

TEMPORARY EMPLOYMENT SERVICES CONTRACT
Specification No. S-2023-1388BD

This TEMPORARY EMPLOYMENT SERVICES CONTRACT (hereinafter referred to as "Contract"), is made and entered into as of the date fully executed below, by and between Orange County Sanitation District (hereinafter referred to as "OC San") and 22nd Century Technologies, Inc. (hereinafter referred to as "Contractor"), and collectively referred to herein as the "Parties."

RECITALS

WHEREAS, OC San desires to temporarily retain the services of Contractor for Temporary Employment Services ("Services") as described in Exhibit "A"; and

WHEREAS, Contractor is qualified to perform the Services by virtue of experience, training, education, and expertise; and

WHEREAS, OC San's Human Resources Department has identified a need for the staffing Services available from Contractor; and

WHEREAS, OC San selected Contractor to provide the Services in accordance with Ordinance No. OC SAN-56; and

WHEREAS, on May 24, 2023, OC San's Board of Directors, by minute order, authorized execution of this Contract.

NOW, THEREFORE, in consideration of the above recitals and the mutual promises and benefits specified below, the Parties agree as follows:

1. General.

1.1 This Contract and all exhibits hereto are made by OC San and the Contractor.

1.2 The following exhibits, in order of precedence, are incorporated by reference and made part of this Contract.

Exhibit "A" – Scope of Work

Exhibit "B" – Statement of Qualifications

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 Contract and any of the provisions of the exhibits hereto, the provisions in the Contract shall control and thereafter the provisions in the document highest in precedence shall be controlling.

1.4 The provisions of this Contract may be amended or waived only by a writing executed by authorized representatives of both Parties hereto.

1.5 The various headings in this Contract are inserted for convenience only and shall not affect the meaning or interpretation of this Contract or any paragraph or provision hereof.

1.6 The term "days", when used in the Contract, shall mean calendar days, unless otherwise noted as business days.

- 1.7 OC San holidays (non-working days) are as follows: New Year's Day, Martin Luther King, Jr. Day, Presidents' Day, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving Day, Day after Thanksgiving, Christmas Eve, and Christmas Day.
- 1.8 Work Hours: The work required under this Contract may include normal business hours, evenings, and weekends. OC San will not pay travel time.
- 1.9 Work Hours – Contractor shall provide Services to OC San for up to five (5) days per week, eight (8) hours per day or a 9/80 schedule which is eight (8) - nine (9) hour days and one (1) - eight (8) hour day in a two-week period at the discretion of OC San. Assignments may also include a 4/10 schedule which is four (4) – ten (10) hour work days, with Fridays off, unless otherwise noted. Additional hours above the forty (40) hours per week or eighty (80) hours in two weeks may be worked if prior written approval is obtained from OC San. Assigned Employees shall work on site generally between OC San's business hours of 6:00 a.m. to 5:00 p.m., with one hour set aside each of these days as non-compensated personal time.
- 1.10 Contractor shall provide OC San with all required premiums and/or overtime work at no charge beyond the price provided under "Compensation" below.
- 1.11 Except as expressly provided otherwise, OC San accepts no liability for any expenses, losses, or action incurred or undertaken by Contractor as a result of work performed in anticipation of purchases of said services by OC San.

2. Scope of Work.

- 2.1 Contractor shall perform the Services identified in Exhibit "A" in accordance with generally accepted industry and professional standards.
- 2.2 Modifications to Scope of Work. OC San shall have the right to modify the Scope of Work at any time. All modifications must be made by an amendment signed by both Parties.
- 2.3 Familiarity with Work. By executing this Contract, Contractor warrants that: (a) it has investigated the work to be performed and (b) it understands the facilities, difficulties, and restrictions of the work under this Contract. Should Contractor discover any latent or unknown condition 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 Contractor's risk, until written instructions are received from OC San.
- 2.4 Performance. Time is of the essence in the performance of the provisions hereof.

3. Contract Term.

- 3.1 The term of this Contract shall be for three (3) years commencing on July 1, 2023 and continuing through June 30, 2026.
- 3.2 Renewals. OC San may exercise the option to renew this Contract for up to two (2) one-year periods based upon the criteria set forth in Exhibit "A", under the terms and conditions contained herein. This Contract may be renewed by OC San Purchase Order. OC San shall make no obligation to renew nor give reason if it elects not to renew. If OC San exercises the renewal periods, each period will start on July 1 and continue through June 30.
- 3.3 Extensions. The term of this Contract may be extended only by written instrument signed by both Parties.

4. Compensation.

- 4.1 Compensation to be paid by OC San will be based upon approved billing rates and markups of selected candidate(s) for actual services provided. This Contract does not provide a minimum guarantee of work and is for services on an as needed basis for each fiscal year as approved by OC San.
- 4.2 At the time the Contractor submits resumes to OC San for consideration, the Contractor shall be required to also supply the billing rates and markups for each of the candidates.
- 4.3 Any changes in billing rates shall have the prior written approval of OC San. OC San, at its sole discretion, reserves the right to refuse any increases other than those mandated either by state or federal law.

5. Payments and Invoicing.

- 5.1 Contractor shall be paid monthly by OC San upon approval of invoices by OC San's Project Manager or designee, for Services rendered as required in Exhibit "A". OC San, at its sole discretion, shall be the determining party as to whether the Services have been satisfactorily completed.
- 5.2 Invoices shall be emailed by Contractor to OC San Accounts Payable at [APStaff@OC San.gov](mailto:APStaff@OCSan.gov) and "INVOICE" with the Purchase Order Number and Specification No. S-2023-1388BD shall be referenced in the subject line.

6. California Department of Industrial Relations (DIR) Registration and Record of Wages.
(Not Used)

7. **Damage to OC San's Property.** Any of OC San's property damaged by Contractor, any subcontractors or by the personnel of either will be subject to repair or replacement by Contractor at no cost to OC San.

8. **Freight (F.O.B. Destination).** Contractor assumes full responsibility for all transportation, transportation scheduling, packing, handling, insurance, and other services associated with delivery of all products deemed necessary under this Contract.

9. **Audit Rights.** Contractor agrees that, during the term of this Contract 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 Contractor relating to the invoices submitted by Contractor pursuant to this Contract.

10. **Contractor Safety Standards and Human Resources Policies.** OC San requires Contractor and its subcontractor(s) to follow and ensure their employees follow all Federal, State, and local regulations as well as the Contractor Safety Standards while working at OC San locations. If, during the course of the Contract, it is discovered that the Contractor Safety Standards do not comply with Federal, State, or local regulations, the Contractor is required to follow the most stringent regulatory requirement at no additional cost to OC San. Contractor, its subcontractors, and all of their employees shall adhere to the safety requirements in Exhibit "A," all applicable Contractor Safety Standards in Exhibit "D," and the Human Resources Policies in Exhibit "E."

11. **Insurance.** Contractor and all subcontractors shall purchase and maintain, throughout the life of this Contract and any periods of warranty or extensions, insurance in amounts equal to the requirements set forth in the signed Acknowledgement of Insurance Requirements

(attached hereto and incorporated herein as Exhibit "C"). Contractor shall not commence work under this Contract until all required insurance is obtained in a form acceptable to OC San, nor shall Contractor allow any subcontractor to commence service pursuant to a subcontract until all insurance required of the subcontractor has been obtained. Failure to maintain required insurance coverage shall result in termination of this Contract.

12. Bonds. (Not Used)

13. Indemnification and Hold Harmless Provision. Contractor shall assume all responsibility for damages to property and/or injuries to persons, including accidental death, which may arise out of or may be caused by Contractor's Services under this Contract, or by its subcontractor(s), or by anyone directly or indirectly employed by Contractor, and whether such damage or injury shall accrue or be discovered before or after the termination of the Contract. Except as to the sole active negligence of or willful misconduct of OC San, Contractor 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 Contractor's performance under the Contract, 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 Contract, and/or (c) on account of any goods and services provided under this Contract. This indemnification provision shall apply to any acts or omissions, willful misconduct, or negligent misconduct, whether active or passive, on the part of Contractor or anyone employed by or working under Contractor. To the maximum extent permitted by law, Contractor'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. Contractor 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 Contract.

14. Independent Contractor.

14.1 The legal relationship between the parties hereto is that of an independent contractor, and nothing herein shall be deemed to make Contractor an OC San employee. During the performance of this Contract, Contractor and its officers, employees, and agents shall act in an independent capacity and shall not act as OC San's officers, employees, or agents. Contractor and its officers, employees, and agents shall obtain no rights to any benefits which accrue to OC San's employees.

14.2 OC San has the right to conduct reference and background checks on the Contractor's recommended personnel.

14.3 OC San has the right to test any of the Contractor's recommended personnel prior to starting work at OC San. Time used for this purpose shall not be charged to OC San.

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

- 14.5 Contractor and its employees shall not be considered an agent of OC San for any purpose whatsoever, nor shall Contractor and its employees have the right to, and shall not, commit OC San to any agreement, contract or undertaking. Contractor and its employees shall not use OC San's name in its promotional material or for any advertising or publicity purposes without express written consent.
- 14.6 Contractor and its employees 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. Contractor shall be responsible for providing, at Contractor's expense, disability, worker's compensation or other insurance as well as licenses and permits usual or necessary for conducting the Services hereunder.
- 14.7 Contractor shall be obligated to pay any and all applicable local, state and federal payroll and other taxes incurred as a result of fees hereunder. Contractor hereby indemnifies OC San for any claims, losses, costs, fees, liabilities, damages or penalties suffered by OC San arising out of Contractor's breach of this provision.
- 14.8 Contractor and its employees 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. Contractor shall remain ineligible for such benefits or participation in such benefit plans even if a court later decides that OC San misclassified Contractor for tax purposes.
- 14.9 OC San has the right to refuse to continue the employment of the Contractor's temporary personnel when OC San determines he/she is unable to perform the assigned duties to OC San's satisfaction.
- 14.10 OC San has the right to have any of the Contractor's temporary personnel not satisfactory to OC San removed from consideration for all OC San assignments.
- 14.11 OC San agrees that it shall not hire any applicant who is currently assigned by the Contractor to work at OC San until applicant has worked on said assignment for a period of six (6) months.
- 14.11.1 OC San is not obligated to pay any fee to the Contractor for any assigned applicant it chooses to hire.
15. **Limitations upon Subcontracting and Assignment.** Contractor shall not delegate any duties nor assign any rights under this Contract without the prior written consent of OC San. Any such attempted delegation or assignment shall be void.
16. **Disclosure.** Contractor agrees not to disclose, to any third party, data or information generated from this project without the prior written consent from OC San.
17. **Non-Liability of OC San Officers and Employees.** No officer or employee of OC San shall be personally liable to Contractor, 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 Contractor or to its successor, or for breach of any obligation for the terms of this Contract.
18. **Third Party Rights.** Nothing in this Contract shall be construed to give any rights or benefits to anyone other than OC San and Contractor.

19. **Applicable Laws and Regulations.** Contractor shall comply with all applicable Federal, State, and local laws, rules, and regulations. Contractor also agrees to indemnify and hold harmless from any and all damages and liabilities assessed against OC San as a result of Contractor's noncompliance therewith. Any permission required by law to be included herein shall be deemed included as a part of this Contract whether or not specifically referenced.
20. **Licenses, Permits, Ordinances and Regulations.** Contractor represents and warrants to OC San that it has obtained and will maintain all licenses, permits, qualifications, 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 the work performed under the terms of this Contract will be paid by Contractor.
21. **Regulatory Requirements.** Contractor shall perform all work under this Contract in strict conformance with applicable Federal, State, and local regulatory requirements including, but not limited to, 40 CFR 122, 123, 124, 257, 258, 260, 261, and 503, Title 22, 23, and California Water Codes Division 2.
22. **Environmental Compliance.** Contractor shall, at its own cost and expense, comply with all Federal, State, and local environmental laws, regulations, and policies which apply to the Contractor, its subcontractors, and the Services, including, but not limited to, all applicable Federal, State, and local air pollution control laws and regulations.
23. **South Coast Air Quality Management District's (SCAQMD) Requirements.** It is Contractor's responsibility that all equipment furnished and installed be in accordance with the latest rules and regulations of the South Coast Air Quality Management District (SCAQMD). All Contract work practices, which may have associated emissions such as sandblasting, open field spray painting or demolition of asbestos containing components or structures, shall comply with the appropriate rules and regulations of the SCAQMD.
24. **Dispute Resolution.**
- 24.1 In the event of a dispute as to the construction or interpretation of this Contract, 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.
- 24.2 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.

25. **Liquidated Damages.** (Not Used)
26. **Remedies.** In addition to other remedies available in law or in equity, if the Contractor fails to make delivery of the goods or Services or repudiates its obligations under this Contract, or if OC San rejects the goods or Services or revokes acceptance of the goods or Services, OC San may (1) cancel the Contract; (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 Contractor. In the event OC San elects to “cover” as described in (3), OC San shall be entitled to recover from Contractor as damages the difference between the cost of the substitute goods or Services and the Contract price, together with any incidental or consequential damages.
27. **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 Contract.
28. **Termination.**
- 28.1 OC San reserves the right to terminate this Contract 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, Contractor shall immediately discontinue all work under this Contract (unless the notice directs otherwise). OC San shall thereafter, within thirty (30) days, pay Contractor for work performed (cost and fee) through the date of termination. Contractor expressly waives any claim to receive anticipated profits to be earned during the uncompleted portion of this Contract. Such notice of termination shall terminate this Contract and release OC San from any further fee, cost, or claim hereunder by Contractor other than for work performed through the date of termination.
- 28.2 OC San reserves the right to terminate this Contract immediately upon OC San’s determination that Contractor is not complying with the Scope of Work requirements, if the level of service is inadequate, or for any other default of this Contract.
- 28.3 OC San may also immediately terminate this Contract for default, in whole or in part, by written notice to Contractor:
- if Contractor becomes insolvent or files a petition under the Bankruptcy Act; or
 - if Contractor sells its business; or
 - if Contractor breaches any of the terms of this Contract; or
 - if the total amount of compensation exceeds the amount authorized under this Contract.
- 28.4 All OC San’s property in the possession or control of Contractor shall be returned by Contractor to OC San on demand or at the expiration or early termination of this Contract, whichever occurs first.
29. **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 Contract, the prevailing party shall be entitled to reasonable attorney's fees, costs and necessary disbursements in addition to any other relief to which he may be entitled.
30. **Waiver.** The waiver of either party of any breach or violation of, or default under, any provision of this Contract, shall not be deemed a continuing waiver by such party of any other provision or of any subsequent breach or violation of this Contract or default

thereunder. Any breach by Contractor 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.

31. **Severability.** If any section, subsection, or provision of this Contract, or any agreement or instrument contemplated hereby, or the application of such section, subsection, or provision is held invalid, the remainder of this Contract 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.
32. **Survival.** The provisions of this Contract dealing with Payment, Warranty, Indemnity, and Forum for Enforcement, shall survive termination or expiration of this Contract.
33. **Governing Law.** This Contract shall be governed by and interpreted under the laws of the State of California and the Parties submit to jurisdiction in the County of Orange, in the event any action is brought in connection with this Contract or the performance thereof.

34. **Notices.**

34.1 All notices under this Contract must be in writing. Written notice shall be delivered by personal service, by electronic telecommunication, 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. 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: Cori Voss
Senior Buyer
Orange County Sanitation District
10844 Ellis Avenue
Fountain Valley, CA 92708
bvoss@ocsan.gov

Contractor: Isha Sharma
Contracts Manager
22nd Century Technologies, Inc.
8251 Greensboro Drive, Suite 900
McLean, VA 22102
sledproposals@tscti.com

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

35. **Read and Understood.** By signing this Contract, Contractor represents that it has read and understood the terms and conditions of the Contract.
36. **Authority to Execute.** The persons executing this Contract on behalf of the Parties warrant that they are duly authorized to execute this Contract and that by executing this Contract, the Parties are formally bound.

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

[Intentionally left blank. Signatures follow on the next page.]

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

ORANGE COUNTY SANITATION DISTRICT

Dated: _____

By: _____
Chad P. Wanke
Chair, Board of Directors

Dated: _____

By: _____
Kelly A. Lore
Clerk of the Board

Dated: _____

By: _____
Ruth Zintzun
Purchasing & Contracts Manager

22ND CENTURY TECHNOLOGIES, INC.

Dated: _____

By: _____

Print Name and Title of Officer

WC

Exhibit “A”

SCOPE OF WORK

**ATTACHMENT A
SCOPE OF WORK
TEMPORARY EMPLOYMENT SERVICES
SPECIFICATION NO. S-2023-1388BD**

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 210 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 comes 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 396 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, seven (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

Orange County Sanitation District (OC San) hires temporary workers for a limited duration, through third-party staffing agency (Contractor), when regular employees are not available to cover for employee absences due to illness, vacation, leave of absence; or to address unforeseen circumstances such as increased work demands due to regulatory changes. In addition, temporary workers are also used for approved special projects and budgeted capital improvement projects (CIP) that are non-engineering related.

OC San budgets annually for temporary employment services based on department requests. OC San's Board of Directors adopts the final annual budget in June. The current fiscal year (FY 2022/2023) budget allocated up to \$574,000 for temporary employment services, for reference. Actual annual expenditures vary based on department requests.

2 Description

- 2.1 The selected Contractor(s) shall provide qualified and competent temporary employees, upon request by OC San. OC San will require temporary employees to possess skills and expertise outlined in the class specifications located on our website: www.ocsan.gov/about-us/jobs.

- 2.2 Temporary staff may be utilized as staffing needs fluctuate due to peak work load periods, extended leaves of absence or specific work projects for which time frames can be determined.
- 2.3 The maximum duration for any temporary employee assignment is one (1) year, unless a temporary employment assignment extension is approved.
- 2.4 Requests are facilitated through the Human Resources Division, who then contacts third-party staffing Contractors to source candidates. Assignments will be specifically provided with estimated time frames, work schedule, and/or hours. Work schedules vary by division needs; 9/80, 4/10, and 5/40.
- 2.5 Assignments using temporary personnel vary based on departments' needs during the contract period. Generally, the requested classifications align with current classifications listed on OC San's website. Some examples of classifications recently covered with temporary personnel include Administrative Assistant, Information Technology Technician, Environmental Technician, Accounting Technician, and Program Assistant.
- 2.6 OC San makes no commitment or guarantee as to the number of personnel that will be requested, the total number of hours required, or the length of time for job assignments under any contract(s) issued as the result of this RFQ. Average duration of assignments generally has been six (6) to 12 months.
- 2.7 OC San has special needs and requirements in relation to each classification and understands that a single proposer may not have the ability to meet OC San's needs and requirements for every position. Therefore, OC San historically has worked with multiple suppliers and may select multiple suppliers through this procurement, with no set number established.

3 Project/Work Elements

- 3.1 The selected Contractor shall strictly adhere to all state and federal laws with respect to employment and discrimination and shall not discriminate against any individual based on protected characteristics, which include race, color, religion, creed, age (40 and over), sex, gender, pregnancy, childbirth, breastfeeding or related medical conditions, gender identity and expression, sexual orientation, marital status, ancestry, national origin, disability (mental and physical), medical condition, genetic information, or military or veteran status.
- 3.2 Depending upon the category and skill level of the required temporary personnel, OC San will:
 - 3.2.1 Request resumes and other employment related information from a Contractor, and OC San may select one or more qualified candidates to interview; or
 - 3.2.2 Select an individual with the appropriate skills and experience and arrange for that person to report to a designated work site on a specified date.

- 3.2.2.1 Contractor shall designate a qualified employee acceptable to OC San at least two (2) working days prior to the date the employee is required to report to work.
- 3.3 Contractor is responsible for pre-screening any candidates they refer to OC San to ensure the candidates possess all the required skills, abilities and experience to perform the assigned tasks. Should OC San determine that a temporary employee does not have the required skills, abilities, or experience, the Contractor will dismiss that person within the first four (4) hours of employment and will not charge OC San for that temporary employee's time.
- 3.4 Temporary personnel shall remain the Contractor's employees and shall not receive or become eligible to receive any OC San employment benefits. Contractor shall be responsible for all payroll withholding requirements and shall provide any and all benefits required by law to each employee as well as conform to the provisions of the Immigration Reform and Control Act of 1986 (Public Law 99-603) by verifying employment eligibility of each person referred to OC San.
- 3.5 Contractor shall be responsible for criminal background screening for all candidates referred through the California Department of Justice as provided in Penal Code section 11105.3.
 - 3.5.1 Contractor shall also request from the California Department of Justice subsequent arrest notifications for each employee who undergoes a criminal background check.
 - 3.5.2 Contractor shall not recommend to OC San any personnel who has been convicted of a violation or attempted violation of any offense specified in Penal Code section 11105.3 or Public Resources Code section 5164.
 - 3.5.3 Contractor shall not recommend any personnel to OC San unless a physician or other qualified medical provider has examined the Contractor's employee and found them to be free of communicable tuberculosis (Pub. Res. Code section 5163).
- 3.6.1 Contractor shall be responsible for all costs for such screening.
- 3.6 Pre-employment physicals may be required for safety sensitive classifications.
 - 3.6.1 Contractor shall be responsible for all costs for such screening and testing.
- 3.7 Contractor shall obtain the following information from any candidates being considered for assignment to OC San.
 - 3.7.1 Does the individual have a family relationship with any OC San employee and/or official?

3.7.1.1 If the answer is "yes", the Contractor shall obtain approval from Human Resources prior to the assignment of the temporary employee.

- 3.8 Should a temporary employee assigned to OC San resign or request reassignment, the Contractor shall provide OC San with such notification within one (1) working day of its knowledge of the action.
- 3.9 Contractor shall be responsible for communicating its benefits, timecard, and safety policies to OC San and to its employees.
- 3.10 Payment of Overtime - Prior approval must be obtained from OC San for all overtime work. With prior approval of overtime, temporary employees shall be paid overtime in accordance with California law.

4 Deliverables

- 4.1 Billing Reports – Contractor shall be required to submit a report each month to OC San's Human Resources Division that includes Assigned Employee(s) name(s), project number(s), bill rate(s), pay rate(s) and hours worked.

5 Rights/Obligations of OC San

- 5.1 Salary Ranges and Rates – OC San shall determine the appropriate pay rate for each temporary employee within the agreed-upon range at the time of each request, based upon the skill, ability, and experience level required and the work to be performed. This salary rate shall be consistent with the salary range for the comparable OC San classification.
 - 5.1.1 At the time the Contractor submits resumes to OC San for consideration, the Contractor shall be required to supply the billing rates and mark-up rates of each of the candidates.
 - 5.1.2 OC San reserves the right to negotiate billing rates with the Contractor. OC San, at its sole discretion, shall be the determining party as to whether billing rates submitted are acceptable for any position required.
 - 5.1.3 Any changes in billing rates shall have the prior written approval of OC San. OC San, at its sole discretion, reserves the right to refuse any increases other than those mandated either by state or federal law.
- 5.2 Reimbursement of Expenses - Occasionally, temporary employees may be required by OC San to drive their personal vehicles for OC San business. Contractor shall provide a means for its employees to report mileage to the Contractor for reimbursement by the Contractor at the current standard IRS mileage rate. Contractor shall then invoice OC San with copies of receipts for the actual amount of such reimbursements.
 - 5.3.1 Personal Protective Equipment (PPE) – OC San may provide personal protective equipment for safety if required but will not

reimburse for PPE that is purchased by the Contractor's employee.

5.3.2 Safety Training – OC San may provide safety training if required but will not reimburse for any safety training purchased by the Contractor or Contractor employee.

5.3.3 Resources – OC San may provide resources such as office equipment or field tools, if necessary, but will not reimburse for any resources purchased by the Contractor or Contractor employee.

5.4 Acknowledgement Required of Employees – Contractor shall require all temporary personnel to acknowledge the following in writing prior to their being assigned to OC San:

5.4.1 That they are not employees of OC San and that their compensation and benefits are to be solely provided by the Agency;

5.4.2 That their assignment to OC San does not entitle them to any right or privilege to apply for or to be appointed to any eligibility list or position of employment with OC San beyond that to which the general public is entitled; and

5.4.3 That OC San has the right to request the Contractor at any time to terminate their assignment to OC San and that they have no recourse against OC San in the event of any such termination.

6 Staff Assistance

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.