

PROFESSIONAL CONSULTANT SERVICES AGREEMENT
Classification & Compensation Studies
2021 ALL EMPLOYEE GROUPS
SPECIFICATION NO. CS-2021-1229BD

THIS AGREEMENT is made and entered into as of the date fully executed below, by and between Orange County Sanitation District, with a principal place of business at 10844 Ellis Avenue, Fountain Valley, CA 92708 (hereinafter referred to as "OC San") and Gallagher Benefit Services, Inc. with a principal place of business at 2835 Seventh Street, Berkeley, CA 94710 (hereinafter referred to as "Consultant") collectively referred to as the "Parties".

WITNESSETH

WHEREAS, based on Consultant's expertise and experience, OC San desires to temporarily engage Consultant to provide Classification and Compensation Studies for all employee groups "Services" as described in Exhibit "A"; and

WHEREAS, Consultant submitted its Proposal, dated April 15, 2021; and

WHEREAS, on June 23, 2021, the Board of Directors of OC San, by minute order, authorized execution of this Agreement between OC San and Consultant; and

WHEREAS, OC San has chosen Consultant to conduct Services in accordance with Ordinance No. OCSD-52; and

NOW, THEREFORE, in consideration of the mutual promises and mutual benefits exchanged between the Parties, the Parties mutually agree as follows:

1. Introduction

1.1 This Agreement and all exhibits hereto (called the "Agreement") is made by OC San and the Consultant. The terms and conditions herein exclusively govern the purchase of Services as described in Exhibit "A".

1.2 Exhibits to this Agreement are incorporated by reference and made a part of this Agreement as though fully set forth at length herein.

Exhibit "A" Scope of Work

Exhibit "B" Proposal dated April 15, 2021

Exhibit "B-1" Cost Proposal Best and Final Offer dated May 16, 2021

Exhibit "C" Determined Insurance Requirement Form

Exhibit "D" Contractor Safety Standards

Exhibit "E" Human Resources Policies

1.3 In the event of any conflict or inconsistency between the provisions of this Agreement and any of the provisions of the exhibits hereto, the provisions of this Agreement shall in all respects govern and control.

1.4 This Agreement may not be modified, changed, or supplemented, nor may any obligations hereunder be waived or extensions of time for performance granted, except by written instrument signed by both Parties.

- 1.5 The various headings in this Agreement are inserted for convenience only and shall not affect the meaning or interpretation of this Agreement or any section or provision hereof.
- 1.6 The term “days”, when used in the Agreement, shall mean calendar days, unless otherwise noted as workdays.
- 1.7 The term “workday”. Workdays are defined as all days that are not Saturday, Sunday, or OC San observed holidays. Meetings with OC San staff shall be scheduled from Monday through Thursday between the hours of 8 a.m. and 4 p.m. (exception is Operations staff who maintain plant operations 24/7 and work a rotated 12-hour shift) and shall conform to OC San work schedules. OC San review periods shall not include OC San observed holidays.
- 1.8 OC San holidays (non-working days) are as follows: New Year’s Day, Lincoln’s Birthday, Presidents’ Day, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving Day, Day after Thanksgiving, Christmas Eve, and Christmas Day.
- 1.9 Work Hours: The work required under this Agreement may include normal business hours, evenings, and weekends.
- 1.10 Meetings: Meetings with day-shift staff shall be scheduled Monday through Thursday, between the hours of 8:00 a.m. and 4:00 p.m. OC San will not pay for travel time.
- 1.11 Consultant shall provide OC San with all required premiums and/or overtime work at no charge beyond the total amount of the Agreement.
- 1.12 Except as expressly provided otherwise, OC San accepts no liability for any expenses, losses, or action incurred or undertaken by Consultant as a result of work performed in anticipation of purchases of said services by OC San.
2. **Scope of Work** Subject to the terms of this Agreement, Consultant shall perform the Services identified in Exhibit “A”. Consultant warrants that all of its Services shall be performed in a competent, professional, and satisfactory manner.
3. **Modifications to Scope of Work** Requests for modifications to the Scope of Work hereunder can be made by OC San at any time. All modifications must be made in writing and signed by both Parties. A review of the time required for the modification will be made by OC San and Consultant and the Agreement period adjusted accordingly.
4. **Compensation** Compensation to be paid by OC San to Consultant for the Services provided under this Agreement shall be a total amount not to exceed Two Hundred Forty-three Thousand, Six Hundred Sixty Dollars (\$243,660.00).
5. **California Department of Industrial Relations (DIR) Registration and Record of Wages**
 - 5.1 To the extent Consultant’s employees and/or subconsultants who will perform work for which Prevailing Wage Determinations have been issued by the DIR and as more specifically defined under Labor Code Section 1720 et seq, Consultant and subconsultants shall comply with the registration requirements of Labor Code Section 1725.5. Pursuant to Labor Code Section 1771.4, the work is subject to compliance monitoring and enforcement by the DIR.
 - 5.2 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 1771.4(a)(3). Penalties for non-compliance with the requirements of Section 1776 may be deducted from progress payments per Section 1776.

- 5.3 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 Department of Industrial Relations.
- 5.4 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. Payment and Invoicing

- 6.1 OC San shall pay, net thirty (30) days, upon receipt and approval, by OC San's Project Manager or designee, of itemized invoices submitted for Milestones completed in accordance with Exhibit "A", at the prices identified in Exhibit "B-1". If OC San contests or questions any invoice, it agrees to raise any questions with Consultant within such 30-day period. OC San, at its sole discretion, shall be the determining party as to whether the Milestones have been satisfactorily completed.
- 6.2 Invoices shall be emailed by Consultant to OC San Accounts Payable at APStaff@OCSan.gov and "INVOICE" with the Purchase Order Number and CS-2021-1229BD shall be referenced in the subject line.

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

8. **Commencement and Term** The Services provided under this Agreement shall be commence on the effective date of the Notice to Proceed and continue through October 31, 2021.

9. **Extensions** The term of this Agreement may be extended only by written instrument signed by both Parties.

10. **Performance** Time is of the essence in the performance of the provisions hereof.

11. Termination

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

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

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

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

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

12. Indemnification and Hold Harmless Provision Consultant shall assume all responsibility for damages to property and/or injuries to persons, including accidental death, which may arise out of or be caused by Consultant's services under this Agreement, or by its subconsultant(s) or by anyone directly or indirectly employed by Consultant, and whether such damage or injury shall accrue or be discovered before or after the termination of the Agreement. Except as to the sole active negligence of or willful misconduct of OC San, Consultant shall indemnify, protect, defend and hold harmless OC San, its elected and appointed officials, officers, agents and employees, from and against any and all claims, liabilities, damages or expenses of any nature, including attorneys' fees: (a) for injury to or death of any person or damage to property or interference with the use of property, arising out of or in connection with Consultant's performance under the Agreement, and/or (b) on account of use of any copyrighted or uncopyrighted material, composition, or process, or any patented or unpatented invention, article or appliance, furnished or used under the Agreement, and/or (c) on account of any goods and services provided under this Agreement. This indemnification provision shall apply to any acts or omissions, willful misconduct, or negligent misconduct, whether active or passive, on the part of Consultant or anyone employed by or working under Consultant. To the maximum extent permitted by law, Consultant's duty to defend shall apply whether or not such claims, allegations, lawsuits, or proceedings have merit or are meritless, or which involve claims or allegations that any of the parties to be defended were actively, passively, or concurrently negligent, or which otherwise assert that the parties to be defended are responsible, in whole or in part, for any loss, damage, or injury. Consultant agrees to provide this defense immediately upon written notice from OC San, and with well qualified, adequately insured, and experienced legal counsel acceptable to OC San. This section shall survive the expiration or early termination of the Agreement. Consultant's liability to OC San and any other party for any losses, injury or damages to persons or properties or work performed arising out of in connection with this Agreement and for any other claim, whether the claim arises in contract, tort, statute or otherwise, shall be limited to one million dollars (\$1,000,000).

13. Insurance Consultant and all subconsultants shall purchase and maintain, throughout the life of this Agreement and any periods of warranty or extensions, insurance in amounts equal to the requirements set forth in the signed Determined Insurance Requirement Form, Exhibit "C". Consultant shall not commence work under this Agreement until all required insurance is obtained in a form acceptable to OC San, nor shall Consultant allow any subconsultant to commence service pursuant to a subcontract until all insurance required of the subconsultant has been obtained. Failure to maintain required insurance coverage shall result in termination of this Agreement.

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

15. **Confidentiality and Non-Disclosure**

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

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

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

15.4 Consultant agrees as follows:

- To use the confidential information only for the purposes described herein; to not reproduce the confidential information; to hold in confidence and protect the confidential information from dissemination to and use by anyone not a party to this Agreement; and to not use the confidential information to benefit itself or others.
- To restrict access to the confidential information to its subconsultant or personnel of Consultant who (1) have a need to have such access and (2) have been advised of and have agreed in writing to treat such information in accordance with the terms of this Agreement.
- To return all confidential information in Consultant's possession upon termination of this Agreement or upon OC San's request, whichever occurs first.
- Consultant may submit to OC San, for approval prior to release, a request which must contain a reason for the request, for a copy of their work product produced in connection to confidential information.
- To hold in confidence information and materials, if any, developed pursuant to the Services hereunder.

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

16. **Ownership of Documents** All drawings, specifications, reports, records, documents, memoranda, correspondence, computations, and other materials prepared by Consultant, its employees, subconsultants, and agents in the performance of this Agreement shall be the property of OC San and shall be promptly delivered to OC San upon request of OC San's Project Manager or designee, or upon the termination of this Agreement, and Consultant shall have no claim for further employment or additional compensation as a result of the exercise by OC San of its full rights of ownership of the documents and materials hereunder. Any use of such completed documents for other projects and/or use of

incomplete documents without specific written authorization by the Consultant will be at OC San's sole risk and without liability to Consultant. Consultant shall ensure that all its subconsultants shall provide for assignment to OC San of any documents or materials prepared by them.

17. Ownership of Intellectual Property

- 17.1 Consultant agrees that all designs, plans, reports, specifications, drawings, schematics, prototypes, models, inventions, and all other information and items made during the course of this Agreement and arising from the Services (hereinafter referred to as "New Developments") shall be and are assigned to OC San as its sole and exclusive property.
- 17.2 Consultant agrees to promptly disclose to OC San all such New Developments. Upon OC San's request, Consultant agrees to assist OC San, at OC San's expense, to obtain patents or copyrights for such New Developments, including the disclosure of all pertinent information and data with respect thereto, the execution of all applications, specifications, assignments, and all other instruments and papers which OC San shall deem necessary to apply for and to assign or convey to OC San, its successors and assigns, the sole and exclusive right, title and interest in such New Developments. Consultant agrees to obtain or has obtained written assurances from its employees and contract personnel of their agreement to the terms hereof with regard to New Developments and confidential information.
- 17.3 Consultant warrants that Consultant has good title to any New Developments, and the right to assign New Developments to OC San free of any proprietary rights of any other party or any other encumbrance whatever.
- 17.4 The originals of all computations, drawings, designs, graphics, studies, reports, manuals, photographs, videotapes, data, computer files, and other documents prepared or caused to be prepared by Consultant or its subconsultants in connection with these Services shall be delivered to and shall become the exclusive property of OC San. OC San may utilize these documents for OC San applications on other projects or extensions of this project, at its own risk.

18. No Solicitation of Employees

- 18.1 Consultant agrees that it shall not, during the term of this Agreement and for a period of one (1) year immediately following termination of this Agreement, or any extension hereof, call on, solicit, or take away any of the employees whom Consultant became aware of as a result of Consultant's Services to OC San.
- 18.2 Consultant acknowledges that OC San's employees are critical to its business and OC San expends significant resources to hire, employ, and train employees. Should Consultant employ or otherwise engage OC San's employees during the term of this Agreement and for a period of one (1) year following termination of this Agreement, Consultant will pay OC San fifty percent (50%) of the former employee's most recent annual salary earned at OC San to accurately reflect the reasonable value of OC San's time and costs. This payment is in addition to any other rights and remedies OC San may have at law.
- 18.3 OC San agrees that it shall not, during the term of this Agreement and for a period of one (1) year immediately following termination of this Agreement, or any extension hereof, call on, solicit, or take away any of the employees whom OC San became aware of as a result of Consultant's Services to OC San.

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

19. Independent Contractor Capacity

19.1 The relationship of Consultant to OC San is that of an independent contractor and nothing herein shall be construed as creating an employment or agency relationship.

19.2 Consultant shall act independently and not as an officer or employee of OC San. OC San assumes no liability for Consultant's action and performance, nor assumes responsibility for taxes, funds, payments, or other commitments, implied or expressed, by or for Consultant.

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

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

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

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

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

21. Consultant's Representations In the performance of duties under this Agreement, Consultant shall adhere to the highest fiduciary standards, ethical practices and standards of care and competence for their trade/profession. Consultant agrees to comply with all applicable Federal, State and local laws and regulations.

22. Familiarity with Work By executing this Agreement, Consultant warrants that: 1) it has investigated the work to be performed; 2) it has investigated the site of the work and is aware of all conditions there; and 3) it understands the facilities, difficulties and restrictions of the work under this Agreement. Should Consultant discover any latent or unknown conditions

materially differing from those inherent in the work or as represented by OC San, it shall immediately inform OC San of this and shall not proceed, except at Consultant's risk, until written instructions are received from OC San.

23. Right to Review Services, Facilities, and Records

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

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

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

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

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

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

27. Remedies In addition to other remedies available in law or equity, if the Consultant fails to make delivery of the goods or Services or repudiates its obligations under this Agreement, or if OC San rejects the goods or Services or revokes acceptance of the goods or Services, OC San may (1) terminate the Agreement; (2) recover whatever amount of the purchase price OC San has paid, and/or (3) "cover" by purchasing, or contracting to purchase, substitute goods or Services for those due from Consultant. In the event OC San elects to "cover" as described in (3), OC San shall be entitled to recover from Consultant as damages the difference between the cost of the substitute goods or Services and the Agreement price, together with any incidental or consequential damages.

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

29. **Environmental Compliance** Consultant shall, at its own cost and expense, comply with all Federal, State, and local environmental laws, regulations, and policies which apply to the Consultant, its sub-consultants, and the Services, including, but not limited to, all applicable Federal, State, and local air pollution control laws and regulations.
30. **Attorney's Fees** If any action at law or inequity 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.
31. **Dispute Resolution**
- 31.1 In the event of a dispute as to the construction or interpretation of this Agreement, or any rights or obligations hereunder, the Parties shall first attempt, in good faith, to resolve the dispute by mediation. The Parties shall mutually select a mediator to facilitate the resolution of the dispute. If the Parties are unable to agree on a mediator, the mediation shall be conducted in accordance with the Commercial Mediation Rules of the American Arbitration Agreement, through the alternate dispute resolution procedures of Judicial Arbitration through Mediation Services of Orange County ("JAMS"), or any similar organization or entity conducting an alternate dispute resolution process.
- 31.2 In the event the Parties are unable to timely resolve the dispute through mediation, the issues in dispute shall be submitted to arbitration pursuant to California Code of Civil Procedure, Part 3, Title 9, Sections 1280 et seq. For such purpose, an agreed arbitrator shall be selected, or in the absence of agreement, each party shall select an arbitrator, and those two (2) arbitrators shall select a third. Discovery may be conducted in connection with the arbitration proceeding pursuant to California Code of Civil Procedure Section 1283.05. The arbitrator, or three (3) arbitrators acting as a board, shall take such evidence and make such investigation as deemed appropriate and shall render a written decision on the matter in question. The arbitrator shall decide each and every dispute in accordance with the laws of the State of California. The arbitrator's decision and award shall be subject to review for errors of fact or law in the Superior Court for the County of Orange, with a right of appeal from any judgment issued therein.
32. **Damage to OC San's Property** Any OC San property damaged by Consultant will be subject to repair or replacement by Consultant at no cost to OC San.
33. **Contractor Safety Standards and Human Resources Policies** OC San requires Consultant and its subconsultants to follow and ensure their employees follow all Federal, State, and local regulations as well as Contractor Safety Standards while working at OC San locations. If during the course of the Agreement it is discovered that Contractor Safety Standards do not comply with Federal, State, or local regulations, then the Consultant is required to follow the most stringent regulatory requirement at no additional cost to OC San. Consultant and all of its employees and subconsultants, shall adhere to all applicable Contractor Safety Standards attached hereto in Exhibit "D" and the Human Resources Policies in Exhibit "E".
34. **Freight (F.O.B. Destination)** Consultant assumes full responsibility for all transportation, transportation scheduling, packing, handling, insurance, and other services associated with delivery of all products deemed necessary under this Agreement.
35. **Assignments** Consultant shall not delegate any duties nor assign any rights under this Agreement without the prior written consent of OC San. Any such attempted delegation or assignment shall be void.

36. Conflict of Interest and Reporting

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

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

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

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

39. Authority to Execute The persons executing this Agreement on behalf of the Parties warrant that they are duly authorized to execute this Agreement and that by executing this Agreement, the Parties are formally bound.

40. Read and Understood By signing this Agreement, Consultant represents that it has read and understood the terms and conditions of the Agreement.

41. Entire Agreement This Agreement constitutes the entire agreement of the Parties and supersedes all prior written or oral and all contemporaneous oral agreements, understandings, and negotiations between the Parties with respect to the subject matter hereof.

42. **Notices** All notices under this Agreement must be in writing. Written notice shall be delivered by personal service or sent by registered or certified mail, postage prepaid, return receipt requested, or by any other overnight delivery service which delivers to the noticed destination and provides proof of delivery to the sender. Any facsimile notice must be followed within three (3) days by written notice. Rejection or other refusal to accept or the inability to deliver because of changed address for which no notice was given as provided hereunder shall be deemed to be receipt of the notice, demand or request sent. All notices shall be effective when first received at the following addresses:

OC San: Jackie Lagade
Principal Buyer
Orange County Sanitation District
10844 Ellis Avenue
Fountain Valley, CA 92708-7018

Consultant: Georg S. Krammer
Managing Director
Gallagher Benefit Services, Inc.
2835 Seventh Street
Berkeley, CA 94710

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

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

ORANGE COUNTY SANITATION DISTRICT

Dated: _____ By: _____
David John Shawver
Chair, Board of Directors

Dated: _____ By: _____
Kelly A. Lore
Clerk of the Board

Dated: _____ By: _____
Ruth Zintzun
Purchasing & Contracts Manager

GALLAGHER BENEFIT SERVICES, INC.

Dated: _____ By: _____

Print Name and Title of Officer

CMM

Exhibit “A”
SCOPE OF WORK

**EXHIBIT A
SCOPE OF WORK
Classification & Compensation Studies
2021 ALL EMPLOYEE GROUPS
SPECIFICATION NO. CS-2021-1229BD**

1.0 OVERVIEW

The Orange County Sanitation District (OC San) is seeking a highly qualified and experienced individual or firm (hereinafter referred to as “Consultant”) with a proven track record of accomplishment in similar projects in the public sector, ideally in California and including water and wastewater agencies, to conduct comprehensive Classification and Compensation Studies for all employee groups and provide recommendations to address any anomalies within the current classification and pay structures. The Consultant should provide a list of public sector clients in California. The Consultant should utilize up-to-date methodology, processes, and technology to conduct all aspects of the study, including data collection, research, and communications.

2.0 BACKGROUND INFORMATION

OC San is the third largest wastewater treatment system west of the Mississippi River. For over 65 years OC San has safely collected, treated and disposed or recycled the wastewater generated by 2.6 million people living and working in a 479-square mile area of Orange County, California.

OC San has a Board of Directors (Board), which meets to establish the policies that govern the agency. The 25 Directors are elected public officials, including city mayors or council members, or representatives from local sanitary or water districts, as well as one representative from the Orange County Board of Supervisors.

OC San has two treatment facilities, one in Fountain Valley and one in Huntington Beach, with a Board authorized staffing level of 639 employees. There are six (6) operating departments within the agency: 1) General Manager’s Office; 2) Human Resources; 3) Administrative Services; 4) Environmental Services; 5) Engineering; and 6) Operations and Maintenance.

The following is a list of all OC San job classifications (approximately 134 total) and the number of incumbents (615 total) in each as of January 2021. Note that classifications listed without incumbents may have positions currently under recruitment, and the actual number of allocated positions within a classification may be higher due to vacancies. Any classification marked with an asterisk (*) is a legacy classification with incumbents and will sunset once vacated. Updated data will be provided upon initiation of the study.

Accountant	2	Automotive/Heavy Equip Asst	1
Accounting Assistant I	0	Automotive/Heavy Equip Tech	3
Accounting Assistant II	4	Boat Captain	1
Accounting Supervisor	3	Buyer	2
Administration Manager	1	Chief Plant Operator	2
Administration Supervisor	0	CIP Project Manager*	1
Administrative Assistant	15	Clerk of the Board	1
Assistant Clerk of the Board	1	Construction Insp Supervisor	1
Assistant Engineer	2	Construction Inspector	8
Assistant General Manager	2	Contracts Administrator	3
Associate Engineer	11	Contracts Supervisor	1

Contracts/Purchasing Assistant	5	Lead Plant Operator	10
Control Center Operator	2	Lead Power Plant Operator	1
Controller	1	Lead Storekeeper	2
Cost Estimator	1	Machinist	1
Data Mgmt Tech I	5	Maintenance Manager	1
Data Mgmt Tech II	6	Maintenance Specialist	7
Director of Engineering	1	Maintenance Superintendent	2
Director of Environmental Svcs	1	Maintenance Supervisor	14
Director of Fin & Admin Svcs	0	Maintenance Worker	7
Director of Human Resources	1	Materials Control Supervisor	0
Director Operations & Maint	0	Mechanic	12
Electrical Tech I	2	Mobile Crane Operator	2
Electrical Tech II	13	Office Assistant	5
Engineer	28	Operations Manager	1
Engineering Assistant I	2	Operations Supervisor	12
Engineering Assistant II	4	Operator In Training	2
Engineering Associate	2	Payroll Technician	2
Engineering Manager	5	Planner/Scheduler	1
Engineering Supervisor	10	Plant Operator	29
Environmental Lab & OM Mgr	1	Power Plant Operator I	1
Environmental Specialist	1	Power Plant Operator II	8
Environmental Supervisor	2	Prin Environmental Specialist	7
Environmental Technician	4	Prin Project Controls Analyst	1
Executive Assistant	3	Principal Accountant	3
Facilities Worker/Builder	2	Principal Buyer	1
Facilities Worker/Painter	2	Principal Contracts Admin	2
General Manager	1	Principal Engineer	0
Graphics Designer	1	Principal Human Res Analyst	2
Human Resources Analyst	6	Principal Info Tech Analyst	7
Human Resources & Risk Mgr	1	Principal Public Affairs Speclst	0
Human Resources Assistant	1	Principal Staff Analyst	4
Information Tech Technician II	2	Program Assistant	6
Information Tech Analyst II	4	Public Affairs Specialist	1
Information Tech Analyst III	5	Purchasing & Contracts Mgr	1
Information Tech Supervisor	2	Purchasing Supervisor	1
Information Technology Tech I	2	Records Management Specialist	0
Information Technology Tech II	1	Regulatory Specialist	2
Instrumentation Tech I	1	Reliability Maint Technician	4
Instrumentation Tech II	13	Safety & Health Representative	3
I.T. Systems & Operations Mgr	1	Safety & Health Specialist	1
Lead Electrical Tech	4	Safety & Health Supervisor	1
Lead Facilities Worker	1	Scientist	2
Lead Instrumentation Tech	2	Secretary to General Manager	1
Lead Mechanic	9	Security/Emerg Plng Specialist	1
		Senior Accountant	1

Senior Buyer	2	Senior Scientist	4
Senior Construction Inspector	6	Senior Staff Analyst	4
Senior Contracts Administrator	3	Senior Storekeeper	2
Senior Cost Estimator	1	Source Control Inspector I	1
Senior Engineer	17	Source Control Inspector II	7
Senior Info Tech Analyst	13	Source Control Supervisor	1
Senior Mechanic	31	Sr. Environmental Specialist	15
Senior Planner/ Scheduler	1	Sr. Human Resources Analyst	4
Senior Plant Operator	27	Staff Analyst	4
Senior Public Affairs Specialist	1	Storekeeper	5
Senior Regulatory Specialist	1	Welder/Fabricator	3
Senior Safety & Health Rep	1		

Classification and compensation studies were most recently completed for all classifications in 2016, including represented employee group classifications and unrepresented executive and management classifications. Some of the data from these previous studies was gathered between 2014 and 2015.

An update and review of positions is necessary to validate/revise classifications and ensure appropriate compensation levels. OC San's desired market position is to be competitive with the comparable labor market for fully qualified employees when base pay, non-base building pay and/or total compensation comparisons are made. It is understood that the relative positioning to the market will vary for each job classification and job family, and is a fluid measure that may vary at different points in time.

3.0 SERVICES TO BE PROVIDED

3.1 During Phases I and II, the Consultant shall perform comprehensive classification studies to validate/update OC San's job classifications in accordance with the requirements described in this Scope of Work. The services provided shall include, but not be limited to, the following:

- 3.1.1 Consultant shall conduct orientation meetings with OC San staff, including representatives from each recognized employee organization, to explain the scope of the classification studies, methodology and expected results, and to answer any questions.
- 3.1.2 Consultant meetings will describe, explain the value from an employee perspective, and provide instruction to staff on how to complete Position Description Questionnaire (PDQ) documents, which will be provided to, completed by and obtained from all active employees on a voluntary basis.
- 3.1.3 Consultant shall review all completed PDQs to ensure content is sufficient for successful study completion and follow up with appropriate staff as needed to obtain necessary information and then document how that information was obtained for future reference.
- 3.1.4 Consultant shall interview employees to further analyze and gather additional information about classification duties, which may include:
 - 3.1.4.1 All incumbents in single position classifications.
 - 3.1.4.2 A sampling of incumbents in multiple position classifications.
 - 3.1.4.3 Incumbents who request an interview, as approved by Human Resources.

- 3.1.5 Consultant shall evaluate requests, information, and observations gathered since the previous study pertaining to the classification and compensation systems. This includes items such as suggested revisions to classifications from management, employment standards including educational requirements and required regulatory certifications, desired updates to job series, job families and career progression, housekeeping revisions, salary compaction concerns, etc. The Consultant shall coordinate with the Human Resources Department (HR) for additional information on these items.
 - 3.1.6 As part of the studies, Consultant will assess the appropriateness of the following:
 - 3.1.6.1 Work being completed for each position and the relationship of positions to each other within a job family, division, department and OC San-wide.
 - 3.1.6.2 Current classification structures, reporting relationships, differentiating duties/ characteristics, and structures of duties and responsibilities.
 - 3.1.7 Upon gathering all PDQs and completing employee interviews, Consultant will update existing class specification duties, responsibilities, and minimum qualifications and create revised class specifications, providing rationale for the changes.
 - 3.1.8 Update job families, classification series, benchmark classifications, number of classifications and classification levels as necessary and to maintain internal alignment, providing rationale for the changes.
 - 3.1.9 Follow established titling system for all class levels to ensure appropriate and consistent titling and provide rationale for any recommended changes.
 - 3.1.10 Update physical demands and essential functions for each class specification in accordance with the Americans with Disabilities Act.
 - 3.1.11 Update essential functions for each class specification relative to the Fair Labor Standards Act exemptions (29 C.F.R. Part 541).
 - 3.1.12 Ensure that any compensation updates comply with the Equal Pay Act.
 - 3.1.13 Gather and maintain resource information for future reference consisting of all working papers such as PDQs, class specifications, and related material.
- 3.2 During Phase III, the Consultant shall conduct comprehensive compensation surveys for all classifications in accordance with the requirements described in this Scope of Work. The services provided shall include, but not be limited to, the following:
- 3.2.1 Review and recommend revisions, as applicable, to OC San's existing labor market of the 17 comparison agencies, recently updated in 2015. Note that any updates would require discussions with the Board of Directors and/or committees and meet and confer with represented groups. Develop a presentation for the Board of Directors if recommending modifications to the list of comparison agencies, including the rationale for changes.
 - 3.2.2 Review and provide recommendations, including rationale, to align OC San's compensation structure for all positions in consideration of OC San's current pay practices and policies, internal pay relationships and salary compaction, and the external labor market.

3.2.3 Prepare and submit to HR a compensation survey final report that summarizes and analyzes salary and total compensation labor market data for all benchmark job classifications, to include the following:

- Agencies surveyed
- Comparable class title
- Salary range minimum
- Salary range maximum
- Number of job matches
- Geographic cost of labor factor applied (if applicable)
- 50th percentile (market median)
- 75th percentile (OC San's historic target)
- Market value relative to both 50th percentile (market median) and 75th percentile for benchmark positions
- Percentile placement for each benchmark position for both salary and total compensation relative to market position
- Percent of OC San salary range above/below the market median value
- Explanation and outline of methodology used
- Summary and assessment of OC San's data relative to the market data points
- Review of current pay structure relative to market data points
- Identification of key issues that may need to be addressed
- Recommendations that include rationale for each key issue identified and a proposal for implementation

3.2.4 Make recommendations related to any issues identified, including a cost analysis and fiscal impacts of proposed solutions.

3.3 For the duration of the project, the Consultant shall work under the direction of HR, and shall provide HR with ongoing and regular reports on the status and any issues encountered during the project.

3.4 During Phase I, the Consultant shall become familiar with and work within OC San's policies and procedures throughout the project, particularly those relating to compensation and classification; and provide any recommendations for future policy and procedure changes, as applicable throughout the project, including the rationale for those changes.

3.5 During Phases II and III, the Consultant shall provide HR a recommended strategy for implementing identified changes, if any, within the context of OC San policies and procedures and a represented work environment.

3.6 The following is a breakdown of examples of major tasks to be completed as part of this project and is not intended to represent a complete task plan. Consultant or the HR may propose additional tasks as deemed necessary. Any additional work may be included within the Consultant's contract with OC San.

3.6.1 PHASE I – INITIATION

3.6.1.1 Task 1 – Review and Finalize Work Plan

The Consultant will meet with HR to identify the tasks to be accomplished, specific end products, and a project timetable to satisfactorily complete the overall assignment. HR will provide background information on classification, salary, and the organization to assist the Consultant in gaining a general understanding of OC San operations.

3.6.1.2 Task 2 – Understanding of Other Study Needs

In order to understand and identify specific classification issues, the Consultant will meet with HR staff. These meetings will identify some issues that require further classification study. Subsequent to this task, PDQs can be distributed to employees. Consultant works with HR to review PDQs for quality.

3.6.1.3 Task 3 – Conduct Employee Meetings

The Consultant will first meet with represented employee groups to provide an overview of the study and initiate the process. The Consultant then will meet with all available employees to explain the purpose of the studies and the process involved. The employees' involvement in the studies and their participation in the job analysis interviews will be an important discussion item for this meeting. A detailed PDQ will also be distributed and explained during these sessions.

3.6.1.4 Task 4 – Review Comparison Agencies

Evaluate and recommend any updates, as applicable, to OC San's existing labor market of comparison agencies (17), which were revised in 2015. Review selection factors and which survey agencies are included. Note that any updates would require discussions with the Board of Directors and/or committees, and meet and confer with represented groups. The Consultant will be involved in the process for any updates.

3.6.2 PHASE II – CLASSIFICATION

3.6.2.1 Task 1 – Complete PDQs

Incumbents will complete a PDQ. Prior to distribution, the questionnaire will be reviewed with HR staff and customized as needed to meet the studies' objectives. The completed questionnaires will be reviewed by appropriate management for completeness and accuracy in the process.

3.6.2.2 Task 2 – Review PDQs and Conduct Employee Interviews and/or Follow-Up Meetings

Once the completed PDQ questionnaires are received, the Consultant will conduct a detailed analysis of the questionnaires. Follow-up meetings then may be scheduled and conducted with incumbents where issues or significant changes are identified. Phone or online interviews may be conducted if needed.

3.6.2.3 Task 3 – Prepare Draft Classification Recommendations

Each position will be analyzed relative to information provided in questionnaires and other documentation. The Consultant then will update/revise class specifications. Draft recommendations will be reviewed with HR staff and modifications made, as appropriate, prior to the employee review process.

3.6.2.4 Task 4 – Employee and Stakeholder Review Process

Consultant will assist OC San to ensure employees and other stakeholders, including management and recognized employee organizations, are given the opportunity to provide comments and concerns about class specification changes. Note that proposed changes should be discussed with HR, as manager and employee group input is feedback for consideration and not direction.

3.6.2.5 Task 5 – Prepare and Submit Final Recommendations

Following the review process, the class specifications will be finalized and submitted for approvals. A standardized classification manual for HR use will be developed to include documentation regarding the studies' goals and objectives, approach and process, all resulting recommendations, and differences between classification levels. At this time, all employees that submitted their comments on the drafted class specs during the review process will be notified in writing by HR regarding the outcome of their concerns.

3.6.3 PHASE III – COMPENSATION

3.6.3.1 Task 1 – Confirm Survey Methodology

Prior to initiating the compensation survey, the Consultant will confirm OC San's current labor market, survey benchmark classes, survey scope and policy directives regarding labor market position. Based on the specific goals identified in study initiation tasks, the Consultant will thoroughly analyze potential survey agencies and recommend new survey comparables, as applicable, consistent with OC San's compensation policies and objectives. The Consultant will consider information provided by HR staff.

3.6.3.2 Task 2 – Collect Survey Data

Discuss and consult with HR the compensation survey methodology and specific items to include and report. This includes such items as identifying which benefits to survey for total compensation. Update the list of benchmark positions based on OC San needs. Collect survey data from comparison agencies. Apply a geographic cost of labor factor in data analysis for comparison agencies, if OC San determines this is appropriate. Perform data analysis utilizing up to 17 comparison agencies, and potentially provide alternative analyses including a smaller number of comparison agencies, as requested. The Consultant may be asked to provide private sector data, both base salary and total compensation, for reference also.

- 3.6.3.3 Task 3 – Conduct Internal Relationship/ Alignment Analysis**
Using information gathered in the classification phase, the Consultant will conduct a comprehensive review of internal salary relationships and salary compaction both within and across related job families. This analysis will be integrated with the results of the compensation surveys and will include an analysis of benchmark classifications and discussion of any resulting recommendations and rationale.
- 3.6.3.4 Task 4 – Prepare and Review Draft Compensation Report**
The draft compensation report will document the survey process, all survey analyses, compensation data collected, and related observations/ recommendations. OC San may request data analysis utilizing the current 17 comparison agencies and/ or a smaller number of comparison agencies, as noted above. The Consultant will provide HR with a draft compensation report outlining their recommendations for HR staff review and approval.
- 3.6.3.5 Task 5 – Prepare Final Compensation Report**
The final report will incorporate any appropriate revisions identified and submitted during the review of the draft report.
- 3.6.3.6 Task 6 – Present Final Compensation Report**
The Consultant will make presentations of the studies' results and recommendations to OC San's Board of Directors, Steering Committee, recognized employee organizations, and any other Committee or group as needed.

4.0 PROJECT MANAGEMENT

4.1 Periodic Meetings

Prior to commencement of work by the Consultant, a kick-off meeting with HR staff shall be held to establish appropriate contacts and review the Consultant's plan to complete the work.

Consultant shall meet weekly with OC San staff assigned to the project to review work in progress and receive comments and feedback. Additionally, the Consultant shall prepare weekly progress meetings and review with the OC San assigned HR staff and/or HR management.

The Consultant will conduct a final meeting with OC San HR staff to present the draft final report in accordance with the project schedule.

4.2 Progress Reports

Weekly progress reports shall be prepared by the Consultant and used as the basis of the meeting between OC San and Consultant staff.

4.3 Confidentiality

The Consultant will work with HR to discuss any findings and recommendations. Communication with other individuals or groups should be solely for the purpose of data collection, and the Consultant should not disclose information on study findings or recommendations except in cases where explicitly requested by HR.

5.0 SCHEDULE

The project shall be completed before November 1, 2021, with project milestones to be mutually agreed upon by OC San and the Consultant.