

**SERVICE AGREEMENT
SECTION 115 PENSION TRUST FUND ADMINISTRATION
AND INVESTMENT MANAGEMENT SERVICES
CS-2021-1207BD**

This Service Agreement ("Agreement") is entered into as of the date fully executed below, by and between the ORANGE COUNTY SANITATION DISTRICT, a California special district organized and existing under the County Sanitation District Act of 1939, Health & Safety Code § § 4700 *et seq.* ("OC SAN"), and PHASE II SYSTEMS, a California corporation doing business as PUBLIC AGENCY RETIREMENT SERVICES ("CONSULTANT" or "PARS"). OC SAN and CONSULTANT are sometimes individually referred to in this Agreement as each "Party" and collectively referred to as the "Parties."

WHEREAS, OC SAN desires to establish a Section 115 pension trust; and,

WHEREAS, OC SAN solicited Proposals through the Request for Proposal process in accordance with Ordinance No. OCSD-52; and,

WHEREAS, CONSULTANT submitted a Proposal to OC SAN for Section 115 pension trust fund administration and investment management services (Services); and

WHEREAS, CONSULTANT demonstrated that it is qualified to render the required Services; and

WHEREAS, OC SAN and CONSULTANT desire to enter into an agreement to provide for the required Services.

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

1. Services. CONSULTANT will provide the following Services for the Orange County Sanitation District Public Agencies Post-Employment Benefits Trust (the "Plan"):

(a) Plan Installation Services:

- (1) Meeting with appropriate OC SAN personnel to discuss Plan provisions, implementation timelines, actuarial valuation process, funding strategies, benefit communication strategies, data reporting, and submission requirements for contributions/reimbursements/distributions;
- (2) Providing the necessary analysis and advisory services to finalize these elements of the Plan; and
- (3) Providing the documentation needed to establish the Plan to be reviewed and approved by OC SAN legal counsel. The resulting final Plan documentation must be approved by OC SAN prior to the commencement of PARS Plan Administration Services outlined in paragraph (b) below.

(b) Plan Administration Services:

- (1) Monitoring the receipt of Plan contributions made by OC SAN to the trustee of the PARS Public Agencies Post-Employment Benefits Trust ("Trustee"), based upon information received from OC SAN and the Trustee;
- (2) Performing periodic accounting of Plan Assets, reimbursements, distributions, and investment activity, based upon information received from OC SAN and/or Trustee;
- (3) Coordinating the processing of distribution payments pursuant to authorized direction by OC SAN, and the provisions of the Plan, and, to the extent possible, based upon OC SAN-provided Data (as defined in Paragraph 2, below);
- (4) Coordinating actions with the Trustee as directed by the Plan Administrator within the scope of this Agreement;
- (5) Preparing and submitting a monthly report of Plan activity to OC SAN, unless directed by OC SAN otherwise;
- (6) Preparing and submitting an annual report of Plan activity to OC SAN;
- (7) Facilitating actuarial valuation updates and funding modifications for compliance with the applicable Governmental Accounting Standards Board pronouncements and/or statements, if prefunding Other Post-Employment Benefit obligations;
- (8) Coordinating periodic audits of the Trust; and
- (9) Monitoring Plan and Trust compliance with federal and state laws.

PARS is not licensed to provide and does not offer tax, accounting, legal, investment, or actuarial advice.

2. Information Furnished to Consultant. CONSULTANT will provide the Services contingent upon OC SAN providing CONSULTANT the following information (the "Data"):

(a) Executed Legal Documents:

- (1) Certified Resolution
- (2) Adoption Agreement to the Public Agencies Post-Employment Benefits Trust
- (3) Trustee Investment Forms

(b) Contribution – completed Contribution Transmittal Form signed by the Plan Administrator (or authorized Designee) which contains the following information:

- (1) Agency name
- (2) Contribution amount
- (3) Contribution date
- (4) Contribution method (Check, ACH, Wire)

(c) Distribution – completed Payment Reimbursement/Distribution Form signed by the Plan Administrator (or authorized Designee) which contains the following information:

- (1) Agency name
- (2) Payment reimbursement/distribution amount
- (3) Applicable statement date
- (4) Copy of applicable premium, claim, statement, warrant, and/or administrative expense evidencing payment
- (5) Signed certification of reimbursement/distribution from the Plan Administrator (or authorized Designee)

(d) Other information pertinent to the Services as reasonably requested by CONSULTANT.

It shall be the responsibility of OC SAN to certify the accuracy, content and completeness of the Data so that CONSULTANT may rely on such information without further audit. It shall further be the responsibility of OC SAN to deliver the Data to CONSULTANT in such a manner that allows for a reasonable amount of time for the Services to be performed. CONSULTANT shall be under no duty to question Data received from OC SAN, to compute contributions made to the Plan, to determine or inquire whether contributions are adequate to meet and discharge liabilities under the Plan, or to determine or inquire whether contributions made to the Plan are in compliance with the Plan or applicable law. In addition, CONSULTANT shall not be liable for nonperformance of Services to the extent such nonperformance is caused by or results from erroneous and/or late delivery of Data from OC SAN.

3. Key Personnel. Personnel, as provided in Exhibit “E”, 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 as described in Exhibit “D” to perform Services pursuant to this Agreement.
4. Term. The term of this Agreement shall commence as of the date fully executed below and shall continue until this Agreement is terminated as provided for in section 8 hereof.
5. Fees. CONSULTANT will be compensated for performance of Services, as described in Section 1 of this Agreement based upon the schedule under Exhibit “F”.
6. Notices.

(a) Written Notice. 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 3 days by written notice. Rejection or other refusal to accept or the inability to deliver because of changed address of 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:

To OC SAN: Orange County Sanitation District
Attn.: Director of Finance
10844 Ellis Avenue
Fountain Valley, CA 92708-7018

To CONSULTANT: Public Agency Retirement Services
Attn.: President
4350 Von Karman Avenue, Suite 100
Newport Beach, CA 92660

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

(b) Electronic Delivery. From time to time, CONSULTANT may be required to deliver certain documents to OC SAN such as account information, notices and required disclosures. OC SAN hereby consents to CONSULTANT's use of secured electronic means, such as encrypted email, to make such delivery. This delivery may include notification of the availability of such document(s) on a secured website or web portal, and OC SAN agrees that such notification will constitute "delivery." OC SAN further agrees to provide CONSULTANT with OC SAN email address(s) and to keep this information current at all times by promptly notifying CONSULTANT of any change in email address(s).

OC SAN email address(s):

Assistant General Manager and Director of Finance (Treasurer): LTYNER@OCS.D.COM
Controller: WRITCHIE@OCS.D.COM

7. No Assignment. This Agreement may not be assigned by CONSULTANT without OC SAN's consent.
8. Termination. OC SAN understands that it has the right to terminate this Agreement without penalty within 5 days after entering into this Agreement. If not so terminated, this Agreement may nevertheless be terminated by either Party without penalty upon 60 days prior written notice to the other. Termination will not affect the liabilities or obligations of the Parties arising from transactions initiated prior to termination.
9. Indemnification. CONSULTANT and OC SAN hereby indemnify each other and hold the other harmless, including their respective officers, directors, and employees, from any claim, loss, demand, liability, or expense, including reasonable attorneys' fees and costs, incurred by the other as a consequence of, to the extent, CONSULTANT's or OC SAN's, as the case may be, negligent acts, errors or omissions with respect to the performance of their respective duties hereunder.
10. 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.

In addition to the requirements set forth in Exhibit "C", during the term of this Agreement, CONSULTANT, at its sole cost and expense, shall carry and maintain the following insurance coverage with a company or companies acceptable to OC SAN:

(a) Conditions of Insurance. The provisions of this section apply to all policies of insurance required by this Agreement, including those set forth in Exhibit "C", as follows:

(1) The insurance shall be issued and underwritten by insurance companies acceptable to OC SAN, which shall have an "A-" policyholder's rating (or better) and a financial rating not less than Class VII in accordance with the most current Best's Guide Rating and which shall be authorized in the State of California to issue the lines of insurance specified.

(2) CONSULTANT may satisfy the limit requirements in a single policy or multiple policies, provided, however, that any such additional policies written as excess insurance shall have the same coverage (i.e., "following form") as CONSULTANT's first or primary policy.

(3) Any costs accruing to CONSULTANT, which are attributable to a self-insured retention, deductibles or premium rating programs, which determine premium based on loss experience, shall be for the account of CONSULTANT, and OC SAN shall not be required to participate in any such loss. If any such programs exist, CONSULTANT agrees to protect and defend OC SAN in the same manner as if such cost provisions were not applicable.

(4) CONSULTANT shall present at or prior to the time of execution of this Agreement, original certificates of insurance evidencing that the coverage required hereunder is in force and in compliance with the terms and conditions of this Agreement. A separately executed certificate shall be presented for each insurance carrier providing coverage.

11. Governing Law and Venue. It is understood that this Agreement shall be governed by and construed under and in accordance with the laws of the State of California. Venue for resolution of disputes shall be in Orange County.

12. Severability. Any provision of this Agreement which is prohibited or unenforceable shall be ineffective only to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof.

13. Third Party Rights. Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than OC SAN and CONSULTANT.

14. 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.

15. Entire Agreement; Amendment. 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. This Agreement may be amended at any time in writing by mutual agreement of the Parties.

[SIGNATURE PAGE FOLLOWS]

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

ORANGE COUNTY SANITATION DISTRICT

Dated: _____

By _____
John B. Withers
Board Chairman

Dated: _____

By _____
Kelly A. Lore
Clerk of the Board

Dated: _____

By _____
Ruth Zintzun
Purchasing & Contracts Manager

PUBLIC AGENCY RETIREMENT SERVICES

Dated: _____

By: _____
Tod Hammeras
Chief Financial Officer

- Exhibits: Exhibit "A" – Scope of Work
Exhibit "B" – Proposal
Exhibit "C" – Determined Insurance Requirement Form
Exhibit "D" – Competent Personnel
Exhibit "E" – Key Personnel
Exhibit "F" – Fees for Services

Exhibit A
SCOPE OF WORK
For
Section 115 Pension Trust Administration and Management Services

SCOPE OF WORK
Section 115 Pension Trust Administration and Management Services
CS-2021-1207BD

EXECUTIVE SUMMARY/OVERVIEW

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

Each day we treat approximately 188 million gallons of wastewater, enough water to fill Anaheim stadium over two and a quarter times. About 80 percent of the wastewater comes from homes – sinks, toilets, showers, laundry, and dishwashers. The remaining come from businesses – retail stores, restaurants, manufacturers, hotels, offices, and other industries.

A professional staff of more than 600 employees manages the day-to-day activities of OC San. Our facilities include 388 miles of sewer pipes, located throughout the county, and two treatment plants – one in Fountain Valley, CA and the other in Huntington Beach, CA – where wastewater is treated in accordance with strict state and federal standards.

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

1 Purpose

OC San is seeking one or more qualified firms to establish and oversee OC San's Internal Revenue Service (IRS) Code Section 115 pension trust administration and investment management services.

2 Description

Provide comprehensive administration, trustee, fiduciary investment management & advisory, compliance monitoring, and reporting services to OC San for a Section 115 Pension Trust. A Section 115 trust is a tax-exempt irrevocable pension trust designated to pre-fund pension obligations. Some of the benefits that a Section 115 trust can provide include:

- Act as a reserve fund to offset potential volatility in annual contribution requirements determined by OCERS
- Decrease risk through diversification of plan assets
- Potentially earn higher investment returns, since a Section 115 trust allows investment in a wider array of investment options compared to the OC San portfolio which is strictly restricted by the State regulations

3 Project/Work Elements

OC San intends to obtain the services of one or more qualified firms to provide Section 115 pension trust administration and investment management services as outlined below.

- 3.1** Provide a comprehensive, ready to go multiple employer trust approach.
- 3.2** Implement the trust program within 60 days.
- 3.3** Plan implementation services:
 - 3.3.1** Meet with OC San staff to discuss plan provisions, implementation timelines, actuarial valuation process, funding strategies, benefit communication strategies, data reporting, and submission requirements for contributions/reimbursements/distributions.
 - 3.3.2** Provide the necessary analysis and advisory services to finalize these elements of the Plan.
 - 3.3.3** Provide the documentation needed to establish the Plan to be reviewed and approved by OC San's legal counsel. Resulting final Plan documentation must be approved by the Board prior to the commencement of the administration services.
- 3.4** Offer an IRS-approved irrevocable funding vehicle (with favorable Private Letter Ruling) to protect the OC San's assets long-term.
- 3.5** Provide a full-service program that includes trust administration, trustee, and investment management services.
- 3.6** With OC San staff, develop an Investment Policy for the Section 115 trust.
- 3.7** Work directly with OC San staff to prepare asset allocation guidelines for the trust based upon its investment objectives and risk tolerance parameters.
- 3.8** Provide education and presentations regarding the pension trust program to OC San.
- 3.9** Provide quarterly and annual comparative performance analyses and evaluation reports of the investments of the trust.
- 3.10** Assist with GASB 67/68 reporting.
- 3.11** Coordinate all contributions into the Trust and processes requests for distributions.
- 3.12** Coordinate periodic audits of the Trust

4 Deliverables

At a minimum, the selected Proposer will be expected to provide the following:

- Prepare and submit a monthly report of Plan activity to OC San
- Prepare and submit a quarterly report of Plan activity to OC San
- Prepare and submit an annual report of Plan activity to OC San
- Prepare and make presentations to the Board as requested by OC San

5 Staff Assistance

The Contractor will be assigned a single point of contact on this project. Any meetings and/or correspondence related to this project shall be scheduled and approved by the Project Manager.