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November 22, 2022

OCSU  
MAIL ROOM

### VIA Certified Mail, Return Receipt Requested

Kelly Lore  
Clerk of the Board of Directors  
Orange County Sanitation District  
10844 Ellis Avenue  
Fountain Valley, CA 92708

**Re: Claim of OHLA USA, Inc. Under Contract No. 2-72B & 2-72C Newhope-Placentia Trunk Sewer Replacement Project**

To Whom it May Concern:

Pursuant to California Government Code §§ 905, et seq. and Public Contract Code § 9204, OHLA USA, Inc. ("OHLA") submits the following claim for compensation. Given the history of discussions and negotiations between representatives of OHLA and the Orange County Sanitation District ("OCSan") regarding the subject of this claim, this Government Code Claim is duplicative of information previously provided and was the subject of the mediation between the parties on October 12, 2022. By submitting this Claim, OHL expressly reserves all rights as to the applicability of, compliance with, and tolling of the period to submit a Government Code claim.

a) **The name and post office address of the claimant**

OHLA USA, Inc.  
1920 Main Street, Ste. 310  
Irvine, CA 92614

b) **The post office address to which the person presenting the claim desires notices be sent**

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c) **The date, place and other circumstances of the occurrence of transaction which gave rise to the claim asserted**

All claims discussed herein arise under Contract No. 2-72B & 2-72C Newhope-Placentia Trunk Sewer Replacement Project between OHLA and OCSan. OHLA previously submitted TIAs Nos. 4 through 10 to OCSan, which outline the basis for the claims contained herein, along with supporting documentation, which OCSan has in its possession. Further, OHLA and OCSan attended a mediation on October 12, 2022 during which the OHLA and OCSan discussed the claims included in this letter. Nevertheless, OHLA presents the following claims pursuant to California Government Code §§ 905, et seq.

1. **Delay and Inefficiency Claim**

A. **Areas 1 & 2**

The City of Anaheim required that no work be done around Angels Stadium during baseball season. OHLA's approved baseline schedule accounted for this restriction. At the start of the Project, OHLA identified design discrepancies in these work Areas and submitted RFI No. 04 on August 15, 2018. While OCSan attempted to resolve the erroneous design, it directed OHL to perform additional potholing. OCSan ultimately realized it needed to re-design the Lateral 2W and City of Anaheim MH-1 and eventually issued revised Contract Drawing No. C5001 and new Contract Drawing C5033. Unfortunately, these new and revised drawings were not issued in time for OHL to perform the work as planned during the 2018-2019 baseball off-season.

The failure of OCSan to provide an accurate design caused a delay to Milestone 1 (completion of Area 1 & 2 before the start of the 2019 baseball season) and caused OHLA to incur additional cost due to the inefficiency of demobilization and eventual remobilization back to these areas the following winter. In an attempt to mitigate the impact of the Lateral 2W and MH-1 redesign, OHLA began re-sequencing its work activities to begin work on other Areas and was unable to start and finish work in Areas 1 & 2 concurrently with the construction of Area 3 as planned. Instead, OHLA had to stop all work, demobilize from Areas 1 & 2 during the summer baseball season, then return to that area in the winter of 2019 after the redesign was complete and baseball season had ended.

Although OCSan revised the Milestone 1 completion date in CO No. 8, it did not grant any time extension for the delays or inefficiencies the redesign and unknown utilities caused.

B. **Area 3**

Work in Area 3 began on September 10, 2018 as planned. However, the City of Anaheim and OCSan directed that additional areas of work and streets could not be opened until pending work was completed. The reasoning behind this change is unclear, but OHLA's best understanding is the City placed a new condition limiting the linear footage of roadway that could be under construction. This restriction does not exist in the contract. Nonetheless, to support the restriction, OCSan identified a note in a traffic control plan that said medians had to be restored before moving to a next phase of work. Of course, this was not an issue in the areas under construction because they were protected by K-rail and so restoring the medians to "control" traffic was a moot point.

The restriction (1) delayed the continuation of work in Area 3 and most importantly prevented the start of work in Area 4 to allow that work to be completed in 180 days and during the 2019 dry seasons. As a result, OHLA had to reassign the crews working on Area 3 to work on Areas 1 & 2. During this time, the equipment that had been previously mobilized to Area 3 sat idle.

C. Area 4

a. Work Restriction and Resequencing of Area 4 Work

OHLA planned to begin work on Area 4 immediately after finishing work in Areas 1 & 2 in the spring of 2019 while a separate crew was finishing Area 3. The Area 4 work required a bypass pipeline and had to be completed in 180 days (Milestone 2). OHLA specifically planned to perform this work during the dry summer season to avoid any rain impacts that would prevent completion in 180 days. This sequence of work was on the Project Critical Path.

On February 6, 2019 during a traffic control coordination meeting and mere days before OHLA was set to mobilize and begin work in Area 4, the City of Anaheim and OCSan restricted OHL from working north of Ball Street in Area 3 directing that new areas of work could not be opened under existing work in Area 1&2 was completed and recovered. OCSan then directed OHLA to return and begin work in Areas 1 & 2 despite the baseball season restriction approaching and the lack of a revised design in those Areas from OCSan. The new limitation on the amount of road area that could be under construction at one time delayed work in Area 3 and prevented the start of Area 4 as planned. The delay to Area 4 now meant some of that work would have to be performed during the 2019/2020 winter which meant rain likely would prevent completion of Milestone 2 in 180 days and a larger, more expensive bypass system would have to be used. The parties explored other options such as tunneling that area but ultimately OCSan was not willing to incur the additional risks and costs of performing the Area 4 work in the winter months. Thus, the work in Area 4 was pushed out to the summer season. To try to mitigate some of the impact to the schedule, OHLA then began to perform work in Area 5 out of sequence during the 2019 and 2020 winter.

The impact to the Area 4 work period ultimately delayed the job approximately one year. The approved baseline schedule had the finishing backfill and paving activities of Area 3 running concurrently with the start of work on Area 4. By adding the new requirement that an Area must be completely finished, and then directing OHLA to work on parts of Areas 1 & 2 instead of Area 4, and ultimately directing OHLA to delay the start of work on Area 4 by a year, OCSan took over the schedule and re-sequenced OHLA's work, delaying completion by at least one year.

OHLA submitted TIA Nos. 4 and 5 to address the time impacts of the work restrictions and sequencing direction. OCSan did not grant any time extension for these impacts.

b. Differing Site Conditions, Conflicts, and Redesign

When OHLA was finally allowed to begin work on Area 4 a year after it was planned, it encountered differing site conditions, including a Metropolitan Water District conflict, unknown and differing utilities, and an unknown water line. OHLA encountered an unknown concrete ductbank that conflicted and interfered with the casing for the new line to be installed by OHLA and conflicted with the contract required shoring system. OCSan directed OHLA to remove the concrete that encroached on the work area and proceed with installation of the new pipe. This, along with several other unknown utilities and buried objects, required OHLA to modify its shoring method.

OHLA also encountered an unknown water line that was different than shown on the Contract Drawings and interfered with the alignment of the new sewer line. OHLA was directed to cease all work in the area while the City of Anaheim and OCSan attempted to isolate the line. An additional differing site condition that impacted OHLA's work was its discovery that the existing field conditions of Lateral 24 would not allow a straight tie-in as shown on the Contract Drawings and required a re-design by OCSan and the City of Anaheim. Once the revised drawing were approved by the City of Anaheim, OCSan directed OHLA to procure the additional materials

needed to execute the new design. These impacts and cessation of work to isolate the water line impacted the work in Area 4 and the Critical Path.

OHLA submitted TIA Nos. 6, 7, and 8 for the impacts due to the differing site conditions, unknown water line, and differing site condition and redesign of Lateral 24. OCSan issued unilateral CO No. 17 for direct costs associated with TIA Nos. 6 and 7 and granted 14 non-compensable days of time extension.

The differing site conditions caused by the utility conflicts and need to redesign made completing Area 4 and milestone 2 impossible. Nonetheless, OCSan has not granted any extensions for these delays and it has continued to assess LDs for the Area 4 delays caused by the erroneous design and Differing Site Conditions.

### c. Landscape

As part of the Project, OHLA had to demolish and remove median irrigation and landscaping to install the new pipelines in Area 4. While the contract contemplated that work in this area could be performed without damage to the landscaping, this turned out to be unrealistic. But, OCSan still initially required that OHLA return the landscaping to its original condition as the contract contemplated. Putting aside that it was unrealistic to preserve the landscaping, it was also impossible to "restore" the old landscaping to its "old" condition. Finally, after some debate, OCSan decided to "upgrade" the landscaping which now required a new landscaping design. This was not issued until around October 2020 when the project was contractually to have been substantially completed. As a result, OCSan and the City of Anaheim ultimately updated and changed the landscape and irrigation design for the Area 4 median 10 months after OHLA submitted its initial RFI notifying OCSan of the need for such direction.

OHLA submitted TIA No. 9 for the delay in obtaining final irrigation and landscape drawings, but OCSan HAS not granted any extension of time for these impacts.

### D. Area 5

The Project was supposed to end with the work in Area 5. However, OHLA discovered a conflict with an existing manhole at Lateral 41E and also performed additional change order work at Lateral 41W. OHL notified OCSan that the existing elevations at Lateral 41E did not match the invert elevations shown on the Contract Drawings. OCSan revised the drawings and directed OHLA to proceed with fabrication of the additional materials needed to implement the changes. Shortly after OHLA began the change order work on Lateral 41E, it notified OCSan of a conflict with an existing gas line at the location of the Lateral 41W installation. Direction on how to proceed with this conflict was provided a week later.

In addition to these changes, when OHLA began to mobilize to that Area, it discovered another contractor doing work for the City of Anaheim in that Area. In an attempt to mitigate and potential delays, OHLA mobilized past the other contractor and began working backwards in Area 5.

These changes in Area 5 occurred concurrently with the time of impact of the landscaping delay in Area 4. The delays to Area 5 caused by the resequencing of work to mitigate delay and other impacts ultimately drove the critical path and the delayed completion of the project. OHLA submitted TIA No. 10 that summarizes these impacts.

## 2. Other Unpaid Contract Amounts

### E. Mainline Manhole Connections (RFC No. 6)

This claim arises from a defect in the design provided by OCSan related to connection details at the manhole bases. OHLA promptly notified OCSan of the discrepancy in the provided

details that required each connection at the manhole bases to have two each of four foot joints if using FRP pipes, as were specified for this Project. Typically, only RCP or VCP pipes would require the type of connection included in the detail for the manhole connections.

OHLA submitted RFC No. 6 to account for this discrepancy. The cost for this change has not been approved by OCSan.

F. Additional Pavement Section Replacement (RFC No. 36)

OCSan and the City of Anaheim directed OHLA to remove and replace additional asphalt concrete beyond the limits and scope required by the Contract. The Contract required OHLA to remove and replace pavement necessary for the installation of Truck Sewer, which was approximately 11 feet wide. The total amount of asphalt removal and replacement required by the contract was 106,283 square feet. However, at the direction of OCSan and the City of Anaheim, OHLA was directed to remove and replace a total of 305,538 square feet. Any asphalt concrete that was damaged outside of the Contract work limits was repaired by OHLA and it is not claiming those costs as additional costs.

OHLA submitted RFC No. 36, RFC No. 50, and RFC No. 68 as well as Correspondence Nos. 110, 117, and 118 to OCSan notifying it of this additional directed work. OHLA also submitted Correspondence Nos. 126, 142, and 187 that summarized the difference in material quantities required by the City of Anaheim and OCSan's direction compared with the Contract requirements and the cost associated with the directed additional work. OCSan has continued to refuse to acknowledge the impact of its directed extra work.

d) A general description of the indebtedness, obligation, injury, damage or loss incurred

The indebtedness arising from OCSan to OHLA includes amounts due for unreimbursed compensable delays and increased cost associated with the above itemized Claims. These claims arise from defective plans and specifications provided by OCSan, and/or delays and disruptions to OHLA's work caused by differing site conditions and other owner-caused issues and directed extra work which are the responsibility of OCSan.

e) The name or names of the public employees causing the injury, damage, or loss

The names of the public employees include: Brad Moore and Dean Fischer.

f) Amount claimed

The amount exceeds \$10,000.00, and is an amount which is within the unlimited jurisdiction of the Superior Court for the State of California.

If additional information or copies of identified documents are needed, please contact me at the email address or phone number listed above.

Sincerely,



Heather L. Frisch

PIERCE KAVCIOGLU ESPINOSA & CESAR LLP