor, Superior Pavement Markings, carries the correct class of license, the value of their work is only for the project-required striping (for which they were listed).*

For the above reasons, SRK's bid must be deemed nonresponsive, and therefore rejected. JWF complied with each of the Project bid submission requirements. As the lowest responsive and responsible bidder, JWF should be awarded the Project contract. We look forward to working with OC Sanitation District on this project.

Sincerely,



**Spencer McClymont**  
*California Regional Manager*



DIR | 1000045353  
License | 1017836  
DBE | 42597

June 16<sup>th</sup>, 2023

To: Larry Roberson  
Orange County Sanitation District  
Fountain Valley, California

## Re: Project No. 7-68: Award Protest Response

Dear Mr. Roberson,

SRK Engineering, Inc (SRK) is in receipt of Orange County Sanitation District's (OC SAN) Award Recommendation Notice for Project No. 7-68, MacArthur Force Main Improvements. We appreciate the Award Recommendation and we look forward to begin work on this important project. SRK is also in receipt of J.W. Fowler Co.'s (JWF) Bid Protest. SRK disagrees with JWF's protest letter as described below.

Section 01510 - Traffic Control, details submittal and performance requirements, not bidding requirements. SRK met the license bidding requirement, per the Notice of Inviting Bids, License Requirement, "... the bidder most passes the following classification of Contractor's License: "A". SRK has a valid A license.

Per email response (see attached) from the Contractor's State License Board, "*It is acceptable for A-General Engineering contractors to perform a wide range of work on overall engineering projects they have been awarded, including traffic control. ...*"

SRK will self-perform traffic control on this project. Section 01510 - Traffic Control details out submittal requirements, not bidding requirements. SRK will meet all requirements of Section 01510 Traffic Control, including license requirements, prior to submittals being turned in and work being performed on this project.

SRK respectfully requests that JWF's protest be denied and that OC SAN follow their Award Recommendation and issue the Award to SRK as the lowest responsible bidder for this project. We look forward to continuing to work with OC SAN and to a successful project.

Sincerely,

A handwritten signature in blue ink that reads "Sherry Rebueno Kirkpatrick".

Sherry Rebueno Kirkpatrick, PE  
President

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**From:** Clay, Hal@CSLB <Hal.Clay@cslb.ca.gov> on behalf of CSLB Classifications Deputy@CSLB <Classifications@cslb.ca.gov>  
**Sent:** Wednesday, June 14, 2023 2:16:43 PM  
**To:** Jacob Scheidel <jscheidel@srkeng.com>  
**Subject:** RE: License #1017836 Licensing Clarification

Good afternoon,

It is acceptable for A-General Engineering contractors to perform a wide range of work on overall engineering projects they have been awarded, including traffic control. If you were to act as a subcontractor, and only perform traffic control, we would suggest you add the C31-Construction Zone Traffic Control classification to your license.

Hal Clay  
Special Investigator  
Licensing Classification Deputy  
Contractors State License Board  
916 255-6333 fax

June 26, 2023

Via Email: [billb@jwfowler.com](mailto:billb@jwfowler.com)

John B. Fowler  
James W. Fowler Co.  
12775 Westview Drive  
Dallas, OR 97338

**SUBJECT:** Disposition of Protest from James W. Fowler Co.  
Project No. 7-68 – MacArthur Force Main Improvements

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On June 13, 2023, the Orange County Sanitation District (OC SAN) received an Award Protest Statement (Protest) from your firm, J.W. Fowler Co. (Fowler). The Protest states that SRK Engineering (SRK) should be deemed nonresponsive because SRK does not have a C-31 license and because SRK did not list a Subcontractor to perform the traffic control work. For the reasons discussed below, Fowler’s Protest is denied.

As specified in section SP-3 of the Special Provisions, the CONTRACTOR must possess a Class “A” Contractor’s License. SRK has an active Class “A” license. It is OC SAN’s understanding that when a contractor with a Class “A” Contractor’s License performs traffic control work, which is part of the project, a C-31 specialty license is not required. The traffic control work is incidental to work permitted to be performed by a contractor with a Class “A” Contractor’s License.

The position above is supported by the attached email, dated June 14, 2023, from Hal Clay, Special Investigator at the California Contractors State License Board. In his email, Mr. Clay indicates that “[i]t is acceptable for A-General Engineering contractors to perform a wide range of work on overall engineering projects they have been awarded, including traffic control.” Mr. Clays further indicates that a C-31 license would be required if the contractor were to act as a subcontractor and only perform the traffic control work. Therefore, since SRK will be responsible for all the Work at the referenced project, SRK is not required to have a C-31 license. The Class “A” Contractor’s License is sufficient. In addition, SRK is not required to list a Subcontractor for the traffic control Work.

Based on the above, OC San has determined that SRK’s bid is responsive. Therefore, OC SAN will proceed with its recommendation to OC SAN’s Board of Directors to award the contract to SRK as the lowest, responsive, responsible bidder.

**Zintzun, Ruth** Digitally signed by Zintzun, Ruth  
Date: 2023.06.26 16:12:05  
-07’00’

Ruth Zintzun  
Finance & Procurement Manager

RZ:DO:yp

Enclosure

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

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**From:** Clay, Hal@CSLB <Hal.Clay@cslb.ca.gov> on behalf of CSLB Classifications Deputy@CSLB <Classifications@cslb.ca.gov>  
**Sent:** Wednesday, June 14, 2023 2:16:43 PM  
**To:** Jacob Scheidel <jscheidel@srkeng.com>  
**Subject:** RE: License #1017836 Licensing Clarification

Good afternoon,

It is acceptable for A-General Engineering contractors to perform a wide range of work on overall engineering projects they have been awarded, including traffic control. If you were to act as a subcontractor, and only perform traffic control, we would suggest you add the C31-Construction Zone Traffic Control classification to your license.

Hal Clay  
Special Investigator  
Licensing Classification Deputy  
Contractors State License Board  
916 255-6333 fax



**PART A**  
**CONTRACT AGREEMENT**

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CONTRACT AGREEMENT  
ORANGE COUNTY SANITATION DISTRICT

**PROJECT NO. 7-68**  
**MACARTHUR FORCE MAIN IMPROVEMENTS**

THIS AGREEMENT is made and entered into, to be effective, this July 26, 2023, by and between SRK Engineering, hereinafter referred to as “CONTRACTOR” and the Orange County Sanitation District, hereinafter referred to as “OC SAN”.

WITNESSETH

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

**SECTION – 1     GENERAL**

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

A. Contract Documents Order of Precedence

“Contract Documents” refers to those documents identified in the definition of “Contract Documents” in the General Conditions, “Definitions”.

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CONFORMED

C-CA-032023  
PROJECT NO. 7-68  
MACARTHUR FORCE MAIN IMPROVEMENTS

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

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

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

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

**B. Definitions**

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

**SECTION – 2 MATERIALS AND LABOR**

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

**SECTION – 3 PROJECT**

The Project is described as:

**PROJECT NO. 7-68**

**MACARTHUR FORCE MAIN IMPROVEMENTS**

**SECTION – 4 PLANS AND SPECIFICATIONS**

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

**PROJECT NO. 7-68**

**MACARTHUR FORCE MAIN IMPROVEMENTS**

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

**SECTION – 5 TIME OF COMMENCEMENT AND COMPLETION**

CONTRACTOR agrees to commence the Project within 15 calendar days from the date set forth in the “Notice to Proceed” sent by OC SAN, unless otherwise specified therein and shall diligently prosecute the Work to completion within three hundred seventy-two (372) calendar days from the date of the “Notice to Proceed” issued by OC SAN, excluding delays caused or authorized by OC SAN as set forth in Sections 7, 8, and 9 hereof, and applicable provisions in the General Conditions. The time for completion includes ten (10) calendar days determined by OC SAN likely to be inclement weather when CONTRACTOR will be unable to work.

In addition, CONTRACTOR shall accomplish such milestones within the periods of performance set forth in Appendix A of the Special Provisions entitled “Work Completion Schedule.”

**SECTION – 6 TIME IS OF THE ESSENCE**

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

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CONFORMED

C-CA-032023  
PROJECT NO. 7-68  
MACARTHUR FORCE MAIN IMPROVEMENTS

which the Work is to be performed and shall have the right to decide the time or order in which the various portions of the Work shall be installed or the priority of the work of subcontractors, and, in general, all matters representing the timely and orderly conduct of the Work of CONTRACTOR on the premises.

**SECTION – 7      EXCUSABLE DELAYS**

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

**SECTION – 8      EXTRA WORK**

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

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



## **SECTION – 9 CHANGES IN PROJECT**

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

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

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

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

## **SECTION – 10 LIQUIDATED DAMAGES FOR DELAY**

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

## **SECTION – 11 CONTRACT PRICE AND METHOD OF PAYMENT**

A. OC SAN agrees to pay and the CONTRACTOR agrees to accept as full consideration for the faithful performance of this Contract, subject to any additions or deductions as provided in approved Change Orders, the sum of Three Million Eight Hundred Ninety-Seven Thousand Dollars (\$3,897,000) as itemized on the attached Exhibit “A”.

Upon satisfaction of the conditions precedent to payment set forth in the General Requirements, Additional General Requirements, and General Conditions (including but not limited to Sections entitled “Mobilization Payment Requirements” and “Payment

Itemized Breakdown of Contract Lump Sum Prices”), there shall be paid to the CONTRACTOR an initial Net Progress Payment for mobilization. OC SAN shall issue at the commencement of the job a schedule which shows:

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

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

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

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

2. **“Progress Payment”** means a sum equal to:
  - a. the value of the actual Work completed since the commencement of the Work as determined by OC SAN;
  - b. plus the value of material suitably stored at the worksite, treatment plant or approved storage yards subject to or under the control of OC SAN since the commencement of the Work as determined by OC SAN;
  - c. less all previous Net Progress Payments;
  - d. less all amounts of previously qualified deductions;
  - e. less all amounts previously retained as Retention Amounts.
  
3. **“Retention Amount”** for each Progress Payment means the percentage of each Progress Payment to be retained by OC SAN to assure satisfactory completion of the Contract. The amount to be retained from each Progress Payment shall be determined as provided in the General Conditions, “Retained Funds; Substitution of Securities.”

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

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

## **SECTION – 13 COMPLETION**

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

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

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## SECTION – 14 CONTRACTOR’S EMPLOYEES COMPENSATION

### A. Davis-Bacon Act:

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

### B. General Prevailing Rate:

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

### C. Forfeiture for Violation:

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

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

D. Apprentices:

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

E. Workday:

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

F. Registration; Record of Wages; Inspection:

CONTRACTOR shall comply with the registration requirements of Labor Code Section 1725.5. Pursuant to Labor Code Section 1771.4, the Work is subject to compliance monitoring by the California Department of Industrial Relations. CONTRACTOR shall maintain accurate payroll

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

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

## **SECTION – 15 SURETY BONDS**

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

- A. A copy of the transcript or record of the unrevoked appointment, power of attorney, by-laws, or other instrument, duly certified by the proper authority and attested by the seal of the insurer entitling or authorizing the person who executed the Bond to do so for and on behalf of the insurer, is on file in the Office of the County Clerk of the County of Orange; or

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

## **SECTION – 16 INSURANCE**

CONTRACTOR shall purchase and maintain, for the duration of the Contract, insurance against claims for injuries to persons, or damages to property which may arise from or in connection with the performance of the Work hereunder, and the results of that Work by CONTRACTOR, its agents, representatives, employees, or Subcontractors, in amounts equal to the requirements set forth below. CONTRACTOR shall not commence Work under this Contract until all insurance required under this Section is obtained in a form acceptable to OC SAN, nor shall CONTRACTOR allow any Subcontractor to commence Work on a subcontract until all insurance required of the Subcontractor has been obtained. CONTRACTOR shall maintain all of the foregoing insurance coverages in force through the point at which the Work under this Contract is fully completed and accepted by OC SAN pursuant to the provisions of the General Conditions, "Final Acceptance and Final Completion". Furthermore, CONTRACTOR shall maintain all of the foregoing insurance coverages in full force and effect throughout the warranty period, commencing on the date of Final Acceptance. The requirement for carrying the foregoing insurance shall not derogate from the provisions for indemnification of OC SAN by CONTRACTOR under Section 17 of this Contract. Notwithstanding nor diminishing the obligations of CONTRACTOR with respect to the foregoing, CONTRACTOR shall subscribe for and maintain in full force and effect during the life of this Contract, inclusive of all changes to the Contract Documents made in accordance with the provisions of the General Conditions, "Request for Change (Changes at CONTRACTOR's Request)" and/or "OWNER Initiated Changes", the following insurance in amounts not less than the amounts specified. OC SAN reserves the right to amend the required limits of insurance commensurate with the CONTRACTOR's risk at any time during the course of the Project. No vehicles may enter OC SAN premises/worksite without possessing the required insurance coverage.

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

If CONTRACTOR maintains higher limits than the minimums shown in this Section, OC SAN requires and shall be entitled to coverage for the higher limits maintained by the CONTRACTOR.

Where permitted by law, CONTRACTOR hereby waives all rights of recovery by subrogation because of deductible clauses, inadequacy of limits of any insurance policy, limitations or exclusions of coverage, or any other reason against OC SAN, its or their officers, agents, or employees, and any other contractor or subcontractor performing Work or rendering services on behalf of OC SAN in connection with the planning, development and construction of the Project.

In all its insurance coverages (except for Professional Liability/Errors and Omissions coverages, if applicable) related to the Work, CONTRACTOR shall include clauses providing that each insurer shall waive all of its rights of recovery by subrogation against OC SAN, its or their officers, agents, or employees, or any other contractor or subcontractor performing Work or rendering services at the Project. Where permitted by law, CONTRACTOR shall require similar written express waivers and insurance clauses from each of its Subcontractors of every tier. A waiver of subrogation shall be effective as to any individual or entity, even if such individual or



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

A. Limits of Insurance

1. General Liability: Three Million Dollars (\$3,000,000) per occurrence and a general aggregate limit of Six Million Dollars (\$6,000,000) for bodily injury, personal injury and property damage. If aggregate limits apply separately to this contract (as evidenced by submission of ISO form CG 25 03 or CG 25 04), then the aggregate limit may be equivalent to the per occurrence limit. Coverage shall include each of the following:
  - a. Premises-Operations.
  - b. Products and Completed Operations, with limits of at least Three Million Dollars (\$3,000,000) per occurrence and a general aggregate limit of Six Million Dollars (\$6,000,000) which shall be in effect at all times during the warranty period set forth in the Warranty section herein, and as set forth in the General Conditions, "Warranty (CONTRACTOR's Guarantee)", plus any additional extension or continuation of time to said warranty period that may be required or authorized by said provisions. If aggregate limits apply separately to this contract (as evidenced by submission of ISO form CG 25 03 or CG 25 04), then the aggregate limit may be equivalent to the per occurrence limit.
  - c. Broad Form Property Damage, expressly including damage arising out of explosion, collapse, or underground damage.
  - d. Contractual Liability, expressly including the indemnity provisions assumed under this Contract.
  - e. Separation of Insured Clause, providing that coverage applies separately to each insured, except with respect to the limits of liability.

- f. Independent CONTRACTOR's Liability.  
To the extent first dollar coverage, including defense of any claim, is not available to OC SAN or any other additional insured because of any SIR, deductible, or any other form of self-insurance, CONTRACTOR is obligated to assume responsibility of insurer until the deductible, SIR or other condition of insurer assuming its defense and/or indemnity has been satisfied.  
CONTRACTOR shall be responsible to pay any deductible or SIR.
  - g. If a crane will be used, the general liability insurance will be endorsed to add Riggers Liability coverage or its equivalent to cover the usage of the crane and exposures with regard to the crane operators, riggers and others involved in using the crane.
  - h. If divers will be used, the general liability insurance will be endorsed to cover marine liability or its equivalent to cover the usage of divers.
2. Automobile Liability: The CONTRACTOR shall maintain a policy of automobile liability insurance on a comprehensive form covering all owned, non-owned, and hired automobiles, trucks, and other vehicles providing the following minimum limit of liability coverage: combined single limit of One Million Dollars (\$1,000,000) for bodily injury, personal injury, and property damage.
3. Umbrella Excess Liability: The minimum limits of general liability and automobile liability insurance required, as set forth above, shall be provided for either in a single policy of primary insurance or a combination of policies of primary and umbrella excess coverage. Excess liability coverage shall be issued with limits of liability which, when combined with the primary insurance, will equal the minimum limits for general liability and automobile liability.

4. Drone Liability Insurance: If a drone will be used, drone liability insurance must be maintained by CONTRACTOR in the amount of One Million Dollars (\$1,000,000) in a form acceptable to OC SAN.
5. Workers' Compensation/Employer's Liability: CONTRACTOR shall provide such workers' compensation insurance as required by the Labor Code of the State of California, including employer's liability with a minimum limit of One Million Dollars (\$1,000,000) per accident for bodily injury or disease. If an exposure to Jones Act liability may exist, the insurance required herein shall include coverage with regard to Jones Act claims.
6. Pollution Liability Insurance: CONTRACTOR shall purchase and maintain insurance for pollution liability covering bodily injury, property damage (including loss of use of damaged property or property that has not been physically injured or destroyed), cleanup costs, and defense costs (including costs and expenses for investigation, defense, or settlement of claims). Coverage shall carry limits of at least One Million Dollars (\$1,000,000) and shall apply to sudden and non-sudden pollution conditions (including sewage spills), both at the site or needed due to migration of pollutants from the site, resulting from the escape or release of smoke, vapors, fumes, acids, alkalis, toxic chemicals, liquids or gases, waste materials, or other irritants, contaminants or pollutants.
7. If CONTRACTOR provides coverage written on a claims-made basis, OC SAN has the right to approve or reject such coverage in its own discretion. If written on a claims-made basis, the CONTRACTOR warrants that any retroactive date applicable to coverage under the policy precedes the effective date of this Contract, and that continuous coverage will be maintained, or an extended discovery period will be

exercised, for a period of two years beginning from the time that the Project under this Contract is completed.

8. Errors and Omissions/Professional Liability Insurance: CONTRACTOR shall maintain in full force and effect, throughout the term of this Contract, standard industry form professional liability / errors and omissions insurance coverage with coverage limits of not less than One Million Dollars (\$1,000,000) 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 Contract, and for a period of five (5) years from the date of the completion of the Work hereunder.

In the event of termination of said policy during this period, CONTRACTOR shall obtain continuing insurance coverage for the prior acts or omissions of CONTRACTOR during the course of performing Work under the terms of this Contract. 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 Contract or until completion of the Work provided for in this Contract, 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 or omissions of CONTRACTOR during the course of performing Work under the terms of this Contract.

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

B. Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by OC SAN. At the option of OC SAN, either: the Insurer shall reduce or eliminate such deductibles or self-insured retentions as respects OC SAN, its Directors, officers, agents, consultants, and employees; or CONTRACTOR shall provide a financial guarantee satisfactory to OC SAN guaranteeing payment of losses and related investigations, claim administration, and defense expenses.

C. Other Insurance Provisions

1. Each such policy of general liability insurance and automobile liability insurance shall be endorsed to contain, the following provisions:

- a. OC SAN, its directors, officers, agents, consultants, and employees, and all public agencies from whom permits will be obtained, and their directors, officers, agents, and employees are hereby declared to be additional insureds under the terms of this policy, but only with respect to the operations of CONTRACTOR at or from any of the sites of OC SAN in connection with this Contract, or acts and omissions of the additional insured in connection with its general supervision or inspection of said operations related to this Contract.
- b. Insurance afforded by the additional insured endorsement shall apply as primary insurance, and other insurance maintained by OC SAN shall be excess only and not contributing with insurance provided under this policy.

2. Cancellation and Policy Change Notice.

The CONTRACTOR is required to notify OC SAN in writing of any insurance cancellation notice it receives or other knowledge of pending or actual insurance policy cancellation within two (2) working days of receipt of such notice or acquisition of such knowledge. Additionally, the CONTRACTOR is required to notify OC SAN in

writing of any change in the terms of insurance, including reduction in coverage or increase in deductible/SIR, within two (2) working days of receipt of such notice or knowledge of same.

Said notices shall be mailed to OC SAN at:

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

3. Coverage shall not extend to any indemnity coverage for the active negligence of any additional insured in any case where an agreement to indemnify the additional insured would be invalid under California Civil Code Section 2782(b).

a. If required by a public agency from whom permit(s) will be obtained, each policy of general liability insurance and automobile liability insurance shall be endorsed to specify by name the public agency and its legislative members, officers, agents, consultants, and employees, to be additional insureds.

D. Acceptability of Insurers

Insurers must have an "A-", or better, Policyholder's Rating, and a Financial Rating of at least Class VIII, or better, in accordance with the most current A.M. Best Rating Guide.

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

E. Verification of Coverage

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

F. Subcontractors

CONTRACTOR shall be responsible to establish insurance requirements for any Subcontractors hired by CONTRACTOR. The insurance shall be in amounts and types reasonably sufficient to deal with the risk of loss involving the Subcontractor's operations and work. OC SAN and any public agency issuing permits for the Project must be named as "Additional Insured" on any general liability or automobile liability policy obtained by a Subcontractor. The CONTRACTOR must obtain copies and maintain current versions of all Subcontractors' policies, certificate of liability and mandatory endorsements effecting coverage. Upon request, CONTRACTOR must furnish OC SAN with the above referenced required documents.

G. Required Forms and Endorsements

1. Required ACORD Form

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

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

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

- a. Commercial General Liability Form CG 00 01
  - b. Additional Insured Including Products-Completed Operations Form CG 20 10 **and** Form CG 20 37  
All other additional insured endorsements must be submitted for approval by OC SAN, and OC SAN may reject alternatives that provide different or less coverage to OC SAN.
  - c. Waiver of Transfer of Rights of Recovery Against Others to Us/  
Waiver of Subrogation Form CG 24 04
3. Required State Compensation Insurance Fund Endorsements
- a. Waiver of Subrogation Submit workers' compensation waiver of subrogation endorsement provided by carrier for OC SAN approval.
  - b. Cancellation Notice No endorsement is required. However, CONTRACTOR is responsible for notifying OC SAN of any pending or actual insurance policy cancellation, as described in Article C.2., Cancellation and Policy Change Notice, above.
4. Additional Required Endorsements
- a. Notice of Policy Termination Manuscript Endorsement

5. Pollution Liability Endorsements

There shall be a Separation of Insured Clause or endorsement, providing that coverage applies separately to each insured, except with respect to the limits of liability. There shall also be an endorsement or policy language containing a waiver of subrogation rights on the part of the insurer.

OC SAN, its directors, officers, agents, consultants and employees and all public agencies from whom permits will be obtained as well as their directors, officers, agents, and employees shall be included as insureds under the policy. Any



additional insured endorsement shall contain language at least as broad as the coverage language contained in ISO form CG 20 10 or alternatively in both CG 20 10 and CG 20 37 together.

#### **SECTION – 17 RISK AND INDEMNIFICATION**

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

#### **SECTION – 18 TERMINATION**

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

#### **SECTION – 19 WARRANTY**

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

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

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

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

**SECTION – 20 ASSIGNMENT**

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

**SECTION – 21 RESOLUTION OF DISPUTES**

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

**SECTION – 22 SAFETY & HEALTH**

CONTRACTOR shall comply with all applicable safety and health requirements mandated by federal, state, city and/or public agency codes, permits, ordinances, regulations, and laws, as well as these Contract Documents, including but not limited to the General Requirements, Section entitled “Safety” and Exhibit B Contractor Safety Standards. OC SAN reserves the right to stop work for violations of safety and health standards until the hazardous conditions are corrected. The right to stop work includes the right to remove a contractor or its employees from the worksite.

**[THIS SECTION INTENTIONALLY LEFT BLANK]**

**SECTION – 23 NOTICES**

Any notice required or permitted under this Contract shall be served by personal delivery or by certified mail, return receipt requested, at the address set forth below. Unless specified elsewhere in the Contract Documents or otherwise required by law, any notice may alternatively be given by electronic telecommunication to the e-mail address set forth below. Any party whose address changes shall notify the other party in writing.

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

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

Bradley R. Hogin, Esquire  
Woodruff, Spradlin & Smart  
555 Anton Boulevard, Suite 1200  
Costa Mesa, California 92626  
bhogin@wss-law.com

TO CONTRACTOR:         SRK Engineering  
2615 Auto Park Way  
Escondido, CA 92029  
skirkpatrick@srkeng.com

Copy to:                     Sherry R. Kirkpatrick, President  
SRK Engineering  
2615 Auto Park Way  
Escondido, CA 92029  
skirkpatrick@srkeng.com

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

CONTRACTOR: SRK Engineering  
2615 Auto Park Way  
Escondido, CA 92029

By \_\_\_\_\_ Date \_\_\_\_\_

\_\_\_\_\_  
Printed Name

Its \_\_\_\_\_

CONTRACTOR's State License No. 1017836A (Expiration Date – 8/31/2024)

OC SAN: Orange County Sanitation District

By \_\_\_\_\_ Date \_\_\_\_\_

Chad P. Wanke  
Board Chairman

By \_\_\_\_\_ Date \_\_\_\_\_

Kelly A. Lore  
Clerk of the Board

By \_\_\_\_\_ Date \_\_\_\_\_

Ruth Zintzun  
Purchasing & Contracts Manager

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**EXHIBIT A**  
**SCHEDULE OF PRICES**

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**SCHEDULE OF PRICES**

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# **EXHIBIT A**

## **SCHEDULE OF PRICES**

### **EXA-1 BASIS OF COMPENSATION**

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

### **EXA-2 PROGRESS PAYMENTS**

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

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

### **EXA-3 RETENTION AND ESCROW ACCOUNTS**

#### **A. Retention:**

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



B. Substitution of Securities:

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

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

C. Release of Retention:

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

D. Additional Deductibles:

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

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

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

#### **EXA-4 STOP PAYMENT NOTICE**

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

#### **EXA-5 PAYMENT TO SUBCONTRACTORS**

##### Requirements

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

#### **EXA-6 PAYMENT OF TAXES**

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

## **EXA-7 FINAL PAYMENT**

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

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

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

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

## **EXA-8 DISCOVERY OF DEFICIENCIES BEFORE AND AFTER FINAL PAYMENT**

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

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

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

**ATTACHMENT 1 – CERTIFICATION FOR REQUEST FOR PAYMENT**

I hereby certify under penalty of perjury as follows:

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

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

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

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

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

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

CONFORMED

C-EXA-062221  
PROJECT NO. 7-68  
MACARTHUR FORCE MAIN IMPROVEMENTS

## **ATTACHMENT 2 – SCHEDULE OF PRICES**

See next pages from the Bid Submittal Forms (SRK Engineering)

BF-14 Schedule of Prices, Pages 1-2

**BF-14 SCHEDULE OF PRICES**

**INSTRUCTIONS**

**A. General**

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

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

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

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

**B. Basis of Award**

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

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



**SCHEDULE OF PRICES**

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

Item No.	Description	Unit of Measurement	Approx Qty	Unit Price	Extended Price
1.	<b>Mobilization</b> as described in Specifications Section 01155, Measurement and Payment and in conformance with the Contract Documents for the lump sum price of...	Lump Sum	1	=	\$170,000
2.	<b>Sheeting, Shoring and Bracing</b> as described in Specifications Sections 01155, Measurement and Payment and 02210, Excavation Support and Protection and in conformance with the Contract Documents for the lump sum price of...	Lump Sum	1	=	\$ 150,000
3.	<b>All Other Portions of the Work, Except the Work of Item Nos. 1 through 2 and Item Nos. 4 through 5</b> as described in Specifications Section 01155, Measurement and Payment and in conformance with the Contract Documents for the lump sum price of...	Lump Sum	1	=	\$ 3,397,000
4.	<b>Cities of Irvine and Newport Beach Permit and Inspection Fees</b> as described in Specifications Section 01150, Measurement and Payment and in conformance with the Contract Documents for an allowance of...	Allowance	1	=	\$100,000
5.	<b>Demobilization</b> as described in Specifications Section 01155, Measurement and Payment and in conformance with the Contract Documents for the lump sum price of...	Lump Sum	1	=	\$80,000

**TOTAL AMOUNT OF BID (BASIS OF AWARD) \$ 3,897,000**



# OPERATIONS COMMITTEE

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

## Agenda Report

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**File #:** 2023-2896

**Agenda Date:** 7/5/2023

**Agenda Item No:** 3.

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**FROM:** Robert Thompson, General Manager  
Originator: Mike Dorman, Director of Engineering

**SUBJECT:**

**MACARTHUR FORCE MAIN IMPROVEMENTS, PROJECT NO. 7-68**

**GENERAL MANAGER'S RECOMMENDATION**

RECOMMENDATION: Recommend to the Board of Directors to:

- A. Approve a Professional Construction Services Agreement with Michael Baker International, Inc. to provide construction support services for MacArthur Force Main Improvements, Project No. 7-68, for a total amount not to exceed \$272,002; and
- B. Approve a contingency of \$27,200 (10%).

**BACKGROUND**

Michael Baker International, Inc. was selected as part of a competitive, qualifications-based solicitation process to design MacArthur Force Main Improvements, Project No. 7-68. At the time of the solicitation, the Orange County Sanitation District (OC San) documented its intent to award a subsequent agreement to the design consultant for the continuation of engineering services during construction.

OC San owns and operates a 12-inch asbestos cement force main that conveys flows from the MacArthur Pump Station and discharges into a manhole in Birch Street in the City of Newport Beach. This force main, built in the 1960s, is approximately 2,100 feet long, and is located in an OC San easement below the sidewalk on MacArthur Boulevard.

**RELEVANT STANDARDS**

- Comply with California Government Code Section 4256 to engage the best qualified firm “on the basis of demonstrated competence and qualifications” and “negotiate fair and reasonable fees”
- Ensure the public’s money is wisely spent

**PROBLEM**

This project requires the design consultant to provide as-needed services during construction including submittal review, responding to the contractor’s requests for information, reviewing

construction change orders, participating in meetings, attending site visits, and preparing record drawings.

### **PROPOSED SOLUTION**

Approve a Professional Construction Services Agreement with the design consultant, Michael Baker International, Inc., to provide engineering support services during construction.

### **TIMING CONCERNS**

Engineering support services will be required at the start of construction. Construction is anticipated to start in August 2023.

### **RAMIFICATIONS OF NOT TAKING ACTION**

The engineering support services needed to facilitate and review construction activities would not be available by the Engineer of Record, which may negatively impact the contract execution.

### **PRIOR COMMITTEE/BOARD ACTIONS**

May 2021 - Approved a Professional Design Services Agreement with Michael Baker International, Inc. to provide engineering services for MacArthur Force Main Improvements, Project No. 7-68, for an amount not to exceed \$500,000; and approved a contingency of \$50,000 (10%).

### **ADDITIONAL INFORMATION**

Michael Baker International, Inc. has successfully furnished engineering services for the design of this project, and their support services during construction will provide continuity through the completion of the project.

Staff negotiated with Michael Baker International, Inc. for these support services in accordance with OC San's adopted policies and procedures. A review of the proposed price was conducted using estimated quantities of requests for information, submittals, meetings, site visits, change order review, and design revisions, as well as the level of effort for preparing record drawings. Based on this review, staff determined the negotiated fee to be fair and reasonable for these services. Staff is requesting a 10% contingency in case unanticipated professional services are needed during construction.

### **CEQA**

The project is exempt from CEQA under the statutory exemption set forth in the Public Resources Code section 21080.21 and categorical exempt under the Class 1, 2, and 3 set forth in California Code of Regulations sections 15301, 15302, and 15303. A Notice of Exemption will be filed with the OC Clerk-Recorder after OC San Board of Directors approval of the MacArthur Force Main Improvements, Project No. 7-68, Construction Contract.

**FINANCIAL CONSIDERATIONS**

This request complies with the authority levels of OC San's Purchasing Ordinance. This item has been budgeted (Budget Update, Fiscal Years 2023-2024, Appendix A, Page 7, MacArthur Force Main Improvements, Project No. 7-68) and the budget is sufficient for the recommended action.

**ATTACHMENT**

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

- Professional Construction Services Agreement

HK:tk

## PROFESSIONAL CONSTRUCTION SERVICES AGREEMENT

This PROFESSIONAL CONSTRUCTION SERVICES AGREEMENT, (hereinafter referred to as "Agreement"), is made and entered into to be effective the 26<sup>th</sup> day of July, 2023 by and between the ORANGE COUNTY SANITATION DISTRICT, (hereinafter referred to as "OC SAN"), and MICHAEL BAKER INTERNATIONAL, INC., (hereinafter referred to as "CONSULTANT").

### WITNESSETH:

WHEREAS, OC SAN desires to engage CONSULTANT to provide construction support services for **MacArthur Force Main Improvements, Project No. 7-68** (Construction Support Services); and

WHEREAS, CONSULTANT is qualified to provide the necessary services for the Construction Support Services in connection with these requirements; and

WHEREAS, OC SAN has adopted procedures in accordance with OC SAN's Ordinance No. OC SAN-56, Section 4.03(B), for the continuation of services and has proceeded in accordance with said procedures to perform the Construction Support Services; and

WHEREAS, at its regular meeting on July 26, 2023 the Board of Directors, by Minute Order, accepted the recommendation of the Operations Committee pursuant to OC SAN's Ordinance No. OC SAN-56 to approve this Agreement.

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

#### **1. SCOPE OF WORK**

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

- A. The CONSULTANT shall be responsible for the professional quality, technical accuracy, completeness, and coordination of all design, drawings, specifications, and other services furnished by the CONSULTANT under this Agreement, including the work performed by its subconsultants (Subconsultants). Where approval by OC SAN is indicated, it is understood to be conceptual approval only and does not relieve the CONSULTANT of responsibility for complying with all laws, codes, industry standards and liability for damages caused by errors, omissions, noncompliance with industry standards, and/or negligence on the part of the CONSULTANT or its Subconsultants.
- B. The CONSULTANT is responsible for the quality of work prepared under this Agreement and shall ensure that all work is performed to the standards of best engineering practice for clarity, uniformity, and completeness.

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

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

- E. All professional services performed by the CONSULTANT, including but not limited to all drafts, data, correspondence, proposals, reports, and estimates compiled or composed by the CONSULTANT, pursuant to this Agreement, are for the sole use of OC SAN, its agents and employees. Neither the documents nor their contents shall be released to any third party without the prior written consent of OC SAN. This provision does not apply to information that (a) was publicly known, or otherwise known to the CONSULTANT, at the time that it was disclosed to the CONSULTANT by OC SAN, (b) subsequently becomes publicly known to the CONSULTANT other than through disclosure by OC SAN.

## 2. COMPENSATION

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

### A. Total Compensation

Total compensation shall be in an amount not to exceed Two Hundred Seventy-Two Thousand Two Dollars (\$272,002.00). Total compensation to the CONSULTANT including burdened labor (salaries plus benefits), overhead, profit, direct costs, and Subconsultant(s) fees and costs shall not exceed the sum set forth in Attachment "E" - Fee Proposal.

### B. Labor

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

C. Overhead

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

D. Profit

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

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

E. Subconsultants

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

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

F. Direct Costs

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

G. Other Direct Costs

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

H. Reimbursable Direct Costs

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

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

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

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

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

I. Limitation of Costs

If, at any time, the CONSULTANT estimates the cost of performing the services described in the CONSULTANT's Proposal will exceed the not-to-exceed amount of the Agreement, including approved additional compensation, the 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 the CONSULTANT's own risk. This written notice shall be provided separately from, and in addition to any notification requirements contained in the CONSULTANT's invoice and monthly progress report. Failure to notify OC SAN that the services cannot be completed within the authorized not-to-exceed amount is a material breach of this Agreement.

**3. REALLOCATION OF TOTAL COMPENSATION**

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

**4. PAYMENT**

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

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

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

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

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

- C. The CONSULTANT may submit periodic payment requests for each 30-day period of this Agreement for the profit as set forth in Section 2 - COMPENSATION. Said profit payment request shall be proportionate to the work actually accomplished to date on a per task basis. In the event OC SAN's Director of Engineering determines that no satisfactory progress has been made since the prior payment, or in the event of a delay in the work progress for any reason, OC SAN shall have the right to withhold any scheduled proportionate profit payment.
- D. Upon satisfactory completion by the CONSULTANT of the work called for under the terms of this Agreement, and upon acceptance of such work by OC SAN, the CONSULTANT will be paid the unpaid balance of any money due for such work, including any retained percentages relating to this portion of the work.
- E. Upon satisfactory completion of the work performed hereunder and prior to final payment under this Agreement for such work, or prior settlement upon termination of this Agreement, and as a condition precedent thereto, the 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 the CONSULTANT from the operation of the release in stated amounts to be set forth therein.
- F. Pursuant to the California False Claims Act (Government Code Sections 12650-12655), any CONSULTANT that knowingly submits a false claim to OC SAN for compensation under the terms of this Agreement may be held liable for treble damages and up to a ten thousand dollars (\$10,000) civil penalty for each false claim submitted. This section shall also be binding on all Subconsultants.

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

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

- A. To the extent the 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, the 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 Standards Enforcement of the DIR.
- D. The CONSULTANT and Subconsultants shall comply with the job site notices posting requirements established by the Labor Commissioner per Title 8, California Code of Regulation Section 16461(e).

**6. DOCUMENT OWNERSHIP – SUBSEQUENT CHANGES TO PLANS AND SPECIFICATIONS**

- A. Ownership of Documents for the Construction Support Services performed.  

All documents, including but not limited to, original plans, studies, sketches, drawings, computer printouts and disk files, and specifications prepared in connection with or related to the SOW or Construction Support 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 Construction Support Services are terminated: a) by the completion of the Agreement, or b) in accordance with other provisions of this Agreement. Notwithstanding any other provision of this paragraph or Agreement, the CONSULTANT shall have the right to make copies of all such plans, studies, sketches, drawings, computer printouts and disk files, and specifications.

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

## 7. INSURANCE

### A. General

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

### B. General Liability

The CONSULTANT shall maintain during the life of this Agreement, including the period of warranty, commercial general liability insurance written on an occurrence basis providing the following minimum limits of liability coverage of one million dollars (\$1,000,000) per occurrence with two million dollars (\$2,000,000) aggregate. If aggregate limits apply separately to this contract (as evidenced by submission of ISO form CG 25 03 or 25 04), then the aggregate limit may be equivalent to the per occurrence limit. Said insurance shall include coverage for the following hazards: premises-operations, blanket contractual liability (for this Agreement), products liability/completed operations (including any product manufactured or assembled), broad form property damage, blanket contractual liability, independent contractors liability, personal and advertising injury, mobile equipment, owners and contractors protective liability, and cross liability and severability of interest clauses. A statement on an insurance certificate will not be accepted in lieu of the actual additional insured endorsement(s). If requested by OC SAN and applicable, XCU coverage (Explosion, Collapse and Underground) and Riggers/On Hook Liability must be included in the general liability policy and coverage must be reflected on the submitted certificate of insurance.

C. Umbrella Excess Liability

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

D. Automobile/Vehicle Liability Insurance

The CONSULTANT shall maintain a policy of automobile liability insurance on a comprehensive form covering all owned, non-owned, and hired automobiles, trucks, and other vehicles providing the following minimum limit of liability coverage: combined single limit of 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 the CONSULTANT in the amount of one million dollars (\$1,000,000) in a form acceptable to OC SAN.

F. Workers' Compensation Insurance

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

G. Errors and Omissions/Professional Liability

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

In the event of termination of said policy during this period, the CONSULTANT shall obtain continuing insurance coverage for the prior acts or omissions of the 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 the CONSULTANT during the course of performing services under the term of this Agreement.

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

H. Proof of Coverage

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

- Certificate of Insurance      ACORD Form or other equivalent certificate of insurance form
  
- Additional Insurance      The combination of (ISO Forms)  
  (General Liability)      CG 20 10 and CG 20 37
  
- All other additional insured endorsements must be submitted for approval by OC SAN, and OC SAN may reject alternatives that provide different or less coverage to OC SAN.
  
- Additional Insured      Submit endorsement provided by carrier for  
  (Automobile Liability)      OC SAN approval.
  
- Waiver of Subrogation      Submit workers' compensation waiver of subrogation endorsement provided by carrier for OC SAN approval.

- Cancellation Notice No endorsement is required. However, the CONSULTANT is responsible for notifying OC SAN of any pending or actual insurance policy cancellation, as described in Article I. Cancellation and Policy Change Notice, below.

I. Cancellation and Policy Change Notice

The CONSULTANT is required to notify OC SAN in writing of any insurance cancellation notice it receives or other knowledge of pending or actual insurance policy cancellation, within two 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 working days of receipt of such notice or knowledge of same.

Said notices shall be mailed to OC SAN at:

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

J. Primary Insurance

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

K. Separation of Insured

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

L. Non-Limiting (if applicable)

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

M. Deductibles and Self-Insured Retentions

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

N. Defense Costs

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

O. Subconsultants

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

P. Limits Are Minimums

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

**8. SCOPE CHANGES**

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

**9. PROJECT TEAM AND SUBCONSULTANTS**

The CONSULTANT shall provide to OC SAN, prior to execution of this Agreement, the names and full description of all Subconsultants and CONSULTANT's project team members anticipated to be used on this project by the CONSULTANT. The CONSULTANT shall include a description of the scope of work to be done by each Subconsultant and each CONSULTANT's project team member. The CONSULTANT shall include the respective compensation amounts for the CONSULTANT and each Subconsultant on a per task basis, broken down as indicated in Section 2 - COMPENSATION.

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

**10. ENGINEERING REGISTRATION**

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



## 11. AUDIT PROVISIONS

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

## 12. LEGAL RELATIONSHIP BETWEEN PARTIES

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

## 13. NOTICES

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

Notices shall be mailed to OC SAN at:

ORANGE COUNTY SANITATION DISTRICT  
10844 Ellis Avenue  
Fountain Valley, CA 92708  
Attention: Larry Roberson, Senior Contracts Administrator  
Copy: Hardat Khublall, Project Manager

Notices shall be mailed to CONSULTANT at:

MICHAEL BAKER INTERNATIONAL, INC.  
5 Hutton Center Drive, Suite 500  
Santa Ana, CA 92707  
Attention: David Mercier, Vice President, Water Practice Executive  
Copy: John Nagle, Project Manager

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

#### **14. TERMINATION**

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

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

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

#### **15. DOCUMENTS AND STUDY MATERIALS**

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

#### **16. COMPLIANCE**

##### **A. Labor**

The 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**

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

C. Iran Contracting Act

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

**17. AGREEMENT EXECUTION AUTHORIZATION**

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

**18. DISPUTE RESOLUTION**

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

**19. ATTORNEY'S FEES, COSTS AND NECESSARY DISBURSEMENTS**

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

**20. PROGRESS REPORTS**

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

**21. WARRANTY**

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

**22. INDEMNIFICATION**

To the fullest extent permitted by law, the CONSULTANT shall indemnify, protect and hold harmless OC SAN and all of OC SAN's officers, directors, employees, consultants, and agents (collectively the “Indemnified Parties”), from and against any and all claims, damages, liabilities, causes of action, suits, arbitration awards, losses, judgments, fines,

penalties, costs and expenses including without limitation, reasonable attorneys' fees, disbursements and court costs, and all other professional, expert or consultants fees and costs and OC SAN's general and administrative expenses (individually, a "Claim", or collectively, "Claims") which may arise from or are in any manner related, directly or indirectly, to any work performed, or any operations, activities, or services provided by the CONSULTANT in carrying out its obligations under this Agreement to the extent of the negligent, recklessness and/or willful misconduct of the CONSULTANT, its principals, officers, agents, employees, the CONSULTANT's suppliers, consultants, Subconsultants, subcontractors, and/or anyone employed directly or indirectly by any of them. Notwithstanding the foregoing, nothing herein shall be construed to require the CONSULTANT to indemnify the Indemnified Parties from any Claim arising from:

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

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

The CONSULTANT's liability for indemnification hereunder is in addition to any liability the CONSULTANT may have to OC SAN for a breach by the CONSULTANT of any of the provisions of this Agreement. Under no circumstances shall the insurance requirements and limits set forth in this Agreement be construed to limit the CONSULTANT's indemnification obligation or other liability hereunder.

The terms of this Agreement are contractual and the result of negotiation between the parties hereto. Accordingly, any rule of construction of contracts (including, without limitation, California Civil Code Section 1654) that ambiguities are to be construed against the drafting party, shall not be employed in the interpretation of this Agreement.

## **23. DUTY TO DEFEND**

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

relate to the negligence, recklessness, or willful misconduct of the CONSULTANT, to any extent, then OC SAN will reimburse the CONSULTANT for any defense costs paid by CONSULTANT to the Indemnified Parties against such claims.

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

#### **24. CONSULTANT PERFORMANCE**

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

#### **25. COMPLIANCE WITH OC SAN POLICIES AND PROCEDURES**

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

#### **26. FORCE MAJEURE**

CONSULTANT shall not be liable for any failure to perform or any impairment to its performance to the extent such failure or impairment is caused by any act of God, fire, flood, natural catastrophe, labor dispute or strike or shortage, national or state emergency, epidemic or pandemic, insurrection, riot, act of terrorism, war, act of government, any action or inaction of OC SAN or a third-party engaged by it, and/or any other event, occurrence or circumstance beyond the reasonable control of CONSULTANT. The compensation due CONSULTANT and the schedule governing the timing for CONSULTANT's performance shall be equitably increased and extended, respectively, to address any such impacts to CONSULTANT's performance, upon approval of OC SAN.

#### **27. LIMITATION OF LIABILITY**

CONSULTANT's liability to OC SAN under this Agreement shall be limited to the proceeds of insurance carried by CONSULTANT under this Agreement, but only to the extent CONSULTANT actually purchases and maintains the insurance required under this Agreement.

#### **28. COST ESTIMATE**

CONSULTANT's opinion of probable construction costs provided for herein are to be made on the basis of professional experience and qualifications and represent CONSULTANT's reasonable judgment as an experienced and qualified professional generally familiar with the construction industry. However, since CONSULTANT has no control over the cost of labor, materials, equipment, or services furnished by others, or over any contractor's methods of determining prices, or over competitive bidding or

market conditions, CONSULTANT cannot and does not guarantee that proposals, bids, or actual cost of construction will not vary from opinions of probable construction costs prepared by CONSULTANT. If OC SAN wishes greater assurance as to probable construction cost, OC SAN may employ an independent cost estimator.

## **29. CLOSEOUT**

When OC SAN determines that all work authorized under the Agreement is fully complete and that OC SAN requires no further work from the 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. The CONSULTANT shall submit all outstanding billings, work submittals, deliverables, reports or similarly related documents as required under the Agreement within 30 days of receipt of notice of Agreement closeout.

Upon receipt of the 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.

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

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

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

## **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 and the CONSULTANT by their respective duly authorized officers as of the day and year first written above.

**CONSULTANT: MICHAEL BAKER INTERNATIONAL, INC.**

By \_\_\_\_\_  
Date \_\_\_\_\_  
\_\_\_\_\_  
Printed Name & Title

**ORANGE COUNTY SANITATION DISTRICT**

By \_\_\_\_\_  
Chad P. Wanke Date  
Board Chairman

By \_\_\_\_\_  
Kelly A. Lore Date  
Clerk of the Board

By \_\_\_\_\_  
Ruth Zintzun Date  
Purchasing & Contracts Manager

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

LDR:ms

# **ATTACHMENT “A”**

## **SCOPE OF WORK**



**MacArthur Force Main Improvements  
Project No. 7-68**

**PROFESSIONAL CONSTRUCTION SERVICES AGREEMENT  
REQUEST FOR PROPOSAL**

**ATTACHMENT “A” - SCOPE OF WORK**

**Final Negotiated Scope of Work**

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## 1. SUMMARY

Provide construction engineering support services for the construction and installation, and closeout phases for the MacArthur Force Main Improvements, Project No. 7-68.

## 2. PROJECT SCHEDULE

The schedule for the services specified in this Scope of Work (SOW) shall be provided per the construction contract schedule, and the following schedule constraints:

<b>Task(s)</b>	<b>Period of Performance</b>
Provide Construction and Installation Services	8/03/2023 to 8/09/2024
Submittals	As described under Task 4.4 titled "Submittal Reviews" Critical submittals, necessary for permitting or required to break ground, shall take priority.
Requests for Information	As described under Task 4.5 titled "Request for Information (RFI)"
Record Drawings	Draft Record Drawings shall be submitted to OC SAN within 30 calendar days of receipt from OC SAN of the approved Contractor's As-Built Drawings. The final Record Drawings shall be submitted within 15 calendar days of receipt of OC SAN comments on the Draft Record Drawings.
<b>TOTAL SCHEDULED TIME</b>	<b>Approximately 14 months</b>

## 3. PROJECT IMPLEMENTATION

All Orange County Sanitation District (OC SAN) projects are divided into six phases. The CONSULTANT shall provide construction engineering support services for Phase 4 – Construction and Installation Services, and Phase 6 – Closeout.

Phase 1 – Project Development – *Completed*

Phase 2 – Preliminary Design – *Completed*

Phase 3 – Final Design – *Completed*

**Phase 4 – Construction and Installation Services**

Phase 5 – Not Used

**Phase 6 – Closeout**

### PHASE 4 – CONSTRUCTION AND INSTALLATION SERVICES

OC SAN will administer and provide field inspection for the construction contract. Construction engineering support services shall be provided by the CONSULTANT as requested by OC SAN.

The CONSULTANT shall provide the key management personnel as described in its proposal on this project. The CONSULTANT shall not reassign the key project personnel without prior approval of OC SAN. OC SAN may request the reassignment of any of the CONSULTANT's or its subconsultant's personnel, based on poor performance.

For all services, the CONSULTANT shall refer to the Engineering Design Guidelines (EDG), Chapter 01 for detailed requirements.

Quality Assurance/Quality Control (QA/QC): The CONSULTANT shall administer a program of QA/QC procedures for producing quality work and shall effectively manage and control the work. Specific procedures shall include but not be limited to planning, coordination, tracking, checking, reviewing, and scheduling the work. The CONSULTANT shall subject all work products prepared by the CONSULTANT to the CONSULTANT's in-house QA/QC procedures prior to submittal to OC SAN. QA/QC hours and costs shall be incorporated into other tasks within this SOW.

#### **Task 4.1 – Project Management**

The CONSULTANT shall be responsible for detailed management of the project, including managing its subconsultants, and shall keep OC SAN apprised of the status of the project.

The CONSULTANT shall conduct monthly project management meetings with OC SAN's Project Manager by conference call. These meetings shall be attended by OC SAN's Project Manager and the CONSULTANT's Project Manager at a mutually agreeable time, generally around the second week of the month. The purpose of the meetings shall be to review the CONSULTANT Project Manager's progress report, status of the project scope, budget, and any issues which may affect the completion of the project. Meetings should be arranged so that the progress report can be submitted shortly prior to or at each meeting.

Invoices: The CONSULTANT shall prepare and submit monthly invoices to OC SAN. The invoices shall document the labor hours and billing rate for each person that works on the project for each task in the work breakdown structure (WBS). Overhead, profit, and any direct costs shall also be shown for each task. As part of the summary section of the invoice, the CONSULTANT shall also include the following information:

- Budget
- Current billing period invoicing
- Previous billing period "total invoiced to date"
- Budget amount remaining
- Current billing period "total percent invoice to date"
- Current billing period "total percent completed to date"

Progress Reports: The monthly progress report shall be submitted with the project invoice as part of the monthly request for payment. The monthly progress report shall include the following:

- Work completed in the billing period
- Work anticipated for the upcoming month
- Outstanding project issues
- Status and issues impacting project scope and budget
- Log documenting work completed on past requests for information (RFIs), submittal reviews, and change order preparation
- Percent complete, tabulated on a per-task basis
- Cost to complete, tabulated on a per-task basis
- Overall project budget, tabulated on a per-task basis
- Travel and site visit summary
- Risks along with a log
- Out of scope items log

The CONSULTANT shall also provide the percent budget spent for each of OC SAN's WBS cost codes (i.e., by work package and phase). OC SAN shall provide a list of cost codes by phase to the CONSULTANT.

OC SAN will provide a sample invoice structure to the CONSULTANT after the issuance of the Notice to Proceed (NTP) for this SOW.

#### 4.1.1 – PMWeb Procedures

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

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

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

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

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

OC SAN will provide a one-time virtual training session using MS Teams of up to two hours to train the CONSULTANT's designated staff on general system requirements, procedures, and methods.

Automated system notifications generated by PCMS (e.g., in-system notices, system-generated email, or email with attachment) shall constitute a formal written notification in compliance with the Agreement.

## **Task 4.2 – Workshops and Project Meetings**

### 4.2.1 - Construction Hand-Off Workshop

The CONSULTANT shall participate in a one-hour virtual Construction Hand-Off Workshop using MS Teams. The purpose of the workshop is for the CONSULTANT and OC SAN design teams to transfer project-specific knowledge to OC SAN construction management and inspection staff that will be managing and monitoring construction. Topics that might be covered in this meeting include the following:

- Overview of the objective of the project
- Review of project elements
- Review of sequencing constraints
- Key issues to be addressed during construction
- Identification of risks and discussions of contingency plans

The workshop will be led by the CONSULTANT.

### 4.2.2 - PMWeb Procedures Meeting and Submittal Review Procedures Meeting

The CONSULTANT shall participate in a one-hour virtual PMWeb procedure meeting and submittal procedure meeting using MS Teams. The purpose of this meeting is to review the roles and logistics for the review and acceptance of construction contract documents and Contractor submittals. The CONSULTANT's Project Manager and Project Engineer shall attend.

The project will utilize PMWeb for submittal reviews, project communication, tracking, and management. When required by OC SAN, paper documents shall also be provided. In the event of a discrepancy between the electronic version and paper documents, the electronic documents within PCMS shall govern.

### 4.2.3 - Preconstruction Team Conference

The CONSULTANT shall participate in a two-hour virtual Preconstruction Conference using MS Teams attended by OC SAN staff, the CONSULTANT, the Contractor, subcontractors, public agencies, and vendors. This meeting shall be scheduled and presided over by OC SAN. In this meeting, OC SAN will describe the CONSULTANT's role in the project as the Design Engineer and the services the CONSULTANT will provide during construction. The CONSULTANT's Project Manager and Project Engineer shall attend. OC SAN will prepare meeting minutes and the CONSULTANT shall review and comment on the minutes. No deliverable is required to be prepared by the CONSULTANT.

#### 4.2.4 - Weekly Construction Progress Meetings

The CONSULTANT shall participate by telephone, or via MS Teams, in the weekly construction progress meetings as requested by OC SAN (one hour). The CONSULTANT's Traffic Engineer and other CONSULTANT staff will also be required to attend, as needed. The SOW includes time for meeting preparation, travel time, follow-up, and review of meeting minutes. Progress meeting minutes will be prepared by OC SAN. No deliverable is required to be prepared by the CONSULTANT. Time for CONSULTANT's Traffic Engineer is included under Task 4.8, and time for other CONSULTANT staff is included under Task 4.5.2.

The CONSULTANT shall be available by phone, or via MS Teams, for an internal one-hour weekly construction progress meeting.

See Section V – Quantitative Assumptions in this SOW for the number of hours to be allocated for weekly construction progress meetings.

#### **Task 4.3 – Site Visits and As-Built Reviews**

Site Visits: The CONSULTANT shall make field visits to assist in field problem resolution and design clarification/verification to help resolve construction issues as they arise and as requested by OC SAN. The CONSULTANT's Traffic Engineer shall make field visits to inspect the traffic control setup when requested by OC SAN. The CONSULTANT shall report the nature of the field site visits, the problem resolved, and identify staff requesting the site visit in the CONSULTANT's monthly project report. Time for CONSULTANT's Traffic Engineer is included under Task 4.8.

See Section V – Quantitative Assumptions in this SOW for the effort to be allocated for site visits.

As-Built Review: The CONSULTANT shall review the Contractor's As-Built Drawings at 50 percent of project completion to verify the Contractor has included all relevant information from approved change orders and RFIs. The CONSULTANT shall prepare a report for each of these reviews and submit it to OC SAN. Deliverables shall be as described under Task 6.1.

#### **Task 4.4 – Submittal Reviews**

OC SAN will receive all submittals from the Contractor through PMWeb. OC SAN will send selected shop drawings and submittals for the CONSULTANT's review through PMWeb. The CONSULTANT shall review the shop drawings and submittals for conformance with the requirements of the contract documents within PMWeb and within 10calendar days after receipt of the submittal(s). The CONSULTANT shall return comments to OC SAN allowing sufficient time for OC SAN to incorporate all comments into a combined review comment set that OC SAN will return to the Contractor. The CONSULTANT shall accommodate occasional expedited reviews for time-sensitive submittals. Submittals shall include but not be limited to shop drawings, vendor tests, certifications, and test reports. All submittals will be made available electronically (PDF) through PMWeb.

See Section V – Quantitative Assumptions in this SOW for the effort to be allocated for submittals.

#### **Task 4.5 – Request for Information (RFI)**

The CONSULTANT shall respond to RFIs generated by the Contractor or OC SAN through PMWeb. The CONSULTANT's responses to OC SAN shall be as soon as possible or within five calendar days of receipt of the RFI, clarifying the requirements of the contract documents. The CONSULTANT shall generate necessary sketches, figures, and modifications to the drawings for clarification. When required to avoid schedule delay or additional construction-related costs, the CONSULTANT shall expedite the review of time-sensitive RFIs. It shall also be the goal to return responses for all RFIs on the day they are received (where no significant research, correspondence, or engineering is involved).

If any changes to the drawings are required, the CONSULTANT shall prepare these drawings and submit them through PMWeb as PDF files to OC SAN. The CONSULTANT shall update all AutoCAD drawings and specifications upon OC SAN acceptance of any changes resulting from RFIs and change orders.

The assumption for the effort involved in weekly assistance shall be as indicated under "Quantitative Assumptions" in this SOW.

#### **Task 4.6 – Contract Document Modifications, Design Changes, and Change Orders**

If the contract documents require modifications due to changed conditions, OC SAN requested changes, omissions, or design errors; the CONSULTANT shall prepare preliminary change order documents and forward them to OC SAN as needed. OC SAN shall review the proposed change and request the CONSULTANT to incorporate any changes. OC SAN will issue the change order documents in a formal Request for Proposal (RFP) or Field Change Order (FCO) to the Contractor. The CONSULTANT shall forward design calculations and other design backup documents as necessary to OC SAN. The CONSULTANT shall prepare cost estimates for the changes when requested by OC SAN.

Any contract document that requires changes shall be identified with the date of change and reference (RFI number, RFP number, FCO number, etc.) shown on the document. Changes shown on drawings shall be clearly marked and "clouded" for accurate identification of the scope of the change by the Contractor and inspection staff. The CONSULTANT shall maintain up-to-date contract documents. When a change is required on a contract drawing that has previously undergone a change, the updated drawing showing the previous change shall be used as the base document to identify new changes.

The CONSULTANT shall submit complete change documentation to OC SAN for use in RFIs, RFPs, and FCOs. This change documentation shall include plan drawings, schematics, details, schedules, and specifications, as required.

The CONSULTANT shall also allocate time for required efforts to analyze and provide input on issues that may arise daily such as interference of undisclosed utilities, traffic control issues, bypass evaluations, etc.

See Section V – Quantitative Assumptions in this SOW for the number of hours to be allocated for design changes and cost estimating assistance.

#### **Task 4.7 – Public Outreach (Deleted from Scope of Work)**



#### **Task 4.8 – Traffic Control**

The CONSULTANT shall secure the services of a Traffic Engineer to provide support for review, response, interpretation, and advice on project issues related to traffic control conditions, as well as to attend and participate in key meetings identified herein. Reviews and responses will be needed in support of RFIs, contract document modifications, and change order duties led by the CONSULTANT. The Traffic Engineer may be required to modify and generate new drawings to support the reviews and responses, and coordinate reviews and approvals with the permitting agency. The CONSULTANT's Traffic Engineer may be required to visit the site to inspect the traffic control setup at the request of OC SAN.

#### **Task 4.9 – Geotechnical**

The CONSULTANT shall provide Geotechnical Engineering services to provide support for review, response, interpretation, and advice on project issues related to geotechnical conditions, geotechnical baseline reports, geotechnical logs, and data reports, as well as to attend and participate in key meetings identified herein. The CONSULTANT shall provide reviews and responses in support of shop drawing submittals, RFIs, contract document modifications, and change order duties led by the CONSULTANT.

#### **PHASE 5 – NOT USED**

#### **PHASE 6 – CLOSE OUT**

Closeout tasks include the completion of punch list work by the Contractor, final inspection, completion of Record Drawings, and electronic data. The CONSULTANT shall submit a final invoice at the completion of the project.

#### **Task 6.1 – Record Drawings**

When requested by OC SAN, the CONSULTANT shall attend one preliminary as-built meeting with OC SAN and the Contractor to inspect the Contractor's draft As-Built Drawings to verify that the Contractor has included all relevant information from approved change orders and RFIs. As part of the review process, the CONSULTANT shall verify that the Contractor's draft As-Built Drawings correctly reflect the information included in the approved shop drawings, RFI's approved FCOs, plan clarifications, plan changes, and other deviations from the conformed drawings, and that the information in the set is complete. Based on the findings, the CONSULTANT shall prepare an email summary on the completeness of the field markup set. The CONSULTANT shall allow for one meeting/visit to review the Contractor's in-progress As-Built Drawings. It is anticipated this meeting will occur when construction is at 50 percent complete.

After completion of construction, OC SAN will transmit to the CONSULTANT the Contractor's final As-Built Drawings. At that time, the CONSULTANT shall meet with OC SAN's Inspectors and Resident Engineer to ensure Contractor's As-Built Drawings for completeness.

The CONSULTANT shall prepare draft Record Drawings from the Contractor's final As-Built Drawings for all drawings in accordance with the requirements in the CAD Manual. The CONSULTANT shall submit the draft Record Drawings to the OC SAN Resident Engineer. The draft Record Drawings will be reviewed for content and CAD compliance by OC SAN staff. A comment log will be returned to the CONSULTANT and, if any comments are generated, the

CONSULTANT shall revise the Record Drawings and resubmit them to the Resident Engineer for review of the changes and acceptance of the Record Drawings.

When no additional comments are identified, the CONSULTANT shall prepare the final Record Drawings and submit them to the OC SAN Project Manager. All hard copies of the Contractor’s final As-Built Drawings shall be returned to OC SAN at this same time. All Record Drawings shall contain a stamp indicating:

**Record Drawings**

These Record Drawings have been prepared based on information provided by others. The engineer has not verified the accuracy of this information and shall not be responsible for any errors or omissions which may be herein as a result.

The stamp shall optimally be placed in the bottom right-hand corner of the border and may be included by x-ref. If importing the stamp by x-ref interferes with content in the bottom right-hand corner, the stamp may also be placed in other open spaces along the bottom of the border. In addition, a note shall be placed over the engineer’s seal stating that “This drawing was originally approved for construction by [name of engineer] on [date] and sealed by [name of engineer] a licensed professional engineer in the State of California No. [License number] “. The CONSULTANT shall submit an electronic copy of the Record Drawings to OC SAN for review and acceptance. The acceptance of the Record Drawings shall be deemed a condition for the completion of work.

The Contractor generated as-built drawings described in the EDG and the shop drawings will not be updated by the CONSULTANT.

The format and quantities for delivery of the submittals shall be as specified in the EDG section titled “Software and Electronic File Format Requirements” and as listed below:

<b>Contents</b>	<b>Draft Record Drawings</b>	<b>Final Record Drawings</b>
Hard Copy Sets	None	None
All related electronic files, including CAD and compiled PDFs, excluding Traffic Control Sheets	Transmit Electronic Files to OC SAN	Transmit Electronic Files to OC SAN

**Task 6.2 – Project Management**

The CONSULTANT shall also include project management support labor hours related to closeout activities per requirements stated in Phase 4, Project Management Task.

**4. STAFF ASSISTANCE**

The OC SAN staff member assigned to work with the CONSULTANT on the construction phase of this project is Hardat Khublall at (714) 720-6965, email to: [hkhublall@ocsan.gov](mailto:hkhublall@ocsan.gov).

## 5. QUANTITATIVE ASSUMPTIONS

The assumptions listed in the following tables below shall be the basis for the assumed level of effort.

<b>Task</b>	<b>Description</b>	<b>Assumption</b>
4.1	Project Management	12 months duration from the effective date of the NTP
4.2.4	Virtual Weekly Progress Meetings	44 meetings
4.3	Site Visits	10 in-person visits
4.4	Submittals	80 original submittals items <sup>1</sup> 20 resubmittals
4.5	Requests for Information	50 RFIs
4.5	Weekly Assistance	100 labor hours
4.6	Design Changes	100 labor hours
4.6	Cost Estimating for Design Changes	50 labor hours
4.7	Public Outreach (Deleted)	0 labor hours
4.8	Traffic Control	50 labor hours
4.9	Geotechnical	50 labor hours
6.1	As-Built Review Meetings	1 meeting
6.2	Project Management	2 months duration in the Closeout Phase

<sup>1</sup>Note that each submittal set includes multiple submittal items which may be individually submitted by the Contractor. The counts listed in this table are considering the individual submittal items. The level of effort should assume these all are received individually.

HK:tk



# OPERATIONS COMMITTEE

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

## Agenda Report

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**File #:** 2023-3069

**Agenda Date:** 7/5/2023

**Agenda Item No:** 4.

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**FROM:** Robert Thompson, General Manager  
Originator: Mike Dorman, Director of Engineering

**SUBJECT:**

**HEADQUARTERS COMPLEX AT PLANT NO. 1, PROJECT NO. P1-128A**

**GENERAL MANAGER'S RECOMMENDATION**

RECOMMENDATION: Recommend to the Board of Directors to:

Approve a contingency increase of \$98,000 (2%) to the Professional Construction Services Agreement with HDR Engineering, Inc. for Headquarters Complex at Plant No. 1, Project No. P1-128A, for a total contingency of \$588,000 (12%) and a total amount not to exceed \$5,488,000.

**BACKGROUND**

Orange County Sanitation District (OC San) is constructing a new Headquarters Complex under Project No. P1-128A. The new Headquarters Complex will house administrative, technical, and engineering staff. Construction started in July 2021 and is scheduled for completion in early 2024. HDR Engineering, Inc. is currently under contract to provide professional construction services for the new Headquarters Complex.

**RELEVANT STANDARDS**

- Ensure the public's money is wisely spent
- Provide a safe and collegial workspace

**PROBLEM**

The level of effort needed to provide adequate construction support services is expected to exceed the assumptions the Professional Construction Services Agreement was based on.

**PROPOSED SOLUTION**

Approve a contingency increase to the Professional Construction Services Agreement. The existing project budget is sufficient to cover the requested increase in contingency therefore no increase to the project budget is required.

**TIMING CONCERNS**

The construction schedule must be maintained, or staff occupation of the new building will be delayed.

**RAMIFICATIONS OF NOT TAKING ACTION**

The Professional Construction Services Agreement “not to exceed” fee will not be sufficient to appropriately provide the remaining professional construction service.

**PRIOR COMMITTEE/BOARD ACTIONS**

May 2021 - Approved a Professional Construction Services Agreement with HDR Engineering, Inc. to provide construction support services for Headquarters Complex at Plant No. 1, Contract No. P1-128A, for an amount not to exceed \$4,900,000; and approved a contingency of \$490,000 (10%).

**ADDITIONAL INFORMATION**

The level of effort assumed in the Professional Construction Services Agreement included assumptions such as the number of resubmittals, requests for information, and design changes due to unexpected field conditions. These assumptions were based on the best available information and experience with past projects. The level of effort to complete the job, however, is projected to exceed what was anticipated due to more submittals than anticipated and the rework of the fixture, furniture, and equipment procurement with another dealer.

**CEQA**

The Headquarters Complex project is included in the Addendum to the City of Fountain Valley “Fountain Valley Crossings Specific Plan” Program Environmental Impact Report, State Clearinghouse No. 2015101042.

**FINANCIAL CONSIDERATIONS**

This request complies with the authority levels of OC San’s Purchasing Ordinance. This item has been budgeted (Budget Update, Fiscal Year 2023-2024, Appendix A, Page 8, Headquarters Complex, Project No. P1-128) and the budget is sufficient for the recommended action.

**ATTACHMENT**

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

N/A

AB:tk



# OPERATIONS COMMITTEE

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

## Agenda Report

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**File #:** 2023-2867

**Agenda Date:** 7/5/2023

**Agenda Item No:** 5.

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**FROM:** Robert Thompson, General Manager  
Originator: Mike Dorman, Director of Engineering

**SUBJECT:**

**COLLECTIONS YARD RELOCATION AND WAREHOUSE DEMOLITION AT PLANT NO. 2,  
PROJECT NO. P2-127**

**GENERAL MANAGER'S RECOMMENDATION**

RECOMMENDATION: Recommend to the Board of Directors to:

- A. Receive and file Bid Tabulation and Recommendation for Collections Yard Relocation and Warehouse Demolition at Plant No. 2, Project No. P2-127;
- B. Receive and file Orange County Sanitation District's Notice of Intent to Award dated June 2, 2023;
- C. Receive and file Award Protest from Fasone Construction, Inc. dated June 8, 2023 concerning award to Archico Design Build Inc.;
- D. Receive and file the Award Protest Response letter from Archico Design Build Inc. dated June 14, 2023, responding to the award protest;
- E. Receive and file Orange County Sanitation District's determination letter dated June 22, 2023 to Fasone Construction, Inc. responding to award protest;
- F. Approve a project budget increase of \$2,100,000 for Collections Yard Relocation and Warehouse Demolition at Plant No. 2, Project No. P2-127, for a new total project budget of \$8,800,000;
- G. Award a Construction Contract to Archico Design Build Inc. for Collections Yard Relocation and Warehouse Demolition at Plant No. 2, Project No. P2-127, for a total amount not to exceed \$6,500,000; and
- H. Approve a construction contingency of \$650,000 (10%).

**BACKGROUND**

The Orange County Sanitation District (OC San) collections yard and warehouse at Plant No. 2 occupies the space needed for the construction of the new Temperature-Phased Anaerobic Digestion

(TPAD) Digester Facility, Project No. P2-128. During the preliminary design phase of a project to replace the existing warehouse, it was determined that remote warehousing could be utilized in lieu of constructing a new building.

### **RELEVANT STANDARDS**

- Comply with California Public Contract Code Section 20103.8, award construction contract to lowest responsive, responsible bidder
- Commitment to safety & reducing risk in all operations

### **PROBLEM**

Demolition of the existing collections yard and warehouse is necessary to allow for the construction of the future TPAD Digester Facility. To replace the demolished facilities, a new collections yard and two remote warehouse stations must be provided to support the operations and maintenance of Plant No. 2, the collection system, and off-site pump stations.

### **PROPOSED SOLUTION**

Award a construction contract for Collections Yard Relocation and Warehouse Demolition at Plant No. 2, Project No. P2-127. This project will relocate the collections yard to a new location including the installation of a new Compressed Natural Gas (CNG) fill station, provide two warehouse stations, relocate utilities, and demolish the existing warehouse. The construction of one new remote warehouse station and conversion of a space in an existing process building for a second warehouse station was found to be more cost-effective than the construction of a new warehouse.

### **TIMING CONCERNS**

This project will provide space for the construction of the TPAD Digester Facility, Project No. P2-128. A delay to this project could result in the space not being available.

### **RAMIFICATIONS OF NOT TAKING ACTION**

Impacts to Operations and Maintenance staff and delays to the construction of the future TPAD Digester Facility, Project No. P2-128.

### **PRIOR COMMITTEE/BOARD ACTIONS**

N/A

### **ADDITIONAL INFORMATION**

OC San advertised Project No. P2-127 for bids on March 2, 2023, and five (5) sealed bids were received on April 20, 2023. A summary of the bid opening follows:

Engineer's Estimate	\$ 4,466,366
<u>Bidder</u>	<u>Amount of Bid</u>
Fasone Construction, Inc.	\$ 5,675,000
Archico Design Build Inc.	\$ 6,500,000
M.S. Construction Management Group	\$ 6,534,709
Nationwide General Construction Services	\$ 6,837,360
Kazoni, Inc	\$ 8,411,000

The bids were evaluated in accordance with OC San's policies and procedures. A notice was sent to all bidders on June 2, 2023 informing them of the intent of OC San staff to recommend award of the Construction Contract to Archico Design Build Inc.

Fasone Construction, Inc. sent a formal protest of the award to OC San on June 8, 2023. Archico Design Build Inc. issued a response to OC San in defense of their bid. OC San reviewed and responded to this protest and has determined that the protest does not merit a change to the award recommendation.

The lowest two bids were 27% and 46% higher than the Engineer's estimate. Evaluation of the difference between the Engineer's estimate and the contractor's bid determined that the difference was due to the contractors adding costs to account for their risk of future escalation.

Staff reviewed alternative options, including reductions in scope, and the associated costs and public impacts. It was determined that this project is necessary, and the project scope could not be reduced, nor could it be delayed. Delays to the warehouse demolition and collections yard relocation could impact future construction of the new TPAD Digester Facility, Project No. P2-128. The project is needed to provide the required facilities for Operations and Maintenance staff.

After further evaluation, the lowest bidder was found unresponsive, and staff recommends awarding a Construction Contract to the lowest responsive and responsible bidder, Archico Design Build Inc., for a total amount not to exceed \$6,500,000.

## **CEQA**

The Project is included in the Facilities Master Plan 2020 Program Environmental Impact Report (PEIR), State Clearinghouse Number 2019070998.

## **FINANCIAL CONSIDERATIONS**

This request complies with the authority levels of OC San's Purchasing Ordinance. This item has been budgeted (Budget Update, Fiscal Year 2023-2024, Appendix A, Page 8, Collections Yard Relocation and Warehouse Demolition at Plant No. 2, Project No. P2-127). This item will increase the project budget and will be funded from the Capital Improvement Program budget.



**ATTACHMENT**

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

- Notice of Intent to Award - Archico Design Build, Dated June 2, 2023
- Award Protest Statement - Fasone Construction, Inc., Dated June 8, 2023
- Award Protest Response from Archico Design Build, Dated June 14, 2023
- Determination Letter to Fasone Construction, Inc., Dated June 22, 2023
- P2-127 Contract Agreement
- Presentation

AL:tk

June 2, 2023

Via Email: [Jeanette@fasonegbc.com](mailto:Jeanette@fasonegbc.com)

Jeanette Fasone  
Fasone Construction, Inc.  
9124 Norwalk Boulevard  
Santa Fe Springs, CA 90670

**SUBJECT:** Award Recommendation Notice  
Project No. P2-127  
Collections Yard Relocation and Warehouse Demolition at Plant No. 2

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The Orange County Sanitation District (OC SAN) completed its evaluation of the Bids submitted in response to the Invitation for Bids for the above-referenced Project. The lowest responsive, responsible Bidder is Archico Design Build, Inc.

Staff's recommendation for Contract award will be included as an item on OC SAN's Operations Committee agenda.

The Operations Committee Meeting is scheduled for:

**Date:** July 5, 2023  
**Time:** 5:00 P.M.  
**Location:** Orange County Sanitation District  
Board Room, Administration Building  
10844 Ellis Avenue  
Fountain Valley, CA 92708

If approved by the Operations Committee, the award recommendation will be forwarded to OC SAN's Board of Directors for Contract award.

The Board of Directors Meeting is scheduled for:

**Date:** July 26, 2023  
**Time:** 6:00 P.M.  
**Location:** Orange County Sanitation District  
Board Room, Administration Building  
10844 Ellis Avenue  
Fountain Valley, CA 92708

*Serving:*

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



Jeanette Fasone  
June 2, 2023  
Page 2 of 2

The Final Agenda Report will be posted not less than 72 hours prior to the Board of Directors and Operations Committee Meeting. Should you wish to determine if the item has been placed on the agenda, please contact the Clerk of the Board at (714) 593-7433.

Chan, Wai Digitally signed by Chan,  
Wai  
Date: 2023.06.02  
10:14:36 -07'00'

Wai Chan  
Senior Contracts Administrator

WC:ms

cc: M. Dorman, A. Larkins, M. McDaniels, K. Lore, N. Dubrovski



June 8, 2023

Orange County Sanitation District  
10844 Ellis Ave  
Fountain Valley, CA 92708

Via Email: [Construction@ocsan.gov](mailto:Construction@ocsan.gov)

Subject: Bid Protest Statement & response to  
Bid Non-Responsiveness Notice

Dear Sirs:

Fasone Construction Inc. received the Bid Non Responsiveness Notice and is submitting this Bid Protest Statement in response to the Notice.

- A. Protestor is Fasone Construction Inc., 9124 Norwalk Blvd, Santa Fe Springs, CA 90670  
Office Number is 562-948-3349. Jeanette Fasone cell 562-756-3349.
- B. Project for Protest Statement is Project Nol. P2-127, Collections Yard Relocation and Warehouse Demolition at Plant No. 2.
- C. Action being Protested is OC SAN determination that Fasone Construction Inc.'s bid is Non-Responsive to the IFB.
- D. Affected Parties include:  
Fasone Construction Inc.  
Archico Design Build, Inc  
M.S. Construction Management Group

E. The following statements set for the grounds for the protest:

1. OCSAN Bid Non-Responsive Notice states that "the IFB requires Bidders to subcontract to specialty subcontractor, the work for the design, fabrication and installation of prefabricated metal buildings and canopies."

Fasone disagrees that the installation by a specialty contractor is required by the IFB. The Specification Section 13121-1, Part 1-General, 1.1 Summary (B) (Exhibit A) states

*Prefabricated metal building structures shall be designed by the Prefabricated Building System Manufacturer (**Manufacturer**) as a complete system*

Fasone Construction Inc. will employ **US Patriot Steel** as the manufacturer of the Prefabricated Building System Manufacturer in compliance with the above specification. US Patriot Steel meets all the qualifications referenced in 1.7 Quality Assurance and 1.8 Qualifications of the above referenced Specification.



Fasone Construction Inc. further references The Specification Section 13121-1, Part 1-General, 1.1 Summary (C) and (E)

**(Exhibit A)** states

*(C) Foundation and floor slab design and detailing is included as part of the scope of supply of Prefabricated Building System Manufacturer, and shall be in accordance with project requirements. All Manufacturer design drawings and design calculations shall bear the professional seal and signature of a licensed professional Structural Engineer registered in the state of California. Structural Engineer shall review and incorporate prior geotechnical studies included as reference documents to the contract specifications.*

*(E) Lighting designs and detailing shall be provided by the General Contractor and lighting/electrical subcontractors, and shall be in accordance with project requirements and CEC Title 24 energy code. All design drawings and design calculations shall bear the professional seal and signature of a licensed professional Engineer registered in the state of California.*

Fasone's response to Clarification Request No. 1 was referencing this section. Fasone would work with licensed Engineers and Architects to comply with this section of the Specifications as they relate to the building foundation and lighting. The building manufacturer does not design the foundation as this design will vary depending on usage. Nowhere in our Clarification response did it state that Fasone would design or manufacture the building and therefore any request for this experience is moot. Further, there is no requirement to submit the erectors qualifications with the bid.

Fasone contends that there is nothing stated in the IFB preventing Fasone from self-performing the **erection** of the building as stated in our response to Clarification Request No 1 and submitted the Superintendents qualifications to support this experience. Nothing in the IFB prohibits experience of a Qualified Superintendent to be considered particularly for self-performed scopes. Fasone further submits additional supporting evidence for this qualification as **Exhibit C**. If Fasone is self-performing the erection it would not be necessary to list a subcontractor on form BF-2. All other bidders listed Shook Building Systems, Inc. who are **erectors** of Prefabricated Building Systems and not designers or fabricators of Prefabricated Building Systems. **See Exhibit B**.

The following statement in OC SAN non responsive notice is irrelevant since Fasone never intended to design and manufacture the metal buildings work.

*OC SAN determined that the information provided in your response regarding your firm's qualifications in the BF-4 **and intent to self-perform the metal buildings Work** did not meet to the requirements of the IFB.*

Again, Fasone is not designing or fabricating the metal building. This is being performed by the manufacturer.

Fasone contends that it has complied with BF-4 Performance History and Financial Resources (**see Exhibit D**). Fasone listed projects involving demolition and construction for a public owner. *This section further states "If Bidder has not completed three (3) projects, as described above, Bidder shall list the largest projects (by dollar value) completed.* Projects submitted by Fasone are in the relative range of the Engineer's Estimate for the project. Fasone maintains it has complied with the requirement of BF-4 and therefore responsive.

2. Archico Design Build, Inc. should not be awarded the contract simply because they were not going to self-perform the erection of the metal buildings work. They are not the lowest responsible, responsive bidder.

Further, under Public Contract Code section 1100 establishes the intent and purpose of the code one of which is (b) To insure full compliance with competitive bidding statutes as a means of protecting the public from misuse of public funds.

Also As stated in *Konica Business Machines U.S.A., Inc. v. Regents of University of California*, 206 Cal. App. 3d 449 (1988): The purpose of requiring governmental entities to open the contracts process to public bidding is to eliminate favoritism, fraud and corruption; **avoid misuse of public funds**; and stimulate advantageous market place competition. [Citations, including *Miller v. McKinnon*, 20 Cal. 2d 83, 88 (1942).]

Fasone contends that an award to Archico or any other bidder would result in misuse of public funds to pay \$825,000 more than is necessary for the project when the low bidder is Responsive and Responsible. Such an award would result in overpayment for a project utilizing public funds and therefore fiscally irresponsible. Fasone has approached the project in a manner to offer the best value to the public.

3. RELIEF – Fasone maintains it is Responsive and Responsible bidder and requests that OC SAN rescind its award recommendation to Archico and revise its Award Recommendation to Fasone Construction Inc. based on, “ *As one court explained, a bid is responsive if it promises to do what the bidding instructions demand. A bidder is responsible if it can perform the contract as promised.*” *Taylor Bus Serv., Inc. v. San Diego Bd. of Educ.*, 195 Cal. App. 3d 1331, 1341 (1987).

Fasone has demonstrated its promise to do what the bidding instructions demand and can perform the contract as promised. It is noted that OC SAN has not raised objections to Fasone Construction Inc responsibility.

Bidder certifies under penalty of perjury under the laws of the State of California that all representations herein made are true and correct.

Sincerely,

A handwritten signature in blue ink that reads "Jeanette Fasone". The signature is written in a cursive, flowing style.

Jeanette Fasone, JD

President



**Section 13121**  
**METAL BUILDING SYSTEMS**

**PART 1 - GENERAL**

1.1 SUMMARY

- A. Prefabricated metal buildings shall be provided for Warehouse Station A building and canopy area, the Covered Parking Structure in the new Collections Yard, and for Warehouse Station B canopy area.
- B. Prefabricated metal building structures shall be designed by the Prefabricated Building System Manufacturer (Manufacturer) as a complete system. All the components of the building system shall be supplied or specified by the same manufacturer, including but not limited to: metal framing, metal siding, metal roofing, Z-purlins, insulation, and flashing. Other components will be supplied by the General Contractor, including doors and door hardware, rollup doors and electric operators, door frames and trim, louvers, exhaust fans, lighting systems (including fixtures mounted to structure and wired to lighting control panel) concrete anchors, etc. All components shall be installed under the coordination and supervision of the General Contractor and Prefabricated Building System Manufacturer. General Contractor and Manufacturer shall be responsible for coordinating to provide a complete building with appurtenances as indicated and specified.
- C. Foundation and floor slab design and detailing is included as part of the scope of supply of Prefabricated Building System Manufacturer, and shall be in accordance with project requirements. All Manufacturer design drawings and design calculations shall bear the professional seal and signature of a licensed professional Structural Engineer registered in the state of California. Structural Engineer shall review and incorporate prior geotechnical studies included as reference documents to the contract specifications.
- D. Manufacturer shall coordinate with General Contractor for installation of foundations, floor slabs, and fencing and gates for canopy areas.
- E. Lighting designs and detailing shall be provided by the General Contractor and lighting/electrical subcontractors, and shall be in accordance with project requirements and CEC Title 24 energy code. All design drawings and design calculations shall bear the professional seal and signature of a licensed professional Engineer registered in the state of California.
- F. Manufacturer shall coordinate with electrical subcontractor for installation of grounding, electrical service panels, receptacles, access control system hardware and wiring, lighting and connection of power to exhaust fan and rollup doors.

1.2 METAL BUILDING SYSTEM COMPONENTS

- A. Clear span rigid frames.
- B. Minimum clearance at knee as shown on drawings.
- C. Bay Spacing as shown on drawings.
- D. Roof slope  $\frac{1}{4}$  inch in 12 inches.
- E. Primary Framing: Rigid frame of rafter beams and columns
- F. Secondary Framing: Purlins, girts, eave struts, flange bracing and other items detailed.

- G. Lateral bracing: Horizontal loads not resisted by main frame action shall be resisted by tension rod or cable and/or diaphragm portal frames in the sidewall and/or in the roof.
- H. Wall and Roof system; Preformed steel panels and accessory components designed to resist wind and seismic loads.
- I. Accessories: Exhaust fan, louvers, doors, hardware, rollup doors.
- J. Foundations: Reinforced concrete foundations shall be provided by contractor. Design shall incorporate all required metal building loads and reactions. Design shall meet required code and utilize the design parameters noted in the California Building Code Chapter 18 for minimum justified design values.

### 1.3 RELATED SECTIONS

- A. Section 03100 Concrete Formwork
- B. Section 03200 Concrete Reinforcing
- C. Section 03300 Concrete
- D. Section 05120 Structural Steel

### 1.4 REFERENCES, CODES AND STANDARDS: The following references, codes and standards are hereby made a part of this Section and work shall conform to the applicable requirements therein except as otherwise specified herein or shown on the Drawings. Latest adopted edition of references and codes adopted by the Governing Agency shall apply. Nothing contained herein shall be construed as permitting work that is contrary to code requirements.

- A. *AISI S100 North American Specification for the Design of Cold-Formed Steel Structural Members*
- B. *AISC 360 Specification for Structural Steel Buildings*, American Institute of Steel Construction
- C. ASTM A123, Standard, "Specification for Zinc (Hot-Dip Galvanized) Coatings and Iron and Steel Products
- D. ASTM A153, Standard "Specification for Zinc Coating (Hot-Dip) on Iron and Steel Hardware
- E. ASTM A307, Standard "Specification for Carbon Steel Bolts and Studs, 60,000 psi tensile Strength.
- F. ASTM A325 Standard "Specification for Structural Bolts, Steel, Heat Treated, 120/105 ksi Minimum Tensile strength
- G. ASTM A490 Standard "Specification for Heat Treated Steel Structural Bolts, 150 ksi Minimum Tensile Strength.
- H. ASTM A500 Standard "Specification for Cold-Formed Welded and Seamless Carbon Steel Structural Tubing in Rounds and Shapes.
- I. ASTM A653 Standard "Specification for Steel Sheet, Zinc-Coated (Galvanized) or Zinc-Iron Alloy-Coated (Galvannealed) by the Hot-Dip Process"
- J. ASTM D1494 Standard "Test Method for Diffused Light Transmission Factor of Reinforced Plastic panels.



- K. ASTM E1514 Standard "Specification for Structural Standing Seam Steel Roof panel Systems
- L. ASTM E1592 Standard "Test Method for Structural Performance of Sheet Metal Roof and Siding Systems by Uniform Static Air Pressure Difference"
- M. ASTM E1646 Standard "Test Method for Water Penetration of Exterior Metal Roof Panel Systems by Uniform Static Air Pressure Difference
- N. ASTM E1680 Standard "Test Method of Rate of Air Leakage through Exterior Metal Roof Panel Systems.
- O. AWS D1.1, Structural Welding Code – Steel
- P. AWS D1.3, Structural Welding Code – Sheet Steel
- Q. MBMA, *Metal Building Systems Manual*, Metal Building Manufacturers Association.
- R. SSPC, Paint 20 – Zinc-Rich Primers (Type I, "Inorganic" and Type II "Organic"
- S. UL 580 – Tests for Uplift Resistance of Roof Assemblies.
- T. ACI 318 – Building Code Requirements for Structural Concrete.
- U. ACI 117 – Specification for Tolerances for Concrete Construction and Materials.
- V. California Building Code (CBC) – latest approved edition.

#### 1.5 DESIGN REQUIREMENTS

- A. The Building shall be designed by the Manufacturer as a complete system. All the components of the system shall be supplied or specified by the same manufacturer. Foundation design and detailing is included as part of the project requirements.
- B. Design Code:  
Design shall be in accordance with the latest applicable editions of IBC with CBC amendments, Risk Category III.
- C. Energy Code: Latest applicable edition of California Energy Code, Title 24.
- D. Dead Loads  
The dead load shall be the weight of the Metal Building System and as determined by the system manufacturer and any sprinkler, mechanical, electrical and ceiling systems.
- E. Live Loads:  
The building system shall be capable of supporting a minimum uniform live load of 20 psf, reducible
- F. Wind Loads:  
The design wind speed for the metal building system shall be 95 mph, exposure C, Risk Category III.
- G. Seismic Loads:  
Seismic load shall be determined based upon the spectral response acceleration factors based on the project location and site class D. Previous geotechnical studies are included as reference documents to these specifications: Geotechnical Evaluation for project J-77.
- H. Deflection Requirements shall be in accordance with the applicable provisions of the specified building code.

I. Thermal Effects:

Standing Seam roof panels shall be free to move in response to the expansion and contraction forces from the temperature variation

Assembly to permit movement of components without buckling, failure of joint seals, undue stress on fasteners or other detrimental effects, when subject to temperature range of 50 degrees F

J. Foundations and Floor Slabs:

Foundations and slab on grades shall be designed in accordance with the geotechnical reports, included as reference information to this specification, and Building Code. Floor slabs shall be designed for 250 psf loading.

1.6 SUBMITTALS:

Note: All Manufacturer design drawings and design calculations shall bear the professional seal and signature of a licensed professional structural engineer registered in the state of California

- A. Submit anchor bolt placement plan, foundation design, reinforcing drawings and embedded items.
- B. Product Data: Provide data on profiles component dimensions, fasteners, and color selection. Provide product data on all doors, rollup doors, louvers, fans, etc.
- C. Manufacturer Installation Instructions: Indicate preparation requirements, assembly sequence, equipment requirements and material storage requirements.
- D. Shop or Erection Drawings: Indicate assembly dimensions, locations of structural members, connections, attachments, openings, cambers, loads wall and roof system dimensions, panel layout, general construction details, anchorages, and method of anchorage, installation framing anchor bolt settings, sizes and locations from datum, and indicate welded connections with AWS welding symbols; indicate net weld lengths and thickness.
- E. Manufacturer and erector qualifications.

1.7 QUALITY ASSURANCE:

- A. Fabricate structural steel members in accordance with MBMA Metal Building Systems Manual, and, for items not covered, AISC – Specification for Structural Steel Buildings.

1.8 QUALIFICATIONS

- A. Manufacturers: The company manufacturing the products specified in the Section shall have a minimum of 5 years' experience in the manufacture of steel building systems. The metal building systems manufacturer shall be accredited under the International Accreditation Service, Accreditation Criteria for Inspection Programs for Manufacturers of Metal Building Systems (AC472). Acceptable manufacturers: Metallic Building Systems, or equal.
- B. Structural Framing, foundations and covering shall be design of a licensed California Civil or Structural Engineer experience in design of this work.
- C. Erector shall have specialized experience in the erection of steel building systems for a period of at least 5 years.

1.9 FIELD MEASUREMENTS

**METAL BUILDING SYSTEMS**

**Collections Yard Relocation and  
Warehouse Demolition at Plant No. 2  
Project P2-127  
BID SET**

Government Contractors > SHOOK BUILDING SYSTEMS, INC

## SHOOK BUILDING SYSTEMS, INC

Mira Loma, California



51-685-2556 x207

442 Parkhurst St  
Mira Loma, CA 91752-1434

Fax: 951-685-6624

[Map & Directions](#)

### Products & Services

Manufacturing and Industrial Building Construction, Commercial and Institutional Building Construction and Structural Steel Erection Contractors.

#### Keywords

Metal Buildings

#### NAICS Code(s)

36210 Industrial Building Construction  
36220 Commercial and Institutional Building Construction

#### Found any discrepancies in your company profile?

[Request to update/remove the information](#)

---

### Company Information

Company Name: SHOOK BUILDING SYSTEMS, INC  
Address: 4442 Parkhurst St  
City: Mira Loma  
State: California  
Zip Code: 91752-1434  
Phone: 951-685-2556 x207  
Fax: 951-685-6624  
Contact Person: SANDRA COOPER  
Contact Title: Estimator  
Legal Structure: Corporation  
Year Established: 1972  
Business Type: Construction (100 %)

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**IAW CONSTRUCTION, INC.**

Mira Loma, Ca

IAW Const., Inc. is a Gen. Contractor specializing in schools, child care facilities, airports, fire stations, emer. ops centers & other public

**STAR 1 MS INC**

Mira Loma, Ca

Our company specializes in commercial remodeling and repairs, as well as residential repairs and remodeling. Specializes in custom home construction

**IDEAL PRODUCTS, INC.**

Mira Loma, Ca

LOCKERS, LAMINATE LOCKERS, WOOD LOCKERS, FURNITURE LOCKERS, ATHLETIC LOCKERS, WARDROBE LOCKERS, GYM LOCKERS, COUNTRY CLUB LOCKERS

**RELIABLE CONSTRUCTION SOLUTIONS INC**

Mira Loma, Ca

RELIABLE CONSTRUCTION SOLUTIONS INC.

**Time And Alarm Systems**

Mira Loma, Ca

Commercial and Institutional Building Construction, Electrical Contractors, Other Communications Equipment Manufacturing, Automatic Environmental Control Manufacturing for Residential, Commercial, and Appliance

Alabama Bids

Alaska Bids

Arizona Bids

Arkansas Bids

California Bids

Colorado Bids

Connecticut Bids

Delaware Bids

District of Columbia Bids

Nebraska Bids

Nevada Bids

New Hampshire Bids

New Jersey Bids

New Mexico Bids

New York Bids

North Carolina Bids

North Dakota Bids

Ohio Bids

Florida Bids

Georgia Bids

Hawaii Bids

Idaho Bids

Illinois Bids

Indiana Bids

Iowa Bids

Kansas Bids

Kentucky Bids

Oklahoma Bids

Oregon Bids

Pennsylvania Bids

Rhode Island Bids

South Carolina Bids

South Dakota Bids

Tennessee Bids

Texas Bids

Utah Bids

Louisiana Bids

Maine Bids

Maryland Bids

Massachusetts Bids

Michigan Bids

Minnesota Bids

Mississippi Bids

Missouri Bids

Montana Bids

Vermont Bids

Virginia Bids

Washington Bids

West Virginia Bids

Wisconsin Bids

Wyoming Bids



Exhibit C  
2 pages



I Giovanni D'Egidio, co-owner of Hollywood Sports Park have known Phillip Dominguez for over 30 years. During that time, he built numerous amounts of projects for me such as nightclubs and sports parks. Hollywood Sports Park is a state-of-the-art outdoor facility for paintball and airsoft fields. The fields are themed after actual movie set props. There are two steel frame buildings that Phil and his crew built for the park that included pouring the foundation and fire and life safety per city code. If you have any questions, please feel free to reach me at (626)429-4871.

Giovanni D'Egidio



Bid Submitted By: \_\_\_\_\_  
 (Name of Firm)

**BF-4 PERFORMANCE HISTORY AND FINANCIAL RESOURCES**

**A. LIST OF COMPLETED PROJECTS AND EXPERIENCE REQUIREMENTS**

Using this form, Bidder shall list at least three (3) projects completed with a public owner or public agencies and/or public utility companies with industrial plant facilities within the past ten (10) years that involved **demolition and construction** of similar nature, scope, complexity and cost to this Invitation for Bids. If Bidder has not completed three (3) projects, as described above, Bidder shall list the largest projects (by dollar value) completed. Bidder may also include any current relevant projects.

Using the table provided in this section, for each listed project, include: (1) the project name and location, (2) role as prime contractor or subcontractor, (3) description of work, (4) owner's name and address and the name and phone number of project manager or project engineer, (5) final contract value, and (6) completion date.

Bidder shall ensure the contact names and numbers are current at the time of Bid. If the contacts are no longer employed with the owner, Bidder shall identify at least one contact familiar with the project and Bidder's work thereon. In addition to contacting the references included herein, OC SAN may, and retains its right to contact other project owners and such other entities for which Bidder has performed or is performing work.

**Bidder must submit this information with its Bid.** Attach documents directly behind this page and/or fill in the pages provided below.

If the Bidder cannot demonstrate that it has the minimum experience requirements described above, its Bid shall be deemed non-responsive.

Project Name and Location	Role	Description of Work	Owner's Name, Address, Phone No., Project Manager or Project Engineer	Final Contract Value	Completion Date
	<input type="checkbox"/> Prime <input type="checkbox"/> Sub			\$	



Lic.#: 987122BA

June 14, 2023

VIA Email: [Construction@ocsan.gov](mailto:Construction@ocsan.gov)

Ms. Wai Chan  
Senior Contracts Administrator  
Orange County Sanitation District (OC SAN)  
10844 Eilis Avenue  
Fountain Valley, CA 92708

RE: Notice of Award Protest - Response  
Collections Yard Relocation and Warehouse Demolition at Plant No. 2  
Project No. P2-127

Dear Ms. Chan,

We are writing this letter to respond to the protest served by **Fasone Construction** and raise our concern with their bid.

We are confident that the OC-SAN team are aware of the requirement set in the bid document and we are just simply sharing them as a response to the protest by Fasone Construction.

- 1- Per Section 13121 "METAL BUILDING SYSTEMS" item 1.8 Qualifications (C) States,  
"Erector shall have specialized experience in the erection of steel building systems for a period of at least 5 years."

Also, Per BF-4 PERFORMANCE HISTORY AND FINANCIAL RESOURCES (A). LIST OF COMPLETED PROJECTS AND EXPERIENCE REQUIREMENTS:

"Using this form, Bidder shall list at least three (3) projects completed with a public owner or public agencies and/or public utility companies with industrial plant facilities within the past ten (10) years that involved demolition and construction of similar nature, scope, complexity and cost to this Invitation for Bids."

Fasone Construction has not provided any similar project in nature or size nor listed a qualified subcontractor that meets the qualifications set in the bid documents. The projects they have referenced are mostly tenant improvement and building restoration and remodeling and their largest project is smaller than this project in estimated cost.

[www.archico.com](http://www.archico.com) | [info@archico.com](mailto:info@archico.com)

2010 N Tustin Ave. | Santa Ana, CA 92705 | Tel 949-ARCHICO (272-4426) | Fax 949-272-4426





Archico has provided reference projects in the public sector that are very similar to this project in scope with Prefabricated Metal buildings, Site Improvement, Underground utilities, Fiber optic, Street lighting and Light pole. Archico has built Projects with higher value in general, or the scope of the prefabricated building is higher than this project metal building Value. Some of Archico's reference letters from previous clients on similar projects are attached for your review (Exhibit A).

Archico has listed Shook Building Systems Inc. one of the leading prefabricated building erectors in California, with 50 years of experience in prefabricated metal buildings, holding a C-51 Steel and structural license to meet the project requirements.

While Shook Building Systems, Inc. is not a Building Manufacturer, They are a listed "Builder" with signed Builder Agreements for multiple MBMA Accredited manufacturers (see link [https://www.mbma.com/System\\_Members.html](https://www.mbma.com/System_Members.html) to attached list we are CBC Steel Building, Metallic Buildings, and Varco Pruden Builders). They have been engaged in the Metal Building business as a "Builder" and licensed contractor in CA since 1972 self-performing their installation work.

Manufacturer, Fasone has listed a metal building brokers and not an actual MBMA Manufacturer (See link [https://www.mbma.com/System\\_Members.html](https://www.mbma.com/System_Members.html) to list) of MBMA Accredited Manufacturers.

Fasone is not meeting any of the above 2 requirements of this project and therefore shall be deemed nonresponsive.

- 2- Fasone Construction is not qualified to self-perform the erection of the metal steel building per bid documents. They have not self-performed at least three (3) projects with a public owner or public agencies with pre-fabricated metal building at this size or larger nor is holding the specialty license. to erect a metal building or specialized experience in the erection of steel building systems for a period of at least 5 years.

The large gap between Fasone bid and the next 3 competitive bidders with long history of public work projects is clearly due to missing scope in Fasone estimation of the project not as result of the self-performance of the building. The entire cost of the engineering, fabrication and Erection of the metal building by Shook is about \$600,000 and Fasone cannot reduce this to \$0 even by self-performing the building erection to get their total bid value lower by about \$800,000.

Fasone has not performed projects in similar size and scope and probably is not aware of the costly requirements of this project.



- 3- This project has a considerable amount of underground and wet utilities, fire hydrants and backflow preventers work. Fasone only holds a General Building (B) license and is missing the proper licensing to perform the scope of work for Fire line.

Per CSLB Business & Professions Code - Division 3, Chapter 9. Contractors, Article 4. Classifications “(c) No general building contractor shall contract for any project that includes the "C-16" Fire Protection classification as provided for in Section 7026.12 or the "C-57" Well Drilling classification as provided for in Section 13750.5 of the Water Code, unless the general building contractor holds the specialty license, or subcontracts with the appropriately licensed specialty contractor.”

Archico has listed Pacific plumbing for wet utilities, plumbing and fire protection. Pacific Plumbing is holding, A - GENERAL ENGINEERING, C-4 - BOILER, HOT WATER HEATING AND STEAM FITTING, C16 - FIRE PROTECTION, C20 - WARM-AIR HEATING, VENTILATING AND AIR-CONDITIONING, C36 – PLUMBING, C42 - SANITATION SYSTEM, with almost 100 years of experience.

For all the above reasons Fasone Construction has not met the requirements and qualifications to perform on this project and shall be deemed nonresponsive.

Archico Design Build team has carefully reviewed and is meeting all the project documents and requirements and have listed the qualified sub-contractors to meet the qualifications, technical experience, safety, and code requirement of the project as well.

The accusations that are stated within Fasone Construction protest letter seem to be based on unresearched assumptions, rather than facts and it shows that Fasone is not aware of the project requirements.

Therefore, we request this protest to be laid to rest and that Orange County Sanitation District (OC SAN) continue with the award to the lowest responsive, responsible bidder Archico Design Build Inc.

Sincerely Yours

*Alan Alavi*

Alan Alavi | President  
Archico Design Build Inc.



Lic. #: 987122BA

# Exhibit "A"

[www.archico.com](http://www.archico.com) | [info@archico.com](mailto:info@archico.com)

2010 N Tustin Ave. | Santa Ana, CA 92705 | Tel 949-ARCHICO (272-4426) | Fax 949-272-4426

September 13, 2017

Archico Design-Build  
ATTN: Ali Alavizadeh, CEO  
1835 W. Orangewood Avenue, Suite 325  
Orange, California 92868

**SUBJECT: Letter of Recommendation  
Chino Basin Desalter Authority (CDA)  
Pre-Engineered Metal Storage Building (PEMB) Project, Jurupa Valley, CA**

Butier Engineering, Inc. is a construction management company and Owner's Representative for Chino Basin Desalter Authority's (CDA's) Phase 3 Expansion Program, and we are pleased to present this letter of recommendation for Archico Design-Build (ARCHICO). After our evaluation and review during the bid process, ARCHICO was awarded the Pre-Engineered Metal Storage Building (PEMB) contract, and their preference was determined based on qualifications, past experience on similar projects, and bid price.

During the course of construction, ARCHICO has proven to be well-versed in construction techniques, timely submission on construction documents, and provided value engineered solutions. Their staff and subcontractors communicated effectively with their knowledge and capabilities to deliver another successful project to the Chino Basin Desalter Authority (CDA). The PEMB project was delivered before the contract completion date and within the budgetary constraints.

In this competitive bid environment, we recognized ARCHICO's professional qualities to be helpful and beneficial to the efforts of the PEMB project. We make no hesitation to recommend ARCHICO to any public agency or district considering construction of pre-engineered metal buildings, and we will invite Archico Design-Build to bid on similar projects in the future.

Feel free to contact one of us for more information about Archico Design-Build.

Sincerely yours,  
**BUTIER** Engineering, Inc.



Vlad Burce, P.E.  
Resident Engineer  
(949) 375-1611 — Mobile



Joe Blum  
Construction Manager  
(714) 448-0216 — Mobile

17822 E. 17th St.  
Suite 404  
Tustin, CA 92780  
Tel (714) 832-7222  
Fax (714) 832-7211  
www.butier.com

**BUTIER**  
*Construction Managers, Consulting Engineers*



**Metro**

Los Angeles County  
Metropolitan Transportation Authority

One Gateway Plaza  
Los Angeles, CA 90012-2952

213.922.2000 Tel  
metro.net

October 15, 2021

Archico Design Build Inc  
Attn: Alan Alavi  
2010 N Tustin Ave  
Santa Ana CA 92705

**Subject: Letter of Recommendation**

To whom it may concern,

Based on my experience working with the Archico Design Build Inc. team, I am writing this letter of recommendation.

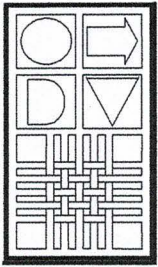
Archico Design Build Inc. recently completed a large-scale Design build Roofing and HVAC replacement project at two of our (LACMTA) Divisions in Long Beach and Lawndale. During construction, the buildings remained occupied and open for business and operation on a 24Hrs/7days a week basis with no interruptions to the ongoing operation of the facilities. They were able to meet all the restrictions and regulations of LA Metro and its operation yards and to deliver a successful project in a timely manner.

Archico has proven to be well-versed in construction technologies, timely submission of construction documents and effective in communication with the owner, sub-contractors and end user of the facilities. Throughout the project, I found Archico to be responsive, cooperative, and dependable with timely responses. Their workmanship is of high quality and they are very capable in monitored the work of their subcontractors and in house personnel.

I thoroughly enjoyed working with Archico Design Build Inc. team, and came to know their teams' capabilities very well. I highly recommend Archico Design Build Inc. for a project that requires a highly experience and qualified contractor, and I would welcome and look forward to working with them again on any future projects.

Sincerely,

Raul Pedroza  
LA Metro – Sr. Director, Construction Management



# FACILITY CONSULTING SERVICES

October 12, 2021

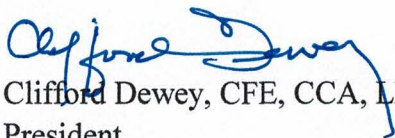
To Whom It May Concern:

I am one of the consultant Project Managers retained by the Santa Monica-Malibu Unified School District for its Construction Bond Program. I have managed several construction and remodeling projects for the District since 2014.

On a recent assignment, I was the District's Project Manager for a school classroom remodeling project overseeing the construction work performed by Archico Design Build. As on any remodeling of an old facility, numerous unforeseen conditions were encountered requiring significant changes to the work. Archico worked closely with the District to quickly identify the issues and propose solutions acceptable to the District, the Architect and DSA. While change orders were necessary, Archico helped control the additional costs from its subcontractors by negotiating comprehensive settlements for their change orders. Change orders on this remodeling were kept to under 10% of the contract amount.

Even with the unforeseen conditions and changes required, Archico successfully completed remodeling of the classrooms over the summer break and had the classrooms available for occupancy on school opening day.

I found Archico Design Build to be one of the better construction contractors utilized by the District in its program. I will unequivocally recommend them on future projects with the District and to any other agency or owner requiring construction work.

  
Clifford Dewey, CFE, CCA, LEED AP  
President



October 5, 2020

To Whom It May Concern,

I had the opportunity to work with Archico Design-Build and their team on the Walker Elementary – Temporary Housing Project and I would like to express my appreciation for the excellent service they provided.

As Construction Manager for Tilden-Coil Construction, I worked with Archico's team and they not only met the needs and standards of Santa Ana Unified School District, but they exceeded. This project presented rather challenging work with a short 2-month construction schedule, but they successfully completed the project on time.

Throughout the project Archico Design-Build worked as a team with the School District, the Inspector of Record, and me to coordinate and resolve issues that arose. They have shown professionalism and the ability to adapt to different situations. Their cooperation and collaboration were greatly appreciated and resulted in an enjoyable project experience for everyone involved with the project. The result was a successful project and a very satisfied owner who received a high-quality product.

I would highly recommend Archico Design-Build for another future project. I believe that you will be pleased with the quality of their work, attention to detail, their commitment to excellence, and their ability to meet deadlines.

Sincerely,

A handwritten signature in blue ink, appearing to read 'David Joseph', with a large, stylized flourish above the name.

David Joseph  
Construction Manager  
Tilden-Coil Construction Inc.



October 2020

To whom it may concern,

I am happy to provide this letter of recommendation for Archico Design-Build.

Archico Design-Build was awarded to work on the Modernization project at Monroe TK-5 School, in Inglewood California. The project started in January of 2019 and was completed by December of 2019.

Archico Design-Build and their team of sub-contractors performed and completed the project to the satisfaction of the Inglewood Unified School District and myself, the IOR for the project. The project had its share of challenges, having to work with other contractors involved with the project, but everyone involved work together to complete the project on time and on budget. Their team from top to bottom was knowledgeable, was on time, notified problems ahead of time to address it before it caused unnecessary delays, kept the site clean and safe to work, and passed all the inspections with flying colors.

I would highly recommend Archico Design-Build for a project that requires a highly qualified contractor and I would welcome working with them again for any of future projects.

Sincerely,

*Galil Tadros*

Galil Tadros  
DSA Class 1 Inspector of Record  
License # 3169



# PRIEST CONSTRUCTION SERVICES, Inc.

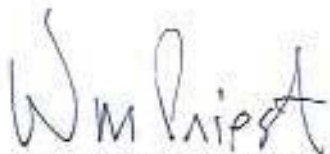
## LETTER of RECOMMENDATION

To Whom It May Concern:

While working on a recent school project as the Inspector of Record I had the pleasure of working with Mr. Jay Kim, the General Contractor's General Superintendent. I have to say, that if I were a General Contractor, Mr. Kim is exactly the type of superintendent would expect.

- \* He is Knowledgeable of The Job and He Presents Himself Well
- \* He Works Well with and for Others
- \* He is ALWAYS Ahead of The Requirements of the Time
- \* He Maintains a Safe and Orderly Construction Site
- \* He is Goal Oriented
- \* He is a TOP 3% 'er In Anyone's Estimation

Would I want Mr. Kim on My Team.....YOU BET!!



William W. Priest, President

30183 HILLSIDE TERRACE SAN JUAN CAPISTRANO, CA 92675

E-mail: [wmpriest@att.net](mailto:wmpriest@att.net) PH: 949-545-7894 Cell: 714-812-4859

## LETTER OF REFERENCE

March 18, 2019

To Whom It May Concern

I am writing this letter to give my recommendation for Archico Design Build company and its owner Alan Alavi. Archico just recently completed the renovation of the \$1.5 million Conference Center for the Temecula Valley Unified School District, for which we were the architects. The project was completed expeditiously and occupied to positive reviews.

Although the project suffered the inevitable unforeseen conditions endemic to any remodeling project, we found Archico and its staff to be extremely helpful, creative and aggressive in helping to solve the problems. At all times we felt they were part of our "solution team" rather than an impediment. It is refreshing to work with a group of people that are solution-oriented rather than confrontational. All issues were resolved in a diligent and fair manner.

We have enjoyed working with Archico and would look forward to doing another project with them.

Sincerely,

MGPA Architecture,



Fred H. Gualda, AIA  
Principal



October 8, 2018

**Subject: Letter of Commendation for Archico Design-Build**

To whom it may concern,

This letter serves as a testimonial and letter of commendation for Archico Design-Build.

We recently completed a large scale exterior improvement project for a municipal recreation center in Fountain Valley. The project duration was six months and consisted of re-roofing, installation of new storefronts around the building perimeter, construction of a new entry theme, complete exterior re-painting and installation of artistic sports figures at building's exterior for this 8,000 square foot structure.

During construction, the building remained open to the public for ongoing classes and activities and public relations were of extreme importance in scheduling work around ongoing programs.

Throughout the course of construction, I found Archico to be responsive, cooperative and dependable. Their workmanship was of the highest caliber and they monitored the work of their subcontractors very closely. The project had some unforeseen conditions and Archico responded quickly and with great professionalism in minimizing the cost to mitigate these issues.

With thirty years of construction experience, I would gladly and enthusiastically recommend Archico for any public or private construction project.

Feel free to contact me at 949-339-9154 with any specific questions you may have regarding my positive work experience with the aforementioned company.

Sincerely,

AndersonPenna Partners, Inc.

John A. Wolitarsky,  
Senior Construction Manager

June 22, 2023

Via Email: [Jeanette@fasonegbc.com](mailto:Jeanette@fasonegbc.com)

Jeanette Fasone  
Fasone Construction, Inc.  
9124 Norwalk Blvd.  
Santa Fe Springs, CA 90670

**SUBJECT: OC SAN's Disposition to Fasone Construction, Inc.'s Bid Protest  
Project No. P2-127  
Collections Yard Relocation and Warehouse Demolition at Plant No. 2**

OC SAN received your Bid Protest Statement (Statement) dated June 8, 2023. As stated in the IFB, P2-127 project will be installing two (2) warehouse stations, relocating the Collections Yard, including the construction of a covered truck parking area to the CM Trailer Parking Lot, and demolishing the existing Warehouse and Collections Yard at Plant No. 2.

Staff reviewed the information provided in your Statement and concluded that OC SAN's non-responsive determination of Fasone Construction, Inc.'s (Fasone) Bid remains unchanged due to the following reason:

1. BF-4 (A) PERFORMANCE HISTORY AND FINANCIAL RESOURCES- LIST OF COMPLETED PROJECTS AND EXPERIENCE REQUIREMENTS (BF-4.A) specifically requires Bidder to list at least three (3) projects of similar nature, scope, complexity, and cost.

Specifications and Drawings allow the Prime Contractor to subcontract the Metal Building portion of the work to a specialty subcontractor; however, this does not waive Bidder's experience requirements as stated on BF-4. A. Fasone's Statement mentioned it will employ US Patriot Steel as the manufacturer of prefabricated building system, which does not address OC SAN's basis for non-responsive determination.

None of the projects listed by Fasone on BF-4. A met the requirements of the IFB and are not in a relative range as alleged by Fasone in its Statement. Based on the clarification response, dated May 4, 2023, submitted by Fasone, and reference checks conducted by OC SAN's staff, it was further confirmed that Fasone did not list any projects that were similar in nature, scope, complexity, and cost as required by the IFB. Fasone's listed projects are mostly tenant improvement and restoration in nature. These projects include some demolition, replacement and rehabilitation of the portions of building structures as described by Fasone in their Bid and subsequent responses to OC San's clarification requests. None of the listed projects included complete demolition of the entire comparable structures, complete installation of the similar in size and complexity metal building performed by your company. Relative to the cost requirements, the largest project listed by Fasone on

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

Jeanette Fasone  
June 22, 2023  
Page 2 of 2

BF-4. A is under engineer's estimate and all other listed projects are well below the engineer's estimate.

The Bidder must meet all the requirements listed on BF-4. A instead of portions or elements of the Work. Furthermore, BF-4. A states that failure of a Bidder to demonstrate that Bidder has minimum required experience as described in the BF-4. A shall deem its Bid non-responsive.

Therefore, based on the above, OC SAN's non-responsive determination remains without change. Furthermore, OC SAN disagrees with all other statements made in Fasone's Statement as not relevant to the basis of OC SAN's determination to deem Fasone's Bid non-responsive. OC SAN will proceed with its recommendation as stated in the Award Recommendation Notice dated June 2, 2023.



Ruth Zintzun  
Finance and Procurement Manager

RZ:WC

**PART A**  
**CONTRACT AGREEMENT**

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CONTRACT AGREEMENT  
ORANGE COUNTY SANITATION DISTRICT

**PROJECT NO. P2-127**

**COLLECTIONS YARD RELOCATION AND WAREHOUSE DEMOLITION AT PLANT NO. 2**

THIS AGREEMENT is made and entered into, to be effective, this July 26, 2023, by and between Archico Design Build Inc., hereinafter referred to as “CONTRACTOR” and the Orange County Sanitation District, hereinafter referred to as “OC SAN”.

WITNESSETH

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

**SECTION – 1     GENERAL**

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

A. Contract Documents Order of Precedence

“Contract Documents” refers to those documents identified in the definition of “Contract Documents” in the General Conditions, “Definitions”.

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CONFORMED

C-CA-020223  
PROJECT NO. P2-127  
COLLECTIONS YARD RELOCATION AND WAREHOUSE DEMOLITION AT PLANT NO. 2



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

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

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

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

**B. Definitions**

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

**SECTION – 2 MATERIALS AND LABOR**

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

**SECTION – 3 PROJECT**

The Project is described as:

**PROJECT NO. P2-127**

**COLLECTIONS YARD RELOCATION AND WAREHOUSE DEMOLITION AT PLANT NO. 2**

**SECTION – 4 PLANS AND SPECIFICATIONS**

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

**PROJECT NO. P2-127**

**COLLECTIONS YARD RELOCATION AND WAREHOUSE DEMOLITION AT PLANT NO. 2**

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

**SECTION – 5 TIME OF COMMENCEMENT AND COMPLETION**

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

In addition, CONTRACTOR shall accomplish such milestones within the periods of performance set forth in Appendix A of the Special Provisions entitled “Work Completion Schedule.”

**SECTION – 6 TIME IS OF THE ESSENCE**

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

which the Work is to be performed and shall have the right to decide the time or order in which the various portions of the Work shall be installed or the priority of the work of subcontractors, and, in general, all matters representing the timely and orderly conduct of the Work of CONTRACTOR on the premises.

#### **SECTION – 7      EXCUSABLE DELAYS**

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

#### **SECTION – 8      EXTRA WORK**

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

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

## **SECTION – 9 CHANGES IN PROJECT**

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

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

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

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

## **SECTION – 10 LIQUIDATED DAMAGES FOR DELAY**

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

## **SECTION – 11 CONTRACT PRICE AND METHOD OF PAYMENT**

A. OC SAN agrees to pay and the CONTRACTOR agrees to accept as full consideration for the faithful performance of this Contract, subject to any additions or deductions as provided in approved Change Orders, the sum of Six Million Five Hundred Thousand Dollars (\$6,500,000) as itemized on the attached Exhibit “A”.

Upon satisfaction of the conditions precedent to payment set forth in the General Requirements, Additional General Requirements, and General Conditions (including but not limited to Sections entitled “Mobilization Payment Requirements” and “Payment

Itemized Breakdown of Contract Lump Sum Prices”), there shall be paid to the CONTRACTOR an initial Net Progress Payment for mobilization. OC SAN shall issue at the commencement of the job a schedule which shows:

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

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

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

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

2. **“Progress Payment”** means a sum equal to:
  - a. the value of the actual Work completed since the commencement of the Work as determined by OC SAN;
  - b. plus the value of material suitably stored at the worksite, treatment plant or approved storage yards subject to or under the control of OC SAN since the commencement of the Work as determined by OC SAN;
  - c. less all previous Net Progress Payments;
  - d. less all amounts of previously qualified deductions;
  - e. less all amounts previously retained as Retention Amounts.
  
3. **“Retention Amount”** for each Progress Payment means the percentage of each Progress Payment to be retained by OC SAN to assure satisfactory completion of the Contract. The amount to be retained from each Progress Payment shall be determined as provided in the General Conditions, “Retained Funds; Substitution of Securities.”

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

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

## **SECTION – 13 COMPLETION**

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

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



## SECTION – 14 CONTRACTOR’S EMPLOYEES COMPENSATION

### A. Davis-Bacon Act:

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

### B. General Prevailing Rate:

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

### C. Forfeiture for Violation:

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

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

D. Apprentices:

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

E. Workday:

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

F. Registration; Record of Wages; Inspection:

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

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

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

### **SECTION – 15 SURETY BONDS**

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

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

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

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

## **SECTION – 16 INSURANCE**

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

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

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

If CONTRACTOR maintains higher limits than the minimums shown in this Section, OC SAN requires and shall be entitled to coverage for the higher limits maintained by the CONTRACTOR.

Where permitted by law, CONTRACTOR hereby waives all rights of recovery by subrogation because of deductible clauses, inadequacy of limits of any insurance policy, limitations or exclusions of coverage, or any other reason against OC SAN, its or their officers, agents, or employees, and any other contractor or subcontractor performing Work or rendering services on behalf of OC SAN in connection with the planning, development and construction of the Project. In all its insurance coverages (except for Professional Liability/Errors and Omissions coverages, if applicable) related to the Work, CONTRACTOR shall include clauses providing that each insurer shall waive all of its rights of recovery by subrogation against OC SAN, its or their officers, agents, or employees, or any other contractor or subcontractor performing Work or

rendering services at the Project. Where permitted by law, CONTRACTOR shall require similar written express waivers and insurance clauses from each of its Subcontractors of every tier. A waiver of subrogation shall be effective as to any individual or entity, even if such individual or entity (a) would otherwise have a duty of indemnification, contractual or otherwise, (b) did not pay the insurance premium, directly or indirectly, and (c) whether or not such individual or entity has an insurable interest in the property damaged.

A. Limits of Insurance

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

- d. Contractual Liability, expressly including the indemnity provisions assumed under this Contract.
- e. Separation of Insured Clause, providing that coverage applies separately to each insured, except with respect to the limits of liability.
- f. Independent CONTRACTOR's Liability.

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

CONTRACTOR shall be responsible to pay any deductible or SIR.

- g. If a crane will be used, the general liability insurance will be endorsed to add Riggers Liability coverage or its equivalent to cover the usage of the crane and exposures with regard to the crane operators, riggers and others involved in using the crane.
  - h. If divers will be used, the general liability insurance will be endorsed to cover marine liability or its equivalent to cover the usage of divers.
2. Automobile Liability: The CONTRACTOR shall maintain a policy of automobile liability insurance on a comprehensive form covering all owned, non-owned, and hired automobiles, trucks, and other vehicles providing the following minimum limit of liability coverage: combined single limit of One Million Dollars (\$1,000,000) for bodily injury, personal injury, and property damage.
3. Umbrella Excess Liability: The minimum limits of general liability and automobile liability insurance required, as set forth above, shall be provided for either in a single policy of primary insurance or a combination of policies of primary and umbrella

excess coverage. Excess liability coverage shall be issued with limits of liability which, when combined with the primary insurance, will equal the minimum limits for general liability and automobile liability.

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

B. Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by OC SAN. At the option of OC SAN, either: the Insurer shall reduce or eliminate such deductibles or self-insured retentions as respects OC SAN, its Directors, officers, agents, consultants, and employees; or CONTRACTOR shall provide a financial guarantee satisfactory to OC SAN guaranteeing payment of losses and related investigations, claim administration, and defense expenses.

C. Other Insurance Provisions

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



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

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

2. Cancellation and Policy Change Notice.

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

Said notices shall be mailed to OC SAN at:

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

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

D. Acceptability of Insurers

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

E. Verification of Coverage

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

F. Subcontractors

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

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

G. Required Forms and Endorsements

1. Required ACORD Form

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

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

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

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

3. Required State Compensation Insurance Fund Endorsements

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

4. Additional Required Endorsements

a. Notice of Policy Termination

Manuscript Endorsement

**SECTION – 17 RISK AND INDEMNIFICATION**

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

**SECTION – 18 TERMINATION**

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

**SECTION – 19 WARRANTY**

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

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

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

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

#### **SECTION – 20 ASSIGNMENT**

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

#### **SECTION – 21 RESOLUTION OF DISPUTES**

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

**SECTION – 22 SAFETY & HEALTH**

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

OC SAN reserves the right to stop Work for violations of safety and health standards until the hazardous conditions are corrected. The right to stop Work includes the right to remove a contractor or its employees from the worksite.

**[THIS SECTION LEFT INTENTIONALLY BLANK]**

## SECTION – 23 NOTICES

Any notice required or permitted under this Contract shall be served by personal delivery or by certified mail, return receipt requested, at the address set forth below. Unless specified elsewhere in the Contract Documents or otherwise required by law, any notice may alternatively be given by electronic telecommunication to the e-mail address set forth below. Any party whose address changes shall notify the other party in writing.

TO OC SAN:                   Orange County Sanitation District  
10844 Ellis Avenue  
Fountain Valley, California 92708-7018  
Attn: Clerk of the Board  
[ocsanclerk@ocsan.gov](mailto:ocsanclerk@ocsan.gov)

Copy to:                     Orange County Sanitation District  
10844 Ellis Avenue  
Fountain Valley, California 92708-7018  
Attn: Construction Manager  
[rcuellar@ocsan.gov](mailto:rcuellar@ocsan.gov)

Bradley R. Hogin, Esquire  
Woodruff, Spradlin & Smart  
555 Anton Boulevard, Suite 1200  
Costa Mesa, California 92626  
[bhogin@wss-law.com](mailto:bhogin@wss-law.com)

TO CONTRACTOR:         Archico Design Build Inc.  
2010 North Tustin Avenue  
Santa Ana, CA 92705  
[bids@archico.com](mailto:bids@archico.com)

Copy to:                     Alan Arvi, President  
Archico Design Build Inc.  
2010 North Tustin Avenue  
Santa Ana, CA 92705  
[alan@archico.com](mailto:alan@archico.com)

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

CONTRACTOR: Archico Design Build Inc.  
2010 North Tustin Avenue  
Santa Ana, CA 92705

By \_\_\_\_\_ Date \_\_\_\_\_

\_\_\_\_\_  
Printed Name

Its \_\_\_\_\_

CONTRACTOR's State License No. 987122 (Expiration Date – 1/31/2025)

OC SAN: Orange County Sanitation District

By \_\_\_\_\_ Date \_\_\_\_\_

Chad P. Wanke  
Board Chairman

By \_\_\_\_\_ Date \_\_\_\_\_

Kelly A. Lore  
Clerk of the Board

By \_\_\_\_\_ Date \_\_\_\_\_

Ruth Zintzun  
Purchasing & Contracts Manager

CONFORMED

C-CA-020223

PROJECT NO. P2-127

COLLECTIONS YARD RELOCATION AND WAREHOUSE DEMOLITION AT PLANT NO. 2



**EXHIBIT A**  
**SCHEDULE OF PRICES**

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**SCHEDULE OF PRICES**

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# EXHIBIT A

## SCHEDULE OF PRICES

### EXA-1 BASIS OF COMPENSATION

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

### EXA-2 PROGRESS PAYMENTS

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

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

### EXA-3 RETENTION AND ESCROW ACCOUNTS

#### A. Retention:

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

B. Substitution of Securities:

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

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

C. Release of Retention:

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

D. Additional Deductibles:

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

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

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

#### **EXA-4 STOP PAYMENT NOTICE**

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

#### **EXA-5 PAYMENT TO SUBCONTRACTORS**

##### Requirements

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

#### **EXA-6 PAYMENT OF TAXES**

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

## **EXA-7 FINAL PAYMENT**

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

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

will make the changes, or list Claims that will be filed as a result of the changes, and shall submit the revised application for Final Payment. Upon acceptance by OC SAN, the revised application for Final Payment will become the approved application for Final Payment.

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

## **EXA-8 DISCOVERY OF DEFICIENCIES BEFORE AND AFTER FINAL PAYMENT**

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

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

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



**ATTACHMENT 1 – CERTIFICATION FOR REQUEST FOR PAYMENT**

I hereby certify under penalty of perjury as follows:

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

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

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

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

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

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

CONFORMED

C-EXA-062221  
PROJECT NO. P2-127

COLLECTIONS YARD RELOCATION AND WAREHOUSE DEMOLITION AT PLANT NO. 2

## **ATTACHMENT 2 – SCHEDULE OF PRICES**

See next pages from the Bid Submittal Forms (Archico Design Build Inc.)

BF-14 Schedule of Prices, Pages 1-2

Bid Submitted By: Archico Design Build Inc  
(Name of Firm)

**BF-14 SCHEDULE OF PRICES**

**INSTRUCTIONS**

**A. General**

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

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

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

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

**B. Basis of Award**

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

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

Bid Submitted By: Archico Design Build Inc  
 (Name of Firm)

**SCHEDULE OF PRICES**

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

Item No.	Description	Unit of Measurement	Extended Price
1.	<b>Mobilization:</b> This item shall include all fees, labor, materials, and equipment required for all mobilization activities performed by the CONTRACTOR in accordance with the Contract Documents.	Lump Sum	\$160,000
2.	<b>Shoring:</b> This item includes all labor, materials and equipment necessary for the completion of the shoring, in conformance with the Contract Documents.	Lump Sum	\$ 20,000.00
3.	<b>Contract Work:</b> This item includes all labor, materials and equipment necessary for the completion of the Contract Work, except for the work specified in Bid Items 1, 2, and 4, in conformance with the Contract Documents.	Lump Sum	\$ 6,240,000.00
4.	<b>Demobilization:</b> This item includes all demobilization activities performed by the CONTRACTOR including, but not limited to, moving out, submittal and acceptance of As-Built Drawings, and final cleanup and restoration of the staging area to its original condition upon Final Completion, in conformance with the Contract Documents.	Lump Sum	\$80,000

TOTAL AMOUNT OF BID (BASIS OF AWARD)

**\$ 6,500,000.00**

**Six Million Five Hundred Thousand Dollars**

# Collections Yard Relocation and Warehouse Demolition at Plant No. 2, Project No. P2-127

Presented by:  
Eros Yong  
Engineering  
Manager

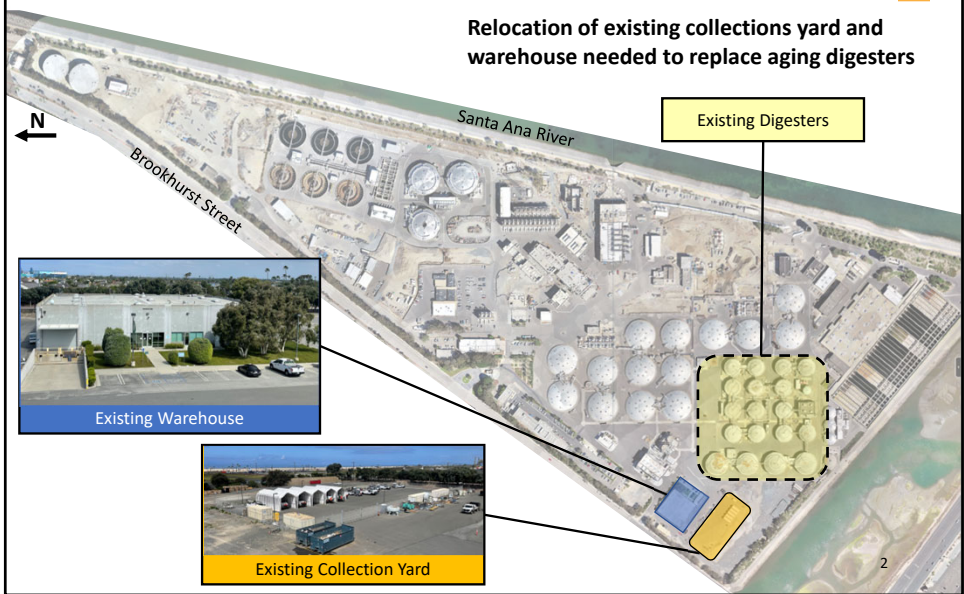
Operations  
Committee  
July 5, 2023



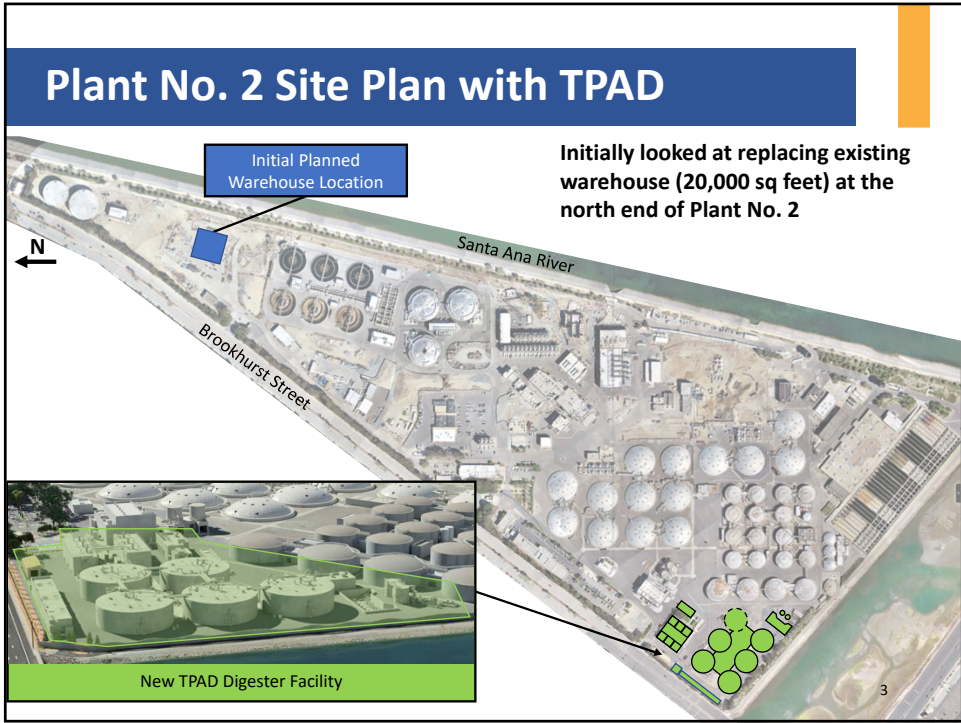
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## Plant No. 2 Existing Site Plan

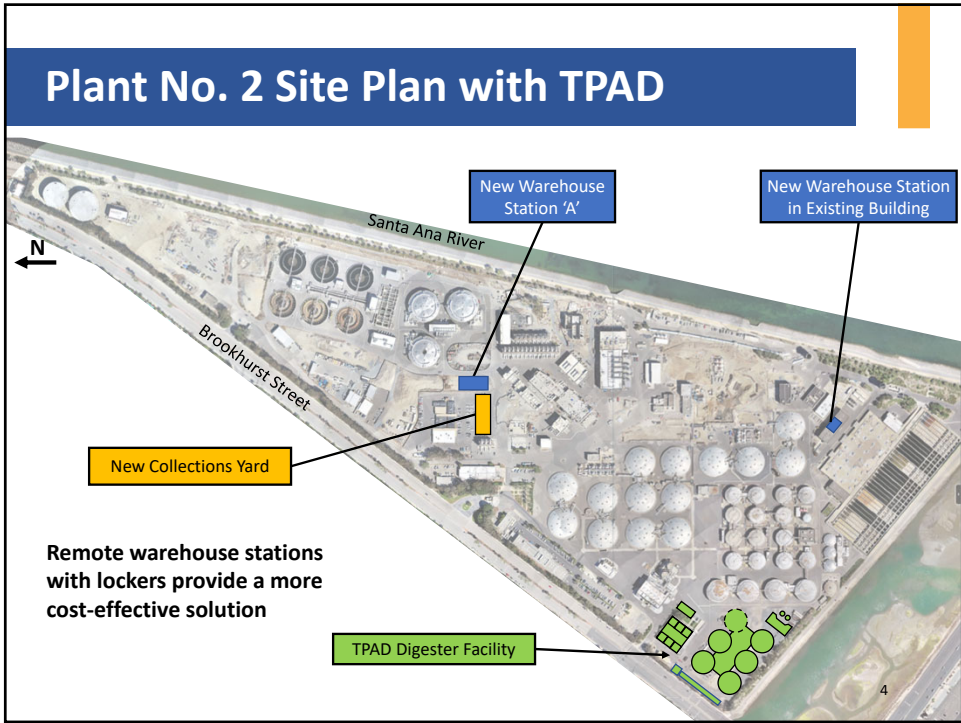
Relocation of existing collections yard and warehouse needed to replace aging digesters



2

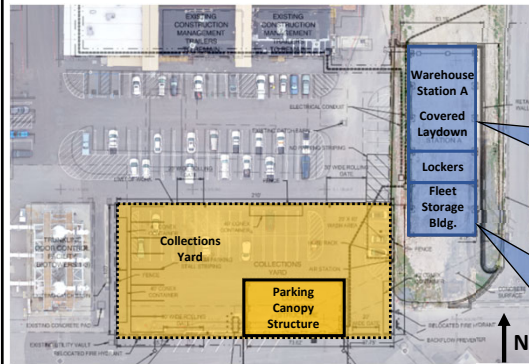


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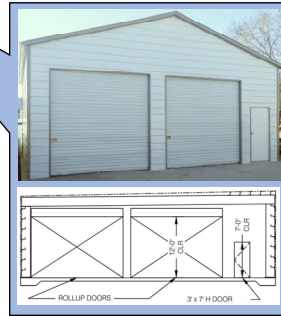
## Warehouse Station A



**Covered Laydown Area**



**Fleet Storage Building**



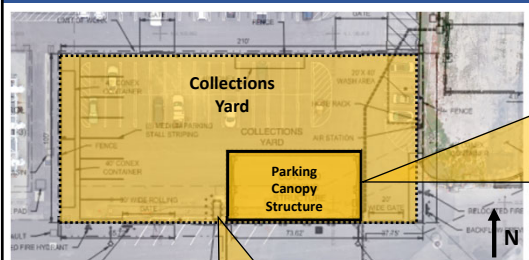
**Warehouse Station A (50ft x 140ft ) Features:**

- Outdoor covered laydown area: 50ft x 75ft
- Locker area: 50ft x 25ft
- Enclosed fleet storage building: 50ft x 40ft
- Fully fenced with privacy slats
- Utilities: Electrical, access control, and CCTV

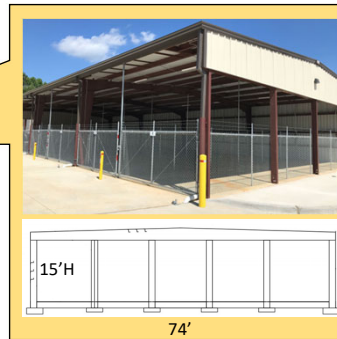
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## Collections Yard



**Parking Canopy Structure**



**Slow Fill Compressed Natural Gas**



**Collections Yard Features**

- Collections Yard: 100ft x 200ft
- Covered vehicle area: 40ft x 74ft
- Fully fenced with privacy slats
- Utilities: Electrical, access control and CCTV
- Wash down area, tire filling, and vacuum

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6



## Bid Results

Engineer's Estimate	\$ 4,466,366
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Bidder	Amount
Fasone Construction, Inc.	\$ 5,675,000
Archico Design Build, Inc.	\$ 6,500,000
M.S. Construction Management Group	\$ 6,534,709
Nationwide General Construction Services	\$ 6,837,360
Kazoni, Inc.	\$ 8,411,000

- Lowest bidder, Fasone Construction, Inc., found non-responsive
- Protest received, however found without merit
- Recommend award to Archico Design Build Inc.

7

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## Project Budget Request

Current project budget insufficient to cover award and construction contingency amounts.

Subject	Amount
<b>Current Project Budget</b>	<b>\$6,700,000</b>
Construction Cost	\$6,500,000
Construction Contingency (10%)	\$650,000
<b>Total Requested Project Budget</b>	<b>\$8,800,000</b>

Total Project Budget Increase Request = \$2,100,000

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## Recommendation

Recommend to the Board of Directors to:

- A. Receive and file Bid Tabulation and Recommendation for Collections Yard Relocation and Warehouse Demolition at Plant No. 2, Project No. P2-127;
- B. Receive and file Orange County Sanitation District's Notice of Intent to Award dated June 2, 2023;
- C. Receive and file Award Protest from Fasone Construction, Inc. dated June 8, 2023 concerning award to Archico Design Build Inc.;
- D. Receive and file the Award Protest Response letter from Archico Design Build Inc. dated June 14, 2023 responding to the award protest;

9

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## Recommendation

- E. Receive and file Orange County Sanitation District's determination letter dated June 22, 2023 to Fasone Construction, Inc. responding to award protest;
- F. Approve a project budget increase of \$2,100,000 for Collections Yard Relocation and Warehouse Demolition at Plant No. 2, Project No. P2-127, for a new total project budget of \$8,800,000;
- G. Award a Construction Contract to Archico Design Build Inc. for Collections Yard Relocation and Warehouse Demolition at Plant No. 2, Project No. P2-127, for a total amount not to exceed \$6,500,000; and
- H. Approve a construction contingency of \$650,000 (10%).

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Questions

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11



# OPERATIONS COMMITTEE

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

## Agenda Report

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**File #:** 2023-2765

**Agenda Date:** 7/5/2023

**Agenda Item No:** 6.

---

**FROM:** Robert Thompson, General Manager  
Originator: Lan C. Wiborg, Director of Environmental Services

**SUBJECT:**

**ORANGE COUNTY SANITATION DISTRICT ENVIRONMENTAL SERVICES: RESOURCE PROTECTION DIVISION**

**GENERAL MANAGER'S RECOMMENDATION**

RECOMMENDATION:

Information Item.

**BACKGROUND**

Each month, staff provides an informational presentation on topics of interest to the Board of Directors. This month's topic: Orange County Sanitation District's Environmental Services Department's Resource Protection Division (RPD): Protecting Reuse Initiatives. The work of RPD is regulatory in nature. This presentation will focus primarily on who we are, what we do, and our major projects.

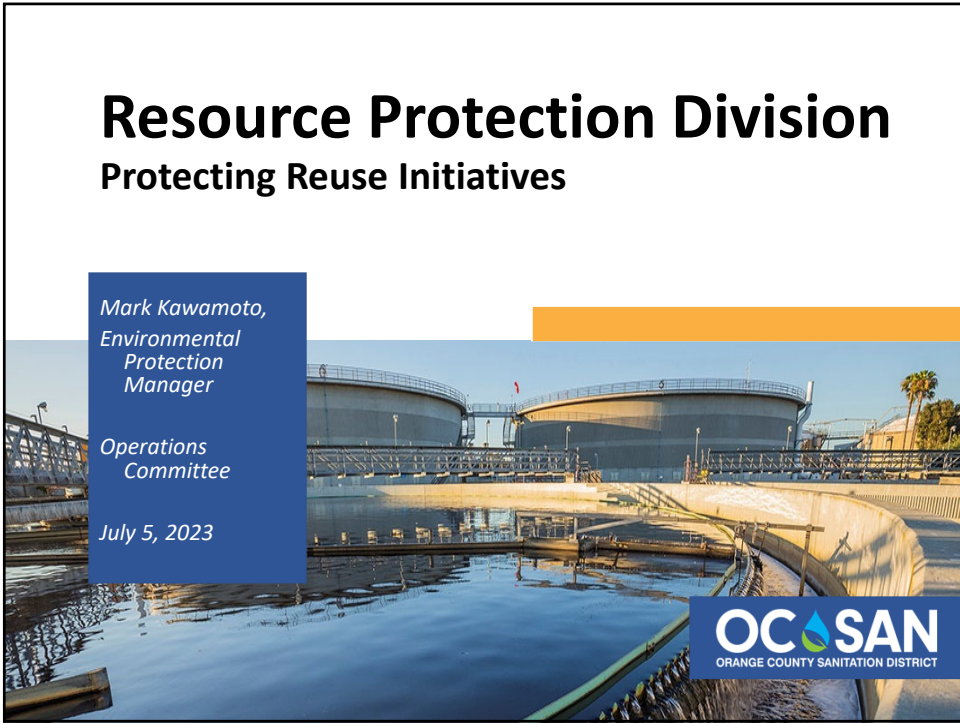
**RELEVANT STANDARDS**

- Protect OC San assets
- Comply with environmental permit requirements
- Listen to and seriously consider community input on environmental concerns
- Safe, beneficial reuse of Biosolids
- Make it easy for people to understand OC San's roles and value to community
- Meet volume and water quality needs for the GWRS

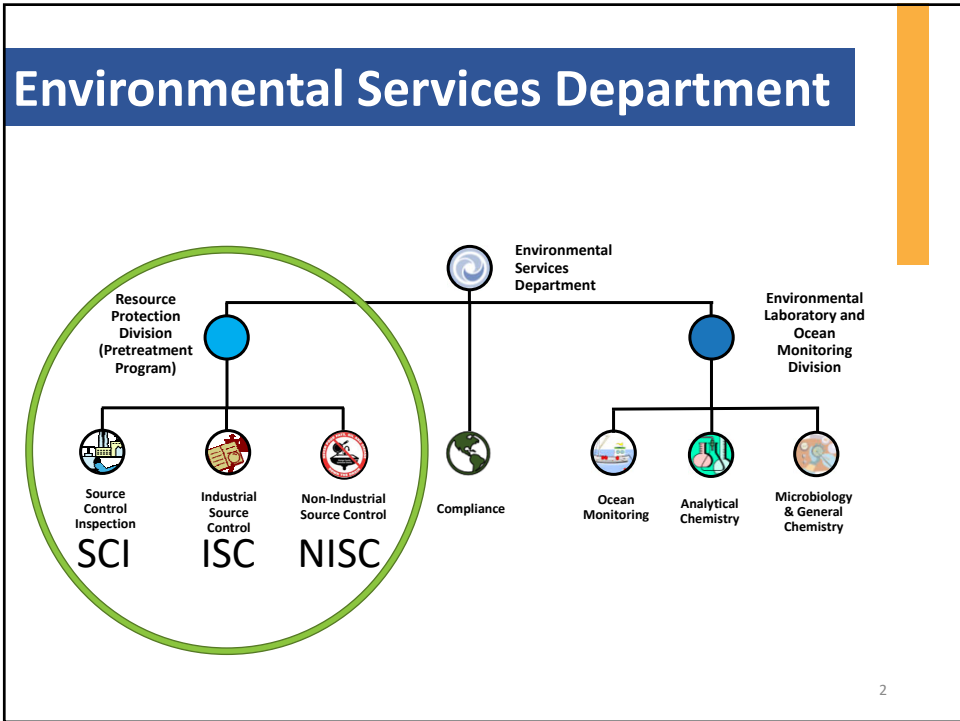
**ATTACHMENT**

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

- Presentation



1



2

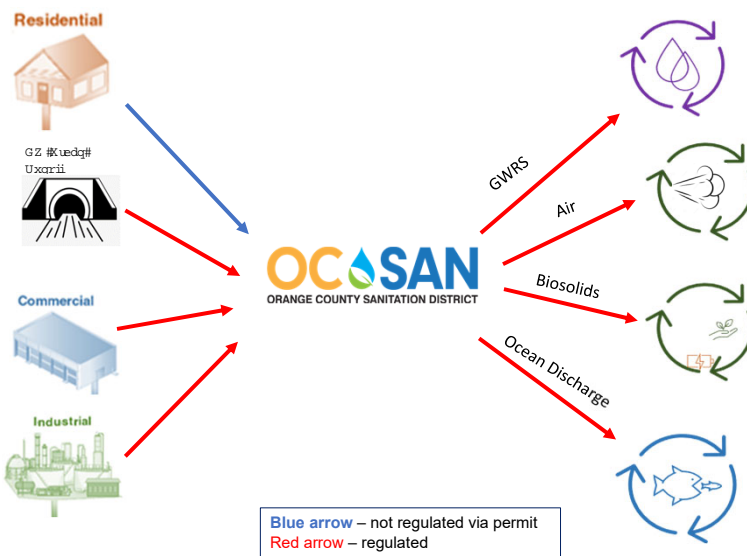
## Resource Protection Division Mission

To implement a comprehensive, federally-mandated Pretreatment Program and protect staff and community health, the environment, and OC San's infrastructure and reuse initiatives.

3

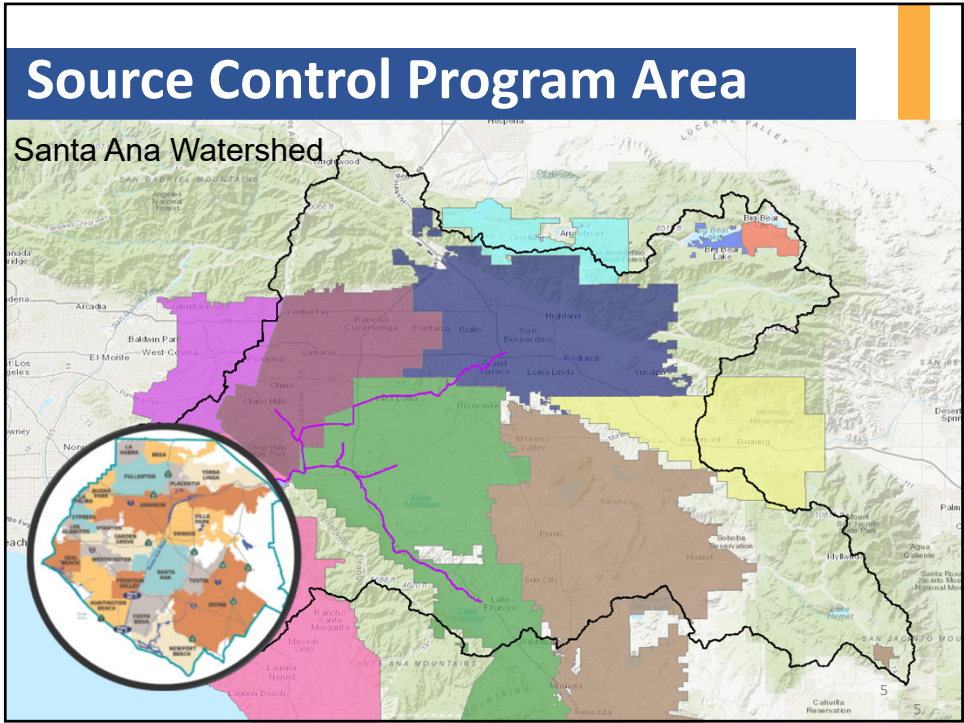
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## Protecting Reuse Initiatives



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5

## Pretreatment Authority

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United States  
Environmental Protection  
Agency

Code of  
Federal  
Regulations

---





STATE WATER RESOURCES CONTROL BOARD  
REGIONAL WATER QUALITY CONTROL BOARDS

California Ocean Plan  
Santa Ana RWQCB Basin Plan

---



**OC San's Regulatory Authority**

- Consistent with 40 CFR 403
- OC San's Wastewater Discharge Regulations Ordinance

**"No toxics in toxic amounts entering the sewers"**

6

## Pretreatment Compliance

*“OC San runs a pretreatment program that was approved under federal law and that implements and enforces the national pretreatment standards established under the Clean Water Act (CWA). Pursuant to the CWA, any violation of any requirement imposed in OC San’s local pretreatment program is a violation of federal law.”*



--US Department of Justice, Central District of California  
News Release on Jan 13, 2023

7

7

## Permitting and Enforcement

- Permit-based program
- Progressive enforcement
  - Approved Enforcement Response Plan
  - Sustain permittee compliance



8

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# Pretreatment Honor Roll 2022

**OC SAN PRETREATMENT HONOR ROLL PROGRAM**  
**- CLASS OF 2022 -**



**BRONZE AWARD**

This facility is recognized as an environmental steward for meeting industrial pretreatment program compliance requirements.



SCAN HERE TO LEARN MORE!




10844 Ellis Avenue, Fountain Valley, California 92708-7018 • 714.962.2411 • www.ocsan.gov

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# Pretreatment Honor Roll 2022


	Winners	Eligible	No. of Permits
Anaheim	9	21	50
Brea	1	7	14
Buena Park	1	3	10
CMSD	3	6	8
Cypress	2	5	5
Garden Grove	2	3	14
Huntington Beach	4	17	27
Irvine/IRWD	4	19	34
Newport Beach	4	4	5
Orange	1	6	23
Placentia	3	5	13
Santa Ana	3	25	64



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## Self-Monitoring Reporting



**ORANGE COUNTY SANITATION DISTRICT**  
SELF-MONITORING FORM

General Pretreatment Regulations For Existing And New Sources Of Pollution

SMR No. [REDACTED]

SMR Type: Standard  
Simply Fresh, LLC

Permit No. [REDACTED]

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Sampling Dates: 04/01/2022 to 04/30/2022

Sample Start Date: 4/4/2022

Sample Start Time: 10:00AM

Submit By Date: 05/20/2022

Sample End Date: 4/5/2022

Sample End Time: 10:00AM

Sampling Point Location: Three-stage Clarifier Sample Box located along the northwest side of the building

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Contact Person: [REDACTED]

Contact Phone: [REDACTED]

Contact Email: [mbrisenolakeviewfarms.com](mailto:mbrisenolakeviewfarms.com)

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OCSD MAIL ROOM

2022 MAY 10 AM 10:03

ORANGE COUNTY SANITATION DISTRICT  
PROCESS METER READINGS - MONTHLY REPORT

RECEIVED

COMPANY: [REDACTED]

Meter Reading Date Range: 04/01/2022 to 04/30/2022

Monitoring ID: [REDACTED]

PERMIT NO: [REDACTED]

Due Date: 05/20/2022

No.	Meter Location	For OC San Use only
1	On the wall in the tumbling and deburring room (left meter)	PM_26287_LEFT
2	On the wall in the tumbling and deburring room (right meter)	PM_45502903_RIGHT

11

## OC San Inspectors

- Permitted facilities, trunklines, wastehauler station, covert
- >1,600 inspections, >3,500 samples last year






12

## Can You Spot the Problems?



13

13

## Resource Protection Division Priorities

- Recruitment and retention
- Reassess pretreatment pollutant limits
- Revamp data management system



14

14

## Take Aways

- Remember the 3 P's
- No Toxics in Toxic Amounts
- Promote OC San's Honor Roll



15

15

## Questions



16



# OPERATIONS COMMITTEE

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

## Agenda Report

---

**File #:** 2023-3066

**Agenda Date:** 7/5/2023

**Agenda Item No:** 7.

---

**FROM:** Robert Thompson, General Manager  
Originator: Wally Ritchie, Director of Finance

**SUBJECT:**

### **RISK REGISTER PRESENTATION**

### **GENERAL MANAGER'S RECOMMENDATION**

#### RECOMMENDATION:

Information Item.

### **BACKGROUND**

Every two years, staff updates the Risk Register as part of the strategic planning process. The Risk Register is the result of staff input and represents areas of risk and opportunity for Orange County Sanitation District from a staff perspective. This is used by management to help update the Strategic Plan and subsequent budgets.

### **RELEVANT STANDARDS**

- Sustain 1, 5, 20-year planning horizons
- Maintain and adhere to the Strategic Plan

### **ATTACHMENT**

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

- Presentation

# OC San's Risk Register

Presented by:

Wally Ritchie,  
Director of  
Finance

Operations  
Committee

July 5, 2023



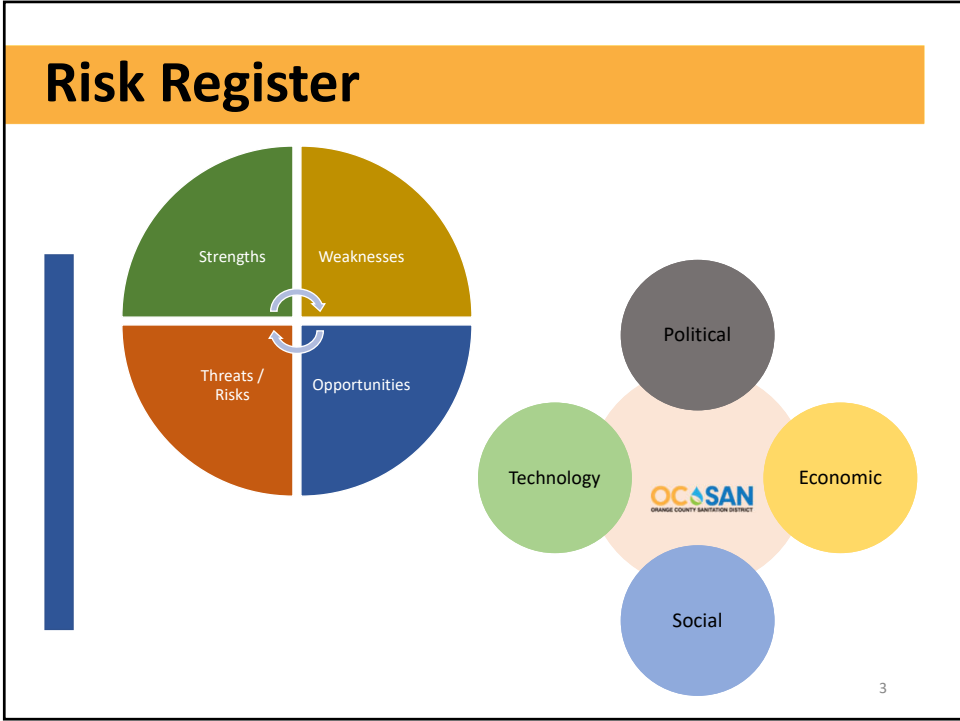
1

## Risk Register

- Part of Strategic Planning Process
- Last Report 2021
- Focus on Operational Impacts
- Input from Staff
- Overview of OC San's Current Opportunities and Risks

2

2



3



4

## Next Steps – Strategic Planning

- Budget Update Adopted ✓
- Strategic Planning Review
  - Strategic Plan ✓
  - Levels of Service ✓
  - Core Values ✓
  - Risk Register ✓
- Internal Policy Papers Update – August
- Draft Strategic Plan – September
- Final Strategic Plan for Adoption – November

5

5

## ORANGE COUNTY SANITATION DISTRICT COMMON ACRONYMS

<b>ACWA</b>	Association of California Water Agencies	<b>LOS</b>	Level Of Service	<b>RFP</b>	Request For Proposal
<b>APWA</b>	American Public Works Association	<b>MGD</b>	Million Gallons Per Day	<b>RWQCB</b>	Regional Water Quality Control Board
<b>AQMD</b>	Air Quality Management District	<b>MOU</b>	Memorandum of Understanding	<b>SARFPA</b>	Santa Ana River Flood Protection Agency
<b>ASCE</b>	American Society of Civil Engineers	<b>NACWA</b>	National Association of Clean Water Agencies	<b>SARI</b>	Santa Ana River Interceptor
<b>BOD</b>	Biochemical Oxygen Demand	<b>NEPA</b>	National Environmental Policy Act	<b>SARWQCB</b>	Santa Ana Regional Water Quality Control Board
<b>CARB</b>	California Air Resources Board	<b>NGOs</b>	Non-Governmental Organizations	<b>SAWPA</b>	Santa Ana Watershed Project Authority
<b>CASA</b>	California Association of Sanitation Agencies	<b>NPDES</b>	National Pollutant Discharge Elimination System	<b>SCADA</b>	Supervisory Control And Data Acquisition
<b>CCTV</b>	Closed Circuit Television	<b>NWRI</b>	National Water Research Institute	<b>SCAP</b>	Southern California Alliance of Publicly Owned Treatment Works
<b>CEQA</b>	California Environmental Quality Act	<b>O &amp; M</b>	Operations & Maintenance	<b>SCAQMD</b>	South Coast Air Quality Management District
<b>CIP</b>	Capital Improvement Program	<b>OCCOG</b>	Orange County Council of Governments	<b>SOCWA</b>	South Orange County Wastewater Authority
<b>CRWQCB</b>	California Regional Water Quality Control Board	<b>OCHCA</b>	Orange County Health Care Agency	<b>SRF</b>	Clean Water State Revolving Fund
<b>CWA</b>	Clean Water Act	<b>OCSD</b>	Orange County Sanitation District	<b>SSMP</b>	Sewer System Management Plan
<b>CWEA</b>	California Water Environment Association	<b>OCWD</b>	Orange County Water District	<b>SSO</b>	Sanitary Sewer Overflow
<b>EIR</b>	Environmental Impact Report	<b>OOBS</b>	Ocean Outfall Booster Station	<b>SWRCB</b>	State Water Resources Control Board
<b>EMT</b>	Executive Management Team	<b>OSHA</b>	Occupational Safety and Health Administration	<b>TDS</b>	Total Dissolved Solids
<b>EPA</b>	US Environmental Protection Agency	<b>PCSA</b>	Professional Consultant/Construction Services Agreement	<b>TMDL</b>	Total Maximum Daily Load
<b>FOG</b>	Fats, Oils, and Grease	<b>PDSA</b>	Professional Design Services Agreement	<b>TSS</b>	Total Suspended Solids
<b>gpd</b>	gallons per day	<b>PFAS</b>	Per- and Polyfluoroalkyl Substances	<b>WDR</b>	Waste Discharge Requirements
<b>GWRS</b>	Groundwater Replenishment System	<b>PFOA</b>	Perfluorooctanoic Acid	<b>WEF</b>	Water Environment Federation
<b>ICS</b>	Incident Command System	<b>PFOS</b>	Perfluorooctanesulfonic Acid	<b>WERF</b>	Water Environment & Reuse Foundation
<b>IERP</b>	Integrated Emergency Response Plan	<b>POTW</b>	Publicly Owned Treatment Works	<b>WIFIA</b>	Water Infrastructure Finance and Innovation Act
<b>JPA</b>	Joint Powers Authority	<b>ppm</b>	parts per million	<b>WIIN</b>	Water Infrastructure Improvements for the Nation Act
<b>LAFCO</b>	Local Agency Formation Commission	<b>PSA</b>	Professional Services Agreement	<b>WRDA</b>	Water Resources Development Act



## ORANGE COUNTY SANITATION DISTRICT GLOSSARY OF TERMS

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**ACTIVATED SLUDGE PROCESS** – A secondary biological wastewater treatment process where bacteria reproduce at a high rate with the introduction of excess air or oxygen and consume dissolved nutrients in the wastewater.

**BENTHOS** – The community of organisms, such as sea stars, worms, and shrimp, which live on, in, or near the seabed, also known as the benthic zone.

**BIOCHEMICAL OXYGEN DEMAND (BOD)** – The amount of oxygen used when organic matter undergoes decomposition by microorganisms. Testing for BOD is done to assess the amount of organic matter in water.

**BIOGAS** – A gas that is produced by the action of anaerobic bacteria on organic waste matter in a digester tank that can be used as a fuel.

**BIOSOLIDS** – Biosolids are nutrient rich organic and highly treated solid materials produced by the wastewater treatment process. This high-quality product can be recycled as a soil amendment on farmland or further processed as an earth-like product for commercial and home gardens to improve and maintain fertile soil and stimulate plant growth.

**CAPITAL IMPROVEMENT PROGRAM (CIP)** – Projects for repair, rehabilitation, and replacement of assets. Also includes treatment improvements, additional capacity, and projects for the support facilities.

**COLIFORM BACTERIA** – A group of bacteria found in the intestines of humans and other animals, but also occasionally found elsewhere, used as indicators of sewage pollution. E. coli are the most common bacteria in wastewater.

**COLLECTIONS SYSTEM** – In wastewater, it is the system of typically underground pipes that receive and convey sanitary wastewater or storm water.

**CERTIFICATE OF PARTICIPATION (COP)** – A type of financing where an investor purchases a share of the lease revenues of a program rather than the bond being secured by those revenues.

**CONTAMINANTS OF POTENTIAL CONCERN (CPC)** – Pharmaceuticals, hormones, and other organic wastewater contaminants.

**DILUTION TO THRESHOLD (D/T)** – The dilution at which the majority of people detect the odor becomes the D/T for that air sample.

**GREENHOUSE GASES (GHG)** – In the order of relative abundance water vapor, carbon dioxide, methane, nitrous oxide, and ozone gases that are considered the cause of global warming (“greenhouse effect”).

**GROUNDWATER REPLENISHMENT SYSTEM (GWRS)** – A joint water reclamation project that proactively responds to Southern California’s current and future water needs. This joint project between the Orange County Water District and OCSD provides 70 million gallons per day of drinking quality water to replenish the local groundwater supply.

**LEVEL OF SERVICE (LOS)** – Goals to support environmental and public expectations for performance.

**N-NITROSODIMETHYLAMINE (NDMA)** – A N-nitrosamine suspected cancer-causing agent. It has been found in the GWRS process and is eliminated using hydrogen peroxide with extra ultra-violet treatment.

**NATIONAL BIOSOLIDS PARTNERSHIP (NBP)** – An alliance of the NACWA and WEF, with advisory support from the EPA. NBP is committed to developing and advancing environmentally sound and sustainable biosolids management practices that go beyond regulatory compliance and promote public participation to enhance the credibility of local agency biosolids programs and improved communications that lead to public acceptance.

**PER- AND POLYFLUOROALKYL SUBSTANCES (PFAS)** – A large group (over 6,000) of human-made compounds that are resistant to heat, water, and oil and used for a variety of applications including firefighting foam, stain and water-resistant clothing, cosmetics, and food packaging. Two PFAS compounds, perfluorooctanesulfonic acid (PFOS) and perfluorooctanoic acid (PFOA) have been the focus of increasing regulatory scrutiny in drinking water and may result in adverse health effects including developmental effects to fetuses during pregnancy, cancer, liver damage, immunosuppression, thyroid effects, and other effects.

**PERFLUOROCTANOIC ACID (PFOA)** – An ingredient for several industrial applications including carpeting, upholstery, apparel, floor wax, textiles, sealants, food packaging, and cookware (Teflon).

**PERFLUOROCTANESULFONIC ACID (PFOS)** – A key ingredient in Scotchgard, a fabric protector made by 3M, and used in numerous stain repellents.

**PLUME** – A visible or measurable concentration of discharge from a stationary source or fixed facility.

**PUBLICLY OWNED TREATMENT WORKS (POTW)** – A municipal wastewater treatment plant.

**SANTA ANA RIVER INTERCEPTOR (SARI) LINE** – A regional brine line designed to convey 30 million gallons per day of non-reclaimable wastewater from the upper Santa Ana River basin to the ocean for disposal, after treatment.

**SANITARY SEWER** – Separate sewer systems specifically for the carrying of domestic and industrial wastewater.

**SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT (SCAQMD)** – Regional regulatory agency that develops plans and regulations designed to achieve public health standards by reducing emissions from business and industry.

**SECONDARY TREATMENT** – Biological wastewater treatment, particularly the activated sludge process, where bacteria and other microorganisms consume dissolved nutrients in wastewater.

**SLUDGE** – Untreated solid material created by the treatment of wastewater.

**TOTAL SUSPENDED SOLIDS (TSS)** – The amount of solids floating and in suspension in wastewater.

## **ORANGE COUNTY SANITATION DISTRICT GLOSSARY OF TERMS**

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**TRICKLING FILTER** – A biological secondary treatment process in which bacteria and other microorganisms, growing as slime on the surface of rocks or plastic media, consume nutrients in wastewater as it trickles over them.

**URBAN RUNOFF** – Water from city streets and domestic properties that carry pollutants into the storm drains, rivers, lakes, and oceans.

**WASTEWATER** – Any water that enters the sanitary sewer.

**WATERSHED** – A land area from which water drains to a particular water body. OCSD's service area is in the Santa Ana River Watershed.