



Orange County Council of Governments

REQUEST FOR PROPOSALS (RFP)

0001-21

JANUARY 28, 2021

COMPREHENSIVE GEOSPATIAL PLANNING SOLUTION AND SITE VISUALIZATION SERVICES

IMPORTANT DATES

FEBRUARY 5, 2021 - QUESTIONS DUE BY 5:00 P.M.

FEBRUARY 17, 2021 - PROPOSALS DUE BY 2:00 P.M.

FEBRUARY 19, 2021- INTERVIEWS IF NEEDED

OCCOG Contact: Executive Director Marnie O. Primmer marnie@occog.com

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SECTION I: INTRODUCTION AND INSTRUCTIONS TO RESPONDENTS

A. INTRODUCTION

The Orange County Council of Governments, a California Joint Powers Authority (“OCCOG”), is soliciting proposals from qualified Respondents for Redistricting Support Services. OCCOG intends to award a contract to the successful Respondent that shall provide a Comprehensive Geospatial Planning Solution and Site Visualization Services proposed in accordance with the terms and conditions set forth in Section III – Model Contract, including Attachments. Refer to Section III, Attachment A of this RFP for an expanded description of the Scope of Work.

B. PROPOSED TIME SCHEDULE

DATE	ACTION
1/28/2021	Release of Request for Proposal
2/5/2020	Written questions from Respondents - Due in writing to marnie@occog.com by 5:00 PM Pacific Time
2/17/2020	RFP Closing Date and Time - 2:00 PM Pacific Time via email to marnie@occog.com

C. INSTRUCTIONS TO RESPONDENT(S) AND PROCEDURES FOR SUBMITTAL

1. The Request for Proposals will be posted to the OCCOG website on January 28, 2021 subsequent to approval by the OCCOG Board of Directors and approval from SCAG’s procurement department. Interested proposers will be required to register on the OCCOG website, to allow OCCOG to communicate with all interested Respondents.
2. **Proposals are due on, or prior to, the date and time specified above and on Cover Page and must be submitted electronically via email to marnie@occog.com.** Paper or faxed proposals will not be accepted. OCCOG will not accept proposal(s) after the due date and time specified above in section B.

OCCOG regular business hours:

Monday through Friday
8:00 A.M. to 5:00 P.M.

3. OCCOG has attempted to provide all information available. It is the responsibility of each Respondent to review, evaluate, and, where necessary, request any clarification prior to submission of a proposal. If any person contemplating submitting a response to this Request for Proposals is in doubt as to the true meaning of any part of the solicitation documents attached hereto or finds discrepancies in or omissions from the specifications, they must submit a **written request for clarification/interpretation to OCCOG Executive Director Marnie Primmer via email at marnie@occog.com no later than 5:00 P.M. pacific time on February 5, 2021.**

If clarification or interpretation of this solicitation is considered necessary by OCCOG, a written addendum shall be issued and the information will be posted on OCCOG’s website as well as emailed to all registered proposers. Any interpretation of, or correction to, this solicitation shall

be issued by the County DPA. However, County does not guarantee receipt by Respondent of all addenda. It is the responsibility of each Respondent to periodically check County's on-line bid system to ensure that they have received and reviewed any and all addenda to this solicitation. County will not be responsible for any other explanations, corrections to, or interpretations of the documents, including any oral information. **If an addendum is issued, a signed copy must be included with proposal response.**

3. Each Respondent must provide: **One (1) electronic PDF copy** of their proposal. Proposals shall be formatted on standard letter size, 8.5" x 11". All pages must be numbered and identified sequentially as listed below.
 - Cover Page (No more than 2 pages)
 - Part 1- Respondent Proposal (No more than 20 pages)
 - Part 2- Required Certifications
 - Part 3- Cost Proposal (no more than 2 pages)
 - Part 4- Additional Information (Submit as a separate file. No page limit. May not contain any required information from Parts 1-3)

It is imperative that all Respondents responding to this RFP comply, exactly and completely, with the instructions set forth herein. All responses to this RFP shall be written (except where otherwise provided or noted), concise, straightforward, **and must fully address each requirement and question**. Although not as a substitute for a complete written response, additional material, such as technical documents, may be referenced in any response, if the material is included in the same section as additional information.

Note: All parts of the proposal must be received via email at marnie@occog.com prior to the deadline of 2:00:00 PM pacific time February 17, 2021.

Proposals are NOT to be marked as confidential or proprietary. OCCOG will refuse to consider any proposal so marked. Proposals submitted in response to this RFP may become subject to public disclosure per the California Public Records Act, Government Code Section 6250 et seq. OCCOG shall not be liable in any way for disclosure of any such records. Additionally, all proposals shall become the property of OCCOG. OCCOG reserves the right to make use of any information or ideas in the proposals submitted.

4. By submitting a proposal, the Respondent represents that it has thoroughly examined the OCCOG's requirements and are familiar with the services required under this RFP and that it is qualified and capable of providing the services to achieve the OCCOG's objectives.
5. Each Respondent must submit its proposal in strict accordance with all requirements of this RFP and compliance must be stated in the proposal. **Deviations, clarifications and/or exceptions must be clearly identified and listed separately as alternative items for OCCOG's consideration as specified in Section II; Part 1; "IX. Statement of Compliance."**
6. OCCOG reserves the right to negotiate modifications with any Respondent as necessary to serve the best interests of OCCOG. Any proposal may be rejected if it is conditional, incomplete or

deviates from specifications in this RFP. OCCOG reserves the right to waive, at its discretion, any procedural irregularity, immaterial defects or other improprieties which OCCOG deems reasonably correctable or otherwise not warranting rejection of the proposal. Any waiver will not excuse a Respondent from full compliance.

7. Pre-contractual expenses are not to be included in Respondent's Pricing. OCCOG shall not be liable for any expenses incurred by Respondent in the preparation or submission of their proposal. Pre-contractual expenses are defined as including, but not limited to, expenses incurred by the Respondent in: a) preparing its proposal in response to this RFP; b) submitting that proposal to OCCOG; c) negotiating with OCCOG any matter related to the Respondent's proposal; and d) any other expenses incurred by the Respondent prior to the date of award and execution, if any, of the Contract.
8. Where two or more Respondents desire to submit a single proposal in response to this solicitation, they must do so on a prime/subcontractor basis rather than as a joint venture. OCCOG intends to contract with a single firm that may subcontract with multiple firms (team) but not with multiple firms doing business as a joint venture.

D. EVALUATION PROCESS AND CRITERIA

Proposals will be competitively evaluated by an evaluation committee on the basis of the responsiveness to the questions and requirements in this RFP using the following evaluation criteria, listed in a random order of importance:

1. Respondent's experience and qualifications
2. Work Plan/Technical Approach
3. Staffing Plan
4. Cost proposal
5. Organization/Completeness of Response
6. Degree of Compliance with the Model Contract

All timely submitted Proposals first will be evaluated by the evaluation committee to determine whether the Proposal meets the RFP minimum qualifications stated in Section II, Part A Minimum Qualifications.

Proposals deemed to meet all RFP minimum qualifications will be scored based on the established criteria above, which will have been weighted, and will be assigned points that measure the responsiveness to each identified criterion. The total number of points earned will be tallied for each Proposal, and the Proposals will be rank-ordered based upon the Respondent(s)' submitted written materials.

The evaluation process may be conducted in two phases, based on the evaluation committee decision. The decision whether to conduct two phases rests solely with OCCOG and the decision is final. If the evaluation committee decides to do two phases, Phase I will be an evaluation of the written proposal based on the evaluation criteria for all Respondents and Phase II will be an evaluation of an oral presentation based on some or all of the evaluation criteria for only the highest-rated Respondents in Phase I invited to participate in Phase II.

Phase I: Written proposals will be evaluated solely on the quality of the responses to all questions and requirements of this RFP using the evaluation criteria above.

Phase II: If OCCOG elects to proceed with Phase II, the selected highest-rated Respondents must be prepared to make their oral presentation via zoom or similar online communications platform on **February 19, 2021**. **The Respondent Project Manager and any staff designated as key must be present during the interview**. Respondents must be prepared to discuss all aspects of their proposal in detail, including technical questions. Respondents will not be allowed to alter or amend their written Proposal through the use of the presentation process.

If the evaluation committee decides not to request oral presentations, the written proposals in Phase I shall account for 100% of the total score for all Respondents.

If the evaluation committee decides to request oral presentations, the total score shall be as follows;

- Written Proposal in Phase I: 60%
- Oral Interview in Phase II: 40%

Respondents that OCCOG elects not to invite to participate in Phase II, if any, will not have a total score.

Respondent agrees that the submission of a proposal is permission by Respondent for OCCOG to verify all information contained therein. If OCCOG believes it necessary, additional information may be requested from Respondent. Failure to comply with any such request may disqualify a Respondent from further consideration.

E. SELECTION/AWARD PROCEDURES

Upon completion of the evaluation process, the evaluation committee will make a recommendation for award to the Executive Director. Final award determination is subject to reference checks and past performance and will require OCCOG Board of Directors' approval.

The Model Contract contained in Section III of this solicitation is the contract proposed for execution. It may be modified to incorporate negotiated items and other pertinent terms and conditions set forth in this solicitation, including special conditions and requirements and those added by addendum and necessary attachments to reflect the Respondent's proposal and qualifications.

Negotiations may or may not be conducted with the Respondents; therefore, proposals submitted should contain Respondent's most favorable terms and conditions, since the selection and award may be made without further discussion. **Any exceptions to the terms and conditions of the proposed Model Contract regarding Respondent's inability to comply with any of the provisions thereof are to be declared in the response to the RFP in Section II; Part 2; "7. Statement of Compliance."**

If OCCOG is unable to negotiate a Contract in a timely manner or satisfactorily, OCCOG, in its sole discretion, may terminate negotiations with the selected Respondent and begin negotiations with the next Respondent.

OCCOG reserves the right to: a) negotiate the final Contract with any Respondent(s); b) withdraw this RFP in whole or in part at any time without prior notice (OCCOG makes no representations that any Contract will be awarded to any Respondent responding to this RFP); c) award its total requirements to one Respondent or to apportion those requirements among two or more Respondents; and/or d) reject any proposal as non-responsive, if it is conditional, incomplete or deviates significantly from the services requested in this RFP.

F. W-9 REQUIREMENTS

All Contractors, entering into a contract with OCCOG will be required to submit to OCCOG a federal Form W-9, or form W-8 for foreign vendors. OCCOG will inform the Contractor, at the time of award, if the Form W-9 or W-8, will be required.

In order to comply with this OCCOG requirement, within ten (10) days of notification of selection of award of Contract but prior to official award of Contract, the selected Contractor agrees to furnish to the contract administrator, the Purchasing Agent, or the agency/department deputy purchasing agent the required W-9 or W-8. **A 587/590 Form may be required for out of State Respondents**, see separate attachment Exhibit II for additional information on all these forms.

SECTION II: RESPONSE REQUIREMENTS

Proposals must be prepared simply and economically, in accordance with Section I.C. above, providing a straightforward, concise description of capabilities to satisfy the requirements of this RFP. Emphasis should be on completeness and clarity of content with sufficient detail to allow for accurate evaluation and comparative analysis. OCCOG reserves the right to make ANY inquiry into the responsibility of Respondent.

PART 1- RESPONDENT PROPOSAL

1. COVER PAGE/EXECUTIVE SUMMARY

All Proposals must be accompanied by a cover letter of introduction and executive summary of the Proposal. The cover letter must be signed by person(s) with authority to bind the Respondent. An unsigned or improperly signed Proposal submission is grounds for rejection of the proposal and disqualification from further participation in this RFP process. All Proposals shall acknowledge any addenda issued by the OCCOG for the RFP. Include a statement by Respondent affirming the availability and commitment of the Respondent's project manager and key staff, and the ability of the Respondent to meet the needs of OCCOG for this RFP, including timeline and deliverables.

2. EXPERIENCE & QUALIFICATIONS

This section of the proposal will establish the ability of Respondent to satisfactorily perform the required work by reasons of experience in performing services of a similar nature, demonstrated competence in the services to be provided, strength and stability of the team, staffing capability, work load, record of meeting schedule on similar projects, supportive client reference.

- a. Describe Respondent's history and experience of providing services relevant to Section III, Attachment A, Scope of Work.
- b. Provide a minimum of three (3) references for the services cited as related experience. References shall include the client organization name; name, title, e-mail address, address and telephone number of the person(s) at the client organization who is most knowledgeable about the services performed; a brief description of services provided, and start/end date of work performed. If Respondent proposes to use subconsultant(s) to perform services specified herein, provide at least 1 reference for each subconsultant for similar services provided to their role on the Respondent team. It is Respondent's sole responsibility to ensure that the firm name, location, and point of contact's name, title, and phone number for each identified reference organization is current, complete, and accurate. OCCOG may disqualify Respondent if:
 - i. References fail to substantiate Respondent's description of services provided;
 - ii. References fail to support that Respondent has a continuing pattern of providing capable, productive, and skilled personnel; and,
 - iii. OCCOG is unable to reach the point of contact with reasonable effort. It is respondent's responsibility to inform the point of contact of normal OCCOG working hours.
- c. Provide the name, title and email address of person(s) authorized to bind the Respondent, together with the office address, and telephone number where the work will be performed.
- d. Respondent shall describe additional relevant information concerning the services offered in this RFP that it considers important in evaluating its services.

3. PERSONNEL REQUIREMENTS

Provide resumes of key personnel assigned to this project which includes the following:

- a. Staff Availability to OCCOG
- b. Proposed Role/Title on this Project
- c. Education
- d. Experience/Qualifications
- e. Professional Credentials (where applicable)
- f. Area of Special Expertise

Respondent shall only provide the requested documentation for the individuals that will be working on this project. Respondents should not include personal information on the resumes as the records provided are subject to public disclosure.

4. STAFFING PLAN

- a. Provide a brief narrative with the logic for your team structure and how you plan to manage the staff working on the project.
- b. Provide an **organizational chart** for your project team showing clear lines of communication, and responsibilities for each team member. If subconsultants are part of the Respondent’s team, please identify subconsultant staff on the organizational chart.
- c. Replicate the chart below in your proposal and identify KEY PERSONNEL.

Name	Role on Team	Years of Experience	Length of Time with Firm

The individuals represented as assigned to the Contract must remain working on the Contract throughout the duration of the Contract unless otherwise requested or approved by OCCOG. Substitution of Respondent’s Key Personnel shall be allowed only with prior written approval of OCCOG’s Project Manager.

Respondent may reserve the right to involve other Respondent personnel, as their services are required. The specific individuals will be assigned based on the need and timing of the service/classification required. Assignment of additional key personnel shall be subject OCCOG written approval. OCCOG reserves the right to have any of Respondent’s personnel removed from providing services to OCCOG under this Contract. OCCOG is not required to provide any reason for the request for removal of any Respondent personnel.

- d. Replicate the chart below in your proposal and identify **SUBCONSULTANTS**.

Listed below are subconsultant(s) anticipated by Respondent to perform services specified in Attachment A. Substitution or addition of Respondent subconsultant(s) in any given project function shall be allowed only with prior written approval of OCCOG’s Project Manager.

Company Name & Address	Contact Name and Telephone Number	Project Function

5. WORK PLAN/TECHNICAL APPROACH

Respondent shall provide a brief narrative that addresses the Scope of Work and demonstrates Respondent’s understanding of OCCOG’s needs and requirements including any applicable techniques or methodology to be implemented and the roles of personnel in providing these services. Use of infographics, timelines, and workflow diagrams is encouraged. Special attention should be given to the Respondent’s ability to meet all deadlines for providing deliverables.

6. COST PROPOSAL

Respondent shall complete “Respondent’s Cost Proposal” section below of this RFP. This should be submitted separately from the Respondent’s Technical Proposal.

7. ADDITIONAL INFORMATION (OPTIONAL)

Respondent may provide additional information, including proposed innovations, enhancements, case studies, videos, or marketing materials. There is no page limit for this section of the Proposal. Respondents are cautioned however that OCCOG is not obligated to include these additional informational items in the evaluation of the proposal and therefor no required elements of the Proposal should be included in this section. Additional information is not required to be submitted. If additional information is submitted by the Respondent, that information should be in a separate file, and delivered by the RFP deadline.

PART 2- REQUIRED CERTIFICATIONS

1. MINIMUM QUALIFICATIONS

Respondent shall affirm that Respondent meets the minimum qualifications set forth below.

Respondent must meet all of the following minimum qualifications:

1. The Respondent shall have been in business a minimum of three (3) years.
2. The Respondent shall have experience in providing Geospatial Planning Solution and Site Visualization Services.
3. Respondent must have expertise and experience in working with the ERSI ArcGIS suite of tools.

Respondent hereby certifies that it meets all minimum qualifications set forth above in Section II of this RFP.

(Signature required)

2. CERTIFICATION OF UNDERSTANDING

OCCOG assumes no responsibility for any understanding or representation made by any of its officers, employees or agents during or prior to the execution of any Contract resulting from this solicitation unless:

- A.** Such understanding or representations are expressly stated in the Contract; and,
- B.** The Contract expressly provides that OCCOG therefore assumes the responsibility.

Representations made but not expressly stated and for which liability is not expressly assumed by OCCOG in the Contract shall be deemed only for the information of the Respondent.

By signing below, Respondent certifies that such understanding has been considered in this response.

(Signature required)

3. CERTIFICATE OF INSURANCE

Respondent hereby certifies Respondent's willingness and ability to provide the required insurance coverage and certificates as set forth in Section III, Model Contract by signing below (see Model Contract, Article O. Insurance).

(Signature required)

4. CONFLICT OF INTEREST

Respondent must certify either a or b by signing below:

- a. Respondent certifies current/past financial, business or other relationship(s) with the OCCOG exist/existed as follows:
 - i. Disclose any financial, business or other relationship with the Orange County Council of Governments, or any Orange County Council of Governments Board member, officer or employee, which could affect or influence award of the contract for the services you propose to provide.

(Signature required)

OR

- b. Respondent certifies that no relationships exist/existed as outlined in item a. above.

(Signature required)

5. LITIGATION

Respondent must certify either a or b by signing below:

- a. Respondent certifies current/past litigation as follows:
 - i. Respondent shall provide detailed information regarding litigation (court and case number), liens, or claims involving Respondent, or any company that holds a controlling interest in Respondent, against OCCOG in the past seven (7) years.
 - ii. Respondent shall provide detailed information regarding litigation (court and case number), liens, or claims involving any proposed subcontractors, or any company that holds a controlling interest in subcontractor firm(s), against OCCOG in the past seven (7) years.

(Signature required)

OR

- b. Respondent certifies that Respondent, or any proposed subcontractors do not have any past or current litigation.

(Signature required)

6. NAME/OWNERSHIP CHANGES

Respondent must certify either a or b by signing below:

- a. Respondent certifies past company name changes and/or ownership changes, for Respondent's firm and any proposed subcontractor firm, as follows:
 - i. Respondent shall provide detailed information regarding any company name changes (including legal business names) in the past seven (7) years.
 - ii. Respondent shall provide detailed information regarding any company ownership changes (including legal business names) in the past seven (7) years.

(Signature required)

OR

- b. Respondent certifies that Respondent, or any proposed subcontractors have not had any company name changes or ownership changes in the past seven (7) years.

(Signature required)

7. STATEMENT OF COMPLIANCE

A statement of compliance with all parts of this RFP or a listing of exceptions and suggested changes must be submitted in response to this RFP. ***Respondent must certify either A or B by signing below:***

A. This response is in strict compliance with this RFP including but not limited to, the terms and conditions set forth in Section III - Model Contract and its Attachments, and no exceptions thereto are proposed.

(Signature required)

OR

B. This response is in strict compliance with this RFP including but not limited to, the terms and conditions set forth in Section III - Model Contract and its Attachments, except for those proposed exceptions expressly listed in a separate attachment hereto.

(Signature required)

i. Attachment for each proposed exception must include:

1. The RFP page number and section of the provision Respondent is taking exception to;
2. The complete provision Respondent is taking exception to;
3. The suggested rewording by way of tracked changes (Microsoft Word Format);
4. Reason(s) for submitting the proposed exception;

Any impact the proposed exception may have on the services to be provided

PART 3- RESPONDENT'S COST PROPOSAL

I. FIXED FEE

OCCOG agrees to compensate the Contractor at the fixed rate as set forth for providing Geospatial Planning Solution and 3-D Site Visualization Services for the term of the contract, inclusive of all agreed reimbursable expenses. Payment shall be made upon acceptance of each task as required in the Contract and completion of any phase of the engagement under OCCOG's account, as determined by OCCOG's Project Manager in accordance with the terms and conditions herein.

Respondent must identify proposed fees; provide pricing detail at a fixed rate for the term of the Contract. The fixed rate shall include a breakdown of deliverables, not to exceed hours and fixed costs and expenses for each deliverable directly related to the performance of Redistricting Support Services and work to meet the requirements set forth in the Scope of Work. Mileage, parking, telephone/fax expenses, food, postage and incidental photocopies are not billable and will not be allowed. Unidentified costs will not be paid by OCCOG.

Please propose as stated and required above.

II. CONTINGENCY FEES

Respondent shall describe in detail any additional contingency fees or costs that may be added should Offeror's services be selected (if there are expenses which are considered reimbursable and not included in the flat fee structure, such expenses shall be identified and quantified as fully possible).

Please provide/propose as stated and required above.

III. ADDITIONAL / OPTIONAL SERVICES

Respondent shall provide a list of additional services included at no additional cost and those optional services that may be provided at a specific cost. Please provide cost detail for such services.

Please provide/propose as stated and required above.

Section III: Model Contract

AGREEMENT FOR SERVICES BETWEEN THE ORANGE COUNTY COUNCIL OF GOVERNMENTS AND

THIS AGREEMENT FOR SERVICES (herein "Agreement") is made and entered into this _____ day of _____, 2018 ("Effective Date") by and between the Orange County Council of Governments, a California Joint Powers Authority ("OCCOG") and _____, _____ ("Consultant"). OCCOG and Consultant may be referred to individually as "Party" or collectively as "Parties."

i) RECITALS

A. OCCOG has sought, by issuance of a Request for Proposals or Invitation for Bids, the performance of the services defined and described particularly in Article 1 of this Agreement.

B. Consultant, following submission of a proposal or bid for the performance of the services defined and described particularly in Article 1 of this Agreement, was selected by the OCCOG to perform those services.

C. Pursuant to the OCCOG's Bylaws and Procurement Policy, OCCOG has authority to enter into and execute this Agreement.

D. The Parties desire to formalize the selection of Consultant for performance of those services defined and described particularly in Article 1 of this Agreement and desire that the terms of that performance be as particularly defined and described herein.

ii) OPERATIVE PROVISIONS

NOW, THEREFORE, in consideration of the mutual promises and covenants made by the Parties and contained herein and other consideration, the value and adequacy of which are hereby acknowledged, the parties agree as follows:

ARTICLE 1. SERVICES OF CONSULTANT

1.1 Scope of Services.

In compliance with all terms and conditions of this Agreement, the Consultant shall provide those services specified in the "Scope of Services" attached hereto as Exhibit "A" and incorporated herein by this reference, which may be referred to herein as the "services" or "work" hereunder. As a material inducement to the OCCOG entering into this Agreement, Consultant represents and warrants that it has the qualifications, experience, and facilities necessary to properly perform the services required under this Agreement in a thorough, competent, and professional manner, and is experienced in performing the work and services contemplated herein. Consultant shall at all times faithfully, competently and to the best of its ability, experience and talent, perform all services described herein. Consultant covenants that it shall follow the highest professional standards in performing the work and services required hereunder

and that all materials will be both of good quality as well as fit for the purpose intended. For purposes of this Agreement, the phrase “highest professional standards” shall mean those standards of practice recognized by one or more first-class firms performing similar work under similar circumstances.

1.2 Consultant’s Proposal.

The Scope of Services shall include the scope of work included in Consultant’s proposal, which shall be incorporated herein by this reference as though fully set forth herein. In the event of any inconsistency between the terms of such proposal and this Agreement, the terms of this Agreement shall govern.

1.3 Compliance with Law.

Consultant shall keep itself informed concerning, and shall render all services hereunder in accordance with, all ordinances, resolutions, statutes, rules, and regulations of the OCCOG and any Federal, State or local governmental entity having jurisdiction in effect at the time service is rendered.

1.4 California Labor Law.

If the Scope of Services includes any “public work” or “maintenance work,” as those terms are defined in California Labor Code section 1720 *et seq.* and California Code of Regulations, Title 8, Section 16000 *et seq.*, and if the total compensation is \$1,000 or more, Consultant shall pay prevailing wages for such work and comply with the requirements in California Labor Code section 1770 *et seq.* and 1810 *et seq.*, and all other applicable laws, including the following requirements:

(a) Public Work. The Parties acknowledge that some or all of the work to be performed under this Agreement is a “public work” as defined in Labor Code Section 1720 and that this Agreement is therefore subject to the requirements of Division 2, Part 7, Chapter 1 (commencing with Section 1720) of the California Labor Code relating to public works contracts and the rules and regulations established by the Department of Industrial Relations (“DIR”) implementing such statutes. The work performed under this Agreement is subject to compliance monitoring and enforcement by the DIR. Contractor shall post job site notices, as prescribed by regulation.

(b) Prevailing Wages. Contractor shall pay prevailing wages to the extent required by Labor Code Section 1771. Pursuant to Labor Code Section 1773.2, copies of the prevailing rate of per diem wages are on file at OCCOG’s offices and will be made available to any interested party on request. By initiating any work under this Agreement, Contractor acknowledges receipt of a copy of the Department of Industrial Relations (DIR) determination of the prevailing rate of per diem wages, and Contractor shall post a copy of the same at each job site where work is performed under this Agreement.

(c) Penalty for Failure to Pay Prevailing Wages. Contractor shall comply with and be bound by the provisions of Labor Code Sections 1774 and 1775 concerning the payment of prevailing rates of wages to workers and the penalties for failure to pay prevailing wages. The Contractor shall, as a penalty to the OCCOG, forfeit two hundred dollars (\$200) for each calendar day, or portion thereof, for each worker paid less than the prevailing rates as determined by the DIR for the work or craft in which the worker is employed for any public work done pursuant to this Agreement by Contractor or by any subcontractor.

(d) Payroll Records. Contractor shall comply with and be bound by the provisions of Labor Code Section 1776, which requires Contractor and each subcontractor to: keep accurate payroll records and verify such records in writing under penalty of perjury, as specified in Section 1776; certify and make such payroll records available for inspection as provided by Section 1776; and inform the OCCOG of the location of the records.

(e) Eight-Hour Work Day. Contractor acknowledges that eight (8) hours labor constitutes a legal day's work. Contractor shall comply with and be bound by Labor Code Section 1810.

(f) Penalties for Excess Hours. Contractor shall comply with and be bound by the provisions of Labor Code Section 1813 concerning penalties for workers who work excess hours. The Contractor shall, as a penalty to the OCCOG, forfeit twenty-five dollars (\$25) for each worker employed in the performance of this Agreement by the Contractor or by any subcontractor for each calendar day during which such worker is required or permitted to work more than eight (8) hours in any one calendar day and forty (40) hours in any one calendar week in violation of the provisions of Division 2, Part 7, Chapter 1, Article 3 of the Labor Code. Pursuant to Labor Code section 1815, work performed by employees of Contractor in excess of eight (8) hours per day, and forty (40) hours during any one week shall be permitted upon public work upon compensation for all hours worked in excess of 8 hours per day at not less than one and one-half (1½) times the basic rate of pay.

(g) Workers' Compensation. California Labor Code Sections 1860 and 3700 provide that every employer will be required to secure the payment of compensation to its employees if it has employees. In accordance with the provisions of California Labor Code Section 1861, Contractor certifies as follows:

"I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract."

Contractor's Authorized Initials _____

(i) Contractor's Responsibility for Subcontractors. For every subcontractor who will perform work under this Agreement, Contractor shall be responsible for such subcontractor's compliance with Division 2, Part 7, Chapter 1 (commencing with Section 1720) of the California Labor Code, and shall make such compliance a requirement in any contract with any subcontractor for work under this Agreement. Contractor shall be required to take all actions necessary to enforce such contractual provisions and ensure subcontractor's compliance, including without limitation, conducting a review of the certified payroll records of the subcontractor on a periodic basis or upon becoming aware of the failure of the subcontractor to pay his or her workers the specified prevailing rate of wages. Contractor shall diligently take corrective action to halt or rectify any such failure by any subcontractor.

1.5 Licenses, Permits, Fees and Assessments.

Consultant shall obtain at its sole cost and expense such licenses, permits and approvals as may be required by law for the performance of the services required by this Agreement. Consultant shall have the sole obligation to pay for any fees, assessments and taxes, plus applicable penalties and interest, which may be imposed by law and arise from or are necessary for the Consultant's performance of the services required by this Agreement, and shall indemnify, defend and hold harmless OCCOG, its officers,

employees or agents of OCCOG, against any such fees, assessments, taxes, penalties or interest levied, assessed or imposed against OCCOG hereunder.

1.6 Familiarity with Work.

By executing this Agreement, Consultant warrants that Consultant (i) has thoroughly investigated and considered the scope of services to be performed, (ii) has carefully considered how the services should be performed, and (iii) fully understands the facilities, difficulties and restrictions attending performance of the services under this Agreement. If the services involve work upon any site, Consultant warrants that Consultant has or will investigate the site and is or will be fully acquainted with the conditions there existing, prior to commencement of services hereunder. Should the Consultant discover any latent or unknown conditions, which will materially affect the performance of the services hereunder, Consultant shall immediately inform the OCCOG of such fact and shall not proceed except at Consultant's risk until written instructions are received from the Project Manager.

1.7 Software and Computer Services.

If the Scope of Services includes the provision and/or installation of any software, computer system, or other computer technology, Consultant represents and warrants that it has inspected the OCCOG's current infrastructure, equipment, computer system and software and that the software, computer system, or other computer technology provided and/or installed by Consultant under this Agreement is compatible, and shall be fully functional, with such infrastructure, equipment, computer system and software of the OCCOG. Consultant acknowledges that the OCCOG is relying on the representation by Consultant as a material consideration in entering into this Agreement.

1.8 Care of Work.

The Consultant shall adopt reasonable methods during the life of the Agreement to furnish continuous protection to the work, and the equipment, materials, papers, documents, plans, studies and/or other components thereof to prevent losses or damages, and shall be responsible for all such damages, to persons or property, until acceptance of the work by OCCOG, except such losses or damages as may be caused by OCCOG's own negligence.

1.9 Further Responsibilities of Parties.

Both parties agree to use reasonable care and diligence to perform their respective obligations under this Agreement. Both parties agree to act in good faith to execute all instruments, prepare all documents and take all actions as may be reasonably necessary to carry out the purposes of this Agreement. Unless hereafter specified, neither party shall be responsible for the service of the other.

1.10 Additional Services.

OCCOG shall have the right, subject to state law and the OCCOG's Municipal Code, at any time during the performance of the services, without invalidating this Agreement, to order extra work beyond that specified in the Scope of Services or make changes by altering, adding to or deducting from said work. No such extra work may be undertaken unless a written order is first given by the Project Manager to the Consultant, incorporating therein any adjustment in (i) the Contract Sum for the actual costs of the extra work, and/or (ii) the time to perform this Agreement, which said adjustments are subject to the written approval of the Consultant. Any increase in compensation for extra work shall require the approval of

OCCOG Board unless the OCCOG Board has previously authorized the OCCOG Executive Director to approve an increase in compensation and the amount of the increase does not exceed such authorization. It is expressly understood by Consultant that the provisions of this Section shall not apply to services specifically set forth in the Scope of Services. Consultant hereby acknowledges that it accepts the risk that the services to be provided pursuant to the Scope of Services may be more costly or time consuming than Consultant anticipates and that Consultant shall not be entitled to additional compensation therefor. OCCOG may in its sole and absolute discretion have similar work done by other contractors. No claims for an increase in the Contract Sum or time for performance shall be valid unless the procedures established in this Section are followed.

1.11 Special Requirements.

Additional terms and conditions of this Agreement, if any, which are made a part hereof are set forth in the "Special Requirements" attached hereto as Exhibit "B" and incorporated herein by this reference. In the event of a conflict between the provisions of Exhibit "B" and any other provisions of this Agreement, the provisions of Exhibit "B" shall govern.

ARTICLE 2. COMPENSATION AND METHOD OF PAYMENT.

2.1 Contract Sum.

Subject to any limitations set forth in this Agreement, OCCOG agrees to pay Consultant the amounts specified in the "Schedule of Compensation" attached hereto as Exhibit "C" and incorporated herein by this reference. The total compensation, including reimbursement for actual expenses, shall not exceed [REDACTED] Dollars (\$ [REDACTED]) (the "Contract Sum"), unless additional compensation is approved pursuant to Section 1.10.

2.2 Method of Compensation.

The method of compensation may include: (i) a lump sum payment upon completion; (ii) payment in accordance with specified tasks or the percentage of completion of the services, less contract retention; (iii) payment for time and materials based upon the Consultant's rates as specified in the Schedule of Compensation, provided that (a) time estimates are provided for the performance of sub tasks, (b) contract retention is maintained, and (c) the Contract Sum is not exceeded; or (iv) such other methods as may be specified in the Schedule of Compensation.

2.3 Reimbursable Expenses.

Compensation may include reimbursement for actual and necessary expenditures for reproduction costs, telephone expenses, and travel expenses approved by the Project Manager in advance, or actual subcontractor expenses of an approved subcontractor pursuant to Section 4.5, and only if specified in the Schedule of Compensation. The Contract Sum shall include the attendance of Consultant at all project meetings reasonably deemed necessary by the OCCOG. Coordination of the performance of the work with OCCOG is a critical component of the services. If Consultant is required to attend additional meetings to facilitate such coordination, Consultant shall not be entitled to any additional compensation for attending said meetings.

2.4 Invoices.

Each month Consultant shall furnish to OCCOG an original invoice for all work performed and expenses incurred during the preceding month in a form approved by OCCOG's Treasurer. By submitting an invoice for payment under this Agreement, Consultant is certifying compliance with all provisions of the Agreement. Consultant shall not invoice OCCOG for any duplicate services performed by more than one person.

All invoices shall be submitted by email to john@occog.com. Each invoice is to include:

- (a) Line items for all personnel describing the work performed, the number of hours worked, and the hourly rate.
- (b) Line items for all materials and equipment properly charged to the Services.
- (c) Line items for all other approved reimbursable expenses claimed, with supporting documentation.
- (d) Line items for all approved subcontractor labor, supplies, equipment, materials, and travel properly charged to the Services.
- (e) If this Agreement requires prevailing wages, per Section 1.4 of the Agreement, all invoices shall include a copy of Consultant's Certified Payroll and proof that Certified Payroll has been submitted to the DIR. Consultant shall also submit a list of the prevailing wage rates for all employees and subcontractors providing services under this Agreement, as applicable, with Consultant's first invoice. If these rates change at any time during the term of the Agreement, Consultant shall submit a new list of rates to the OCCOG with its first invoice following the effective date of the rate change.

OCCOG shall independently review each invoice submitted by the Consultant to determine whether the work performed and expenses incurred are in compliance with the provisions of this Agreement. Except as to any charges for work performed or expenses incurred by Consultant which are disputed by OCCOG, or as provided in Section 7.3, OCCOG will use its best efforts to cause Consultant to be paid within forty-five (45) days of receipt of Consultant's correct and undisputed invoice; however, Consultant acknowledges and agrees that due to OCCOG warrant run procedures, the OCCOG cannot guarantee that payment will occur within this time period. In the event any charges or expenses are disputed by OCCOG, the original invoice shall be returned by OCCOG to Consultant for correction and resubmission. Review and payment by OCCOG for any invoice provided by the Consultant shall not constitute a waiver of any rights or remedies provided herein or any applicable law.

2.5 Waiver.

Payment to Consultant for work performed pursuant to this Agreement shall not be deemed to waive any defects in work performed by Consultant.

2.6 Contingency of Funds.

Consultant acknowledges that funding or portions of funding for this Agreement may be contingent upon State budget approval; receipt of funds from, and/or obligation of funds by the State of California to OCCOG; or inclusion of sufficient funding for the services hereunder in the budget approved

by OCCOG Board for each fiscal year covered by this Agreement. If such approval, funding or appropriations are not forthcoming, or are otherwise limited, OCCOG may immediately terminate or modify this Agreement without penalty.

ARTICLE 3. PERFORMANCE SCHEDULE

3.1 Time of Essence.

Time is of the essence in the performance of this Agreement.

3.2 Schedule of Performance.

Consultant shall commence the services pursuant to this Agreement upon receipt of a written notice to proceed and shall perform all services within the time period(s) established in the "Schedule of Performance" attached hereto as Exhibit "D" and incorporated herein by this reference. When requested by the Consultant, extensions to the time period(s) specified in the Schedule of Performance may be approved in writing by the Project Manager but not exceeding one hundred eighty (180) days cumulatively.

3.3 Force Majeure.

The time period(s) specified in the Schedule of Performance for performance of the services rendered pursuant to this Agreement shall be extended because of any delays due to unforeseeable causes beyond the control and without the fault or negligence of the Consultant, including, but not restricted to, acts of God or of the public enemy, unusually severe weather, fires, earthquakes, floods, epidemics, quarantine restrictions, riots, strikes, freight embargoes, wars, litigation, and/or acts of any governmental agency, including the OCCOG, if the Consultant shall within ten (10) days of the commencement of such delay notify the Project Manager in writing of the causes of the delay. The Project Manager shall ascertain the facts and the extent of delay, and extend the time for performing the services for the period of the enforced delay when and if in the judgment of the Project Manager such delay is justified. The Project Manager's determination shall be final and conclusive upon the parties to this Agreement. In no event shall Consultant be entitled to recover damages against the OCCOG for any delay in the performance of this Agreement, however caused, Consultant's sole remedy being extension of the Agreement pursuant to this Section.

3.4 Term.

Unless earlier terminated in accordance with Article 7 of this Agreement, this Agreement shall continue in full force and effect until completion of the services, which shall be no later than June 30, 20[REDACTED], except as otherwise provided in the Schedule of Performance (Exhibit "D"). This Agreement may be renewed by a written amendment for up to an additional [REDACTED] () year(s) at the option of the OCCOG if the OCCOG is satisfied with the quality of services performed by Consultant under this Agreement.

ARTICLE 4. COORDINATION OF WORK

4.1 Representatives and Personnel of Consultant.

The following principals of Consultant (“Principals”) are hereby designated as being the principals and representatives of Consultant authorized to act in its behalf with respect to the work specified herein and make all decisions in connection therewith:

(Name) (Title)

(Name) (Title)

It is expressly understood that the experience, knowledge, capability and reputation of the foregoing principals were a substantial inducement for OCCOG to enter into this Agreement. Therefore, the foregoing principals shall be responsible during the term of this Agreement for directing all activities of Consultant and devoting sufficient time to personally supervise the services hereunder. All personnel of Consultant, and any authorized agents, shall at all times be under the exclusive direction and control of the Principals. For purposes of this Agreement, the foregoing Principals may not be replaced nor may their responsibilities be substantially reduced by Consultant without the express written approval of OCCOG. Additionally, Consultant shall utilize only competent personnel to perform services pursuant to this Agreement. Consultant shall make every reasonable effort to maintain the stability and continuity of Consultant’s staff and subcontractors, if any, assigned to perform the services required under this Agreement. Consultant shall notify OCCOG of any changes in Consultant’s staff and subcontractors, if any, assigned to perform the services required under this Agreement, prior to and during any such performance.

4.2 Status of Consultant.

Consultant shall have no authority to bind OCCOG in any manner, or to incur any obligation, debt or liability of any kind on behalf of or against OCCOG, whether by contract or otherwise, unless such authority is expressly conferred under this Agreement or is otherwise expressly conferred in writing by OCCOG. Consultant shall not at any time or in any manner represent that Consultant or any of Consultant’s officers, employees, or agents are in any manner officials, officers, employees or agents of OCCOG. Neither Consultant, nor any of Consultant’s officers, employees or agents, shall obtain any rights to retirement, health care or any other benefits which may otherwise accrue to OCCOG’s employees. Consultant expressly waives any claim Consultant may have to any such rights.

4.3 Project Manager.

The Project Manager shall be OCCOG Executive Director Marnie O. Primmer or any other person as may be designated by the Project Manager. It shall be the Consultant’s responsibility to assure that the Project Manager is kept informed of the progress of the performance of the services and the Consultant shall refer any decisions which must be made by OCCOG to the Project Manager. Unless otherwise specified herein, any approval of OCCOG required hereunder shall mean the approval of the Project Manager. The Project Manager shall have authority, if specified in writing by the OCCOG Executive Director, to sign all documents on behalf of the OCCOG required hereunder to carry out the terms of this Agreement.

4.4 Independent Consultant.

Neither the OCCOG nor any of its employees shall have any control over the manner, mode or means by which Consultant, its agents or employees, perform the services required herein, except as otherwise set forth herein. OCCOG shall have no voice in the selection, discharge, supervision or control of Consultant's employees, servants, representatives or agents, or in fixing their number, compensation or hours of service. Consultant shall perform all services required herein as an independent contractor of OCCOG and shall remain at all times as to OCCOG a wholly independent contractor with only such obligations as are consistent with that role. Consultant shall not at any time or in any manner represent that it or any of its agents or employees are agents or employees of OCCOG. OCCOG shall not in any way or for any purpose become or be deemed to be a partner of Consultant in its business or otherwise or a joint venture or a member of any joint enterprise with Consultant.

4.5 Prohibition Against Subcontracting or Assignment.

The experience, knowledge, capability and reputation of Consultant, its principals and employees were a substantial inducement for the OCCOG to enter into this Agreement. Therefore, Consultant shall not contract with any other entity to perform in whole or in part the services required hereunder without the express written approval of the OCCOG. In addition, neither this Agreement nor any interest herein may be transferred, assigned, conveyed, hypothecated or encumbered voluntarily or by operation of law, whether for the benefit of creditors or otherwise, without the prior written approval of OCCOG. Transfers restricted hereunder shall include the transfer to any person or group of persons acting in concert of more than twenty five percent (25%) of the present ownership and/or control of Consultant, taking all transfers into account on a cumulative basis. In the event of any such unapproved transfer, including any bankruptcy proceeding, this Agreement shall be void. No approved transfer shall release the Consultant or any surety of Consultant of any liability hereunder without the express consent of OCCOG.

ARTICLE 5. INSURANCE AND INDEMNIFICATION

5.1 Insurance Coverages.

Without limiting Consultant's indemnification of OCCOG, and prior to commencement of any services under this Agreement, Consultant shall obtain, provide and maintain at its own expense during the term of this Agreement, policies of insurance of the type and amounts described below and in a form satisfactory to OCCOG.

(a) General liability insurance. Consultant shall maintain commercial general liability insurance with coverage at least as broad as Insurance Services Office form CG 00 01, in an amount not less than \$1,000,000 per occurrence, \$2,000,000 general aggregate, for bodily injury, personal injury, and property damage. The policy must include contractual liability that has not been amended. Any endorsement restricting standard ISO "insured contract" language will not be accepted.

(b) Automobile liability insurance. Consultant shall maintain automobile insurance at least as broad as Insurance Services Office form CA 00 01 covering bodily injury and property damage for all activities of the Consultant arising out of or in connection with Services to be performed under this Agreement, including coverage for any owned, hired, non-owned or rented vehicles, in an amount not less than \$1,000,000 combined single limit for each accident.

(c) Professional liability (errors & omissions) insurance. Consultant shall maintain professional liability insurance that covers the Services to be performed in connection with this Agreement, in the minimum amount of \$1,000,000 per claim and in the aggregate. Any policy inception

date, continuity date, or retroactive date must be before the effective date of this Agreement and Consultant agrees to maintain continuous coverage through a period no less than three (3) years after completion of the services required by this Agreement.

(d) Workers' compensation insurance. Consultant shall maintain Workers' Compensation Insurance (Statutory Limits) and Employer's Liability Insurance (with limits of at least \$1,000,000).

(e) Subcontractors. Consultant shall include all subcontractors as insureds under its policies or shall furnish separate certificates and certified endorsements for each subcontractor. All coverages for subcontractors shall include all of the requirements stated herein.

(f) Additional Insurance. Policies of such other insurance, as may be required in the Special Requirements in Exhibit "B".

5.2 General Insurance Requirements.

(a) Proof of insurance. Consultant shall provide certificates of insurance to OCCOG as evidence of the insurance coverage required herein, along with a waiver of subrogation endorsement for workers' compensation. Insurance certificates and endorsements must be approved by OCCOG's Risk Manager prior to commencement of performance. Current certification of insurance shall be kept on file with OCCOG at all times during the term of this Agreement. OCCOG reserves the right to require complete, certified copies of all required insurance policies, at any time.

(b) Duration of coverage. Consultant shall procure and maintain for the duration of this Agreement insurance against claims for injuries to persons or damages to property, which may arise from or in connection with the performance of the Services hereunder by Consultant, its agents, representatives, employees or subconsultants.

(c) Primary/noncontributing. Coverage provided by Consultant shall be primary and any insurance or self-insurance procured or maintained by OCCOG shall not be required to contribute with it. The limits of insurance required herein may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of OCCOG before the OCCOG's own insurance or self-insurance shall be called upon to protect it as a named insured.

(d) OCCOG's rights of enforcement. In the event any policy of insurance required under this Agreement does not comply with these specifications or is canceled and not replaced, OCCOG has the right but not the duty to obtain the insurance it deems necessary and any premium paid by OCCOG will be promptly reimbursed by Consultant or OCCOG will withhold amounts sufficient to pay premium from Consultant payments. In the alternative, OCCOG may cancel this Agreement.

(e) Acceptable insurers. All insurance policies shall be issued by an insurance company currently authorized by the Insurance Commissioner to transact business of insurance or that is on the List of Approved Surplus Line Insurers in the State of California, with an assigned policyholders' Rating of A- (or higher) and Financial Size Category Class VI (or larger) in accordance with the latest edition of Best's Key Rating Guide, unless otherwise approved by the OCCOG's Risk Manager.

(f) Waiver of subrogation. All insurance coverage maintained or procured pursuant to this agreement shall be endorsed to waive subrogation against OCCOG, its elected or appointed officers, agents, officials, employees and volunteers or shall specifically allow Consultant or others providing insurance evidence in compliance with these specifications to waive their right of recovery prior to a loss. Consultant hereby waives its own right of recovery against OCCOG, and shall require similar written express waivers and insurance clauses from each of its subconsultants.

(g) Enforcement of contract provisions (non-estoppel). Consultant acknowledges and agrees that any actual or alleged failure on the part of the OCCOG to inform Consultant of non-compliance with any requirement imposes no additional obligations on the OCCOG nor does it waive any rights hereunder.

(h) Requirements not limiting. Requirements of specific coverage features or limits contained in this section are not intended as a limitation on coverage, limits or other requirements, or a waiver of any coverage normally provided by any insurance. Specific reference to a given coverage feature is for purposes of clarification only as it pertains to a given issue and is not intended by any party or insured to be all inclusive, or to the exclusion of other coverage, or a waiver of any type. If the Consultant maintains higher limits than the minimums shown above, the OCCOG requires and shall be entitled to coverage for the higher limits maintained by the Consultant. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the OCCOG.

(i) Notice of cancellation. Consultant agrees to oblige its insurance agent or broker and insurers to provide to OCCOG with a thirty (30) day notice of cancellation (except for nonpayment for which a ten (10) day notice is required) or nonrenewal of coverage for each required coverage.

(j) Additional insured status. General liability policies shall provide or be endorsed to provide that OCCOG and its officers, officials, employees, and agents, and volunteers shall be additional insureds under such policies. This provision shall also apply to any excess/umbrella liability policies.

(k) Prohibition of undisclosed coverage limitations. None of the coverages required herein will be in compliance with these requirements if they include any limiting endorsement of any kind that has not been first submitted to OCCOG and approved of in writing.

(l) Separation of insureds. A severability of interests provision must apply for all additional insureds ensuring that Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the insurer's limits of liability. The policy(ies) shall not contain any cross-liability exclusions.

(m) Pass through clause. Consultant agrees to ensure that its subconsultants, subcontractors, and any other party involved with the project who is brought onto or involved in the project by Consultant, provide the same minimum insurance coverage and endorsements required of Consultant. Consultant agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this section. Consultant agrees that upon request, all agreements with consultants, subcontractors, and others engaged in the project will be submitted to OCCOG for review.

(n) Agency's right to revise specifications. The OCCOG reserves the right at any time during the term of the contract to change the amounts and types of insurance required by giving the

Consultant ninety (90) days advance written notice of such change. If such change results in substantial additional cost to the Consultant, the OCCOG and Consultant may renegotiate Consultant's compensation.

(o) Self-insured retentions. Any self-insured retentions must be declared to and approved by OCCOG. OCCOG reserves the right to require that self-insured retentions be eliminated, lowered, or replaced by a deductible. Self-insurance will not be considered to comply with these specifications unless approved by OCCOG.

(p) Timely notice of claims. Consultant shall give OCCOG prompt and timely notice of claims made or suits instituted that arise out of or result from Consultant's performance under this Agreement, and that involve or may involve coverage under any of the required liability policies.

(q) Additional insurance. Consultant shall also procure and maintain, at its own cost and expense, any additional kinds of insurance, which in its own judgment may be necessary for its proper protection and prosecution of the work.

5.3 Indemnification.

To the full extent permitted by law, Consultant agrees to indemnify, defend and hold harmless the OCCOG, its officers, employees and agents ("Indemnified Parties") against, and will hold and save them and each of them harmless from, any and all actions, either judicial, administrative, arbitration or regulatory claims, damages to persons or property, losses, costs, penalties, obligations, errors, omissions or liabilities whether actual or threatened (herein "claims or liabilities") that may be asserted or claimed by any person, firm or entity arising out of or in connection with the negligent performance of the work, operations or activities provided herein of Consultant, its officers, employees, agents, subcontractors, or invitees, or any individual or entity for which Consultant is legally liable ("indemnitors"), or arising from Consultant's or indemnitors' reckless or willful misconduct, or arising from Consultant's or indemnitors' negligent performance of or failure to perform any term, provision, covenant or condition of this Agreement, and in connection therewith:

(a) Consultant will defend any action or actions filed in connection with any of said claims or liabilities and will pay all costs and expenses, including legal costs and attorneys' fees incurred in connection therewith;

(b) Consultant will promptly pay any judgment rendered against the OCCOG, its officers, agents or employees for any such claims or liabilities arising out of or in connection with the negligent performance of or failure to perform such work, operations or activities of Consultant hereunder; and Consultant agrees to save and hold the OCCOG, its officers, agents, and employees harmless therefrom;

(c) In the event the OCCOG, its officers, agents or employees is made a party to any action or proceeding filed or prosecuted against Consultant for such damages or other claims arising out of or in connection with the negligent performance of or failure to perform the work, operation or activities of Consultant hereunder, Consultant agrees to pay to the OCCOG, its officers, agents or employees, any and all costs and expenses incurred by the OCCOG, its officers, agents or employees in such action or proceeding, including but not limited to, legal costs and attorneys' fees.

Consultant shall incorporate similar indemnity agreements with its subcontractors and if it fails to do so Consultant shall be fully responsible to indemnify OCCOG hereunder therefore, and failure of

OCCOG to monitor compliance with these provisions shall not be a waiver hereof. This indemnification includes claims or liabilities arising from any negligent or wrongful act, error or omission, or reckless or willful misconduct of Consultant in the performance of professional services hereunder. The provisions of this Section do not apply to claims or liabilities occurring as a result of OCCOG's sole negligence or willful acts or omissions, but, to the fullest extent permitted by law, shall apply to claims and liabilities resulting in part from OCCOG's negligence, except that design professionals' indemnity hereunder shall be limited to claims and liabilities arising out of the negligence, recklessness or willful misconduct of the design professional. The indemnity obligation shall be binding on successors and assigns of Consultant and shall survive termination of this Agreement.

ARTICLE 6. RECORDS, REPORTS, AND RELEASE OF INFORMATION

6.1 Records.

Consultant shall keep, and require subcontractors to keep, such ledgers, books of accounts, invoices, vouchers, canceled checks, reports, studies or other documents relating to the disbursements charged to OCCOG and services performed hereunder (the "books and records"), as shall be necessary to perform the services required by this Agreement and enable the Project Manager to evaluate the performance of such services. Any and all such documents shall be maintained in accordance with generally accepted accounting principles and shall be complete and detailed. The Project Manager shall have full and free access to such books and records at all times during normal business hours of OCCOG, including the right to inspect, copy, audit and make records and transcripts from such records. Such records shall be maintained for a period of three (3) years following completion of the services hereunder, and the OCCOG shall have access to such records in the event any audit is required. In the event of dissolution of Consultant's business, custody of the books and records may be given to OCCOG, and access shall be provided by Consultant's successor in interest. Notwithstanding the above, the Consultant shall fully cooperate with the OCCOG in providing access to the books and records if a public records request is made and disclosure is required by law including but not limited to the California Public Records Act.

6.2 Reports.

Consultant shall periodically prepare and submit to the Project Manager such reports concerning the performance of the services required by this Agreement as the Project Manager shall require. Consultant hereby acknowledges that the OCCOG is greatly concerned about the cost of work and services to be performed pursuant to this Agreement. For this reason, Consultant agrees that if Consultant becomes aware of any facts, circumstances, techniques, or events that may or will materially increase or decrease the cost of the work or services contemplated herein or, if Consultant is providing design services, the cost of the project being designed, Consultant shall promptly notify the Project Manager of said fact, circumstance, technique or event and the estimated increased or decreased cost related thereto and, if Consultant is providing design services, the estimated increased or decreased cost estimate for the project being designed.

6.3 Ownership of Documents.

All drawings, specifications, maps, designs, photographs, studies, surveys, data, notes, computer files, reports, records, documents and other materials (the "documents and materials") prepared by Consultant, its employees, subcontractors and agents in the performance of this Agreement shall be the property of OCCOG and shall be delivered to OCCOG upon request of the Project Manager 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 OCCOG of its full rights of ownership use, reuse, or assignment of the documents and materials hereunder. Any use, reuse or assignment of such completed documents for other projects and/or use of uncompleted documents without specific written authorization by the Consultant will be at the OCCOG's sole risk and without liability to Consultant, and Consultant's guarantee and warranties shall not extend to such use, reuse or assignment. Consultant may retain copies of such documents for its own use. Consultant shall have the right to use the concepts embodied therein. All subcontractors shall provide for assignment to OCCOG of any documents or materials prepared by them, and in the event Consultant fails to secure such assignment, Consultant shall indemnify OCCOG for all damages resulting therefrom. Moreover, Consultant with respect to any documents and materials that may qualify as "works made for hire" as defined in 17 U.S.C. § 101, such documents and materials are hereby deemed "works made for hire" for the OCCOG.

6.4 Confidentiality and Release of Information.

(a) All information gained or work product produced by Consultant in performance of this Agreement shall be considered confidential, unless such information is in the public domain or already known to Consultant. Consultant shall not release or disclose any such information or work product to persons or entities other than OCCOG without prior written authorization from the Project Manager.

(b) Consultant, its officers, employees, agents or subcontractors, shall not, without prior written authorization from the Project Manager or unless requested by the OCCOG Attorney, voluntarily provide documents, declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the work performed under this Agreement. Response to a subpoena or court order shall not be considered "voluntary" provided Consultant gives OCCOG notice of such court order or subpoena.

(c) If Consultant, or any officer, employee, agent or subcontractor of Consultant, provides any information or work product in violation of this Agreement, then OCCOG shall have the right to reimbursement and indemnity from Consultant for any damages, costs and fees, including attorney's fees, caused by or incurred as a result of Consultant's conduct.

(d) Consultant shall promptly notify OCCOG should Consultant, its officers, employees, agents or subcontractors be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any party regarding this Agreement and the work performed there under. OCCOG retains the right, but has no obligation, to represent Consultant or be present at any deposition, hearing or similar proceeding. Consultant agrees to cooperate fully with OCCOG and to provide OCCOG with the opportunity to review any response to discovery requests provided by Consultant. However, this right to review any such response does not imply or mean the right by OCCOG to control, direct, or rewrite said response.

ARTICLE 7. ENFORCEMENT OF AGREEMENT AND TERMINATION

7.1 California Law.

This Agreement shall be interpreted, construed and governed both as to validity and to performance of the parties in accordance with the laws of the State of California. Legal actions concerning any dispute, claim or matter arising out of or in relation to this Agreement shall be instituted in the

Superior Court of the County of San Bernardino, State of California, or any other appropriate court in such county, and Consultant covenants and agrees to submit to the personal jurisdiction of such court in the event of such action. In the event of litigation in a U.S. District Court, venue shall lie exclusively in the Central District of California, in the County of San Bernardino, State of California.

7.2 Disputes; Default.

In the event that Consultant is in default under the terms of this Agreement, the OCCOG shall not have any obligation or duty to continue compensating Consultant for any work performed after the date of default. Instead, the OCCOG may give notice to Consultant of the default and the reasons for the default. The notice shall include the timeframe in which Consultant may cure the default. This timeframe is presumptively thirty (30) days, but may be extended, though not reduced, if circumstances warrant. During the period of time that Consultant is in default, the OCCOG shall hold all invoices and shall, when the default is cured, proceed with payment on the invoices. In the alternative, the OCCOG may, in its sole discretion, elect to pay some or all of the outstanding invoices during the period of default. If Consultant does not cure the default, the OCCOG may take necessary steps to terminate this Agreement under this Article. Any failure on the part of the OCCOG to give notice of the Consultant's default shall not be deemed to result in a waiver of the OCCOG's legal rights or any rights arising out of any provision of this Agreement.

7.3 Retention of Funds.

Consultant hereby authorizes OCCOG to deduct from any amount payable to Consultant (whether or not arising out of this Agreement) (i) any amounts the payment of which may be in dispute hereunder or which are necessary to compensate OCCOG for any losses, costs, liabilities, or damages suffered by OCCOG, and (ii) all amounts for which OCCOG may be liable to third parties, by reason of Consultant's acts or omissions in performing or failing to perform Consultant's obligation under this Agreement. In the event that any claim is made by a third party, the amount or validity of which is disputed by Consultant, or any indebtedness shall exist which shall appear to be the basis for a claim of lien, OCCOG may withhold from any payment due, without liability for interest because of such withholding, an amount sufficient to cover such claim. The failure of OCCOG to exercise such right to deduct or to withhold shall not, however, affect the obligations of the Consultant to insure, indemnify, and protect OCCOG as elsewhere provided herein.

7.4 Waiver.

Waiver by any party to this Agreement of any term, condition, or covenant of this Agreement shall not constitute a waiver of any other term, condition, or covenant. Waiver by any party of any breach of the provisions of this Agreement shall not constitute a waiver of any other provision or a waiver of any subsequent breach or violation of any provision of this Agreement. Acceptance by OCCOG of any work or services by Consultant shall not constitute a waiver of any of the provisions of this Agreement. No delay or omission in the exercise of any right or remedy by a non-defaulting party on any default shall impair such right or remedy or be construed as a waiver. Any waiver by either party of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of this Agreement.

7.5 Rights and Remedies are Cumulative.

Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the parties are cumulative and the exercise by either party of one or more of

such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other party.

7.6 Legal Action.

In addition to any other rights or remedies, either party may take legal action, in law or in equity, to cure, correct or remedy any default, to recover damages for any default, to compel specific performance of this Agreement, to obtain declaratory or injunctive relief, or to obtain any other remedy consistent with the purposes of this Agreement. Notwithstanding any contrary provision herein, Consultant shall file a statutory claim pursuant to Government Code Sections 905 *et seq.* and 910 *et seq.*, in order to pursue a legal action under this Agreement.

7.7 Liquidated Damages.

Since the determination of actual damages for any delay in performance of this Agreement would be extremely difficult or impractical to determine in the event of a breach of this Agreement, the Contractor and its sureties shall be liable for and shall pay to the OCCOG the sum of _____ (\$ _____) as liquidated damages for each working day of delay in the performance of any service required hereunder. The OCCOG may withhold from any monies payable on account of services performed by the Contractor any accrued liquidated damages.

7.8 Termination Prior to Expiration of Term.

This Section shall govern any termination of this Contract except as specifically provided in the following Section for termination for cause. The OCCOG reserves the right to terminate this Contract at any time, with or without cause, upon thirty (30) days' written notice to Consultant, except that where termination is due to the fault of the Consultant, the period of notice may be such shorter time as may be determined by the Project Manager. In addition, the Consultant reserves the right to terminate this Contract at any time, with or without cause, upon sixty (60) days' written notice to OCCOG, except that where termination is due to the fault of the OCCOG, the period of notice may be such shorter time as the Consultant may determine. Upon receipt of any notice of termination, Consultant shall immediately cease all services hereunder except such as may be specifically approved by the Project Manager. Except where the Consultant has initiated termination, the Consultant shall be entitled to compensation for all services rendered prior to the effective date of the notice of termination and for any services authorized by the Project Manager thereafter in accordance with the Schedule of Compensation or such as may be approved by the Project Manager, except as provided in Section 7.3. In the event the Consultant has initiated termination, the Consultant shall be entitled to compensation only for the reasonable value of the work product actually produced hereunder. In the event of termination without cause pursuant to this Section, the terminating party need not provide the non-terminating party with the opportunity to cure pursuant to Section 7.2.

7.9 Termination for Default of Consultant.

If termination is due to the failure of the Consultant to fulfill its obligations under this Agreement, OCCOG may, after compliance with the provisions of Section 7.2, take over the work and prosecute the same to completion by contract or otherwise, and the Consultant shall be liable to the extent that the total cost for completion of the services required hereunder exceeds the compensation herein stipulated (provided that the OCCOG shall use reasonable efforts to mitigate such damages), and OCCOG may

withhold any payments to the Consultant for the purpose of set-off or partial payment of the amounts owed the OCCOG as previously stated.

7.10 Attorneys' Fees.

If either party to this Agreement is required to initiate or defend or made a party to any action or proceeding in any way connected with this Agreement, the prevailing party in such action or proceeding, in addition to any other relief which may be granted, whether legal or equitable, shall be entitled to reasonable attorney's fees. Attorney's fees shall include attorney's fees on any appeal, and in addition a party entitled to attorney's fees shall be entitled to all other reasonable costs for investigating such action, taking depositions and discovery and all other necessary costs the court allows which are incurred in such litigation. All such fees shall be deemed to have accrued on commencement of such action and shall be enforceable whether or not such action is prosecuted to judgment.

ARTICLE 8. OCCOG OFFICERS AND EMPLOYEES: NON-DISCRIMINATION

8.1 Non-liability of OCCOG Officers and Employees.

No officer or employee of the OCCOG shall be personally liable to the Consultant, or any successor in interest, in the event of any default or breach by the OCCOG or for any amount which may become due to the Consultant or to its successor, or for breach of any obligation of the terms of this Agreement.

8.2 Conflict of Interest.

Consultant covenants that neither it, nor any officer or principal of its firm, has or shall acquire any interest, directly or indirectly, which would conflict in any manner with the interests of OCCOG or which would in any way hinder Consultant's performance of services under this Agreement. Consultant further covenants that in the performance of this Agreement, no person having any such interest shall be employed by it as an officer, employee, agent or subcontractor without the express written consent of the Project Manager. Consultant agrees to at all times avoid conflicts of interest or the appearance of any conflicts of interest with the interests of OCCOG in the performance of this Agreement.

No officer or employee of the OCCOG shall have any financial interest, direct or indirect, in this Agreement nor shall any such officer or employee participate in any decision relating to the Agreement which affects her/his financial interest or the financial interest of any corporation, partnership or association in which (s)he is, directly or indirectly, interested, in violation of any State statute or regulation. The Consultant warrants that it has not paid or given and will not pay or give any third party any money or other consideration for obtaining this Agreement.

8.3 Covenant Against Discrimination.

Consultant covenants that, by and for itself, its heirs, executors, assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of race, color, creed, religion, sex, gender, sexual orientation, marital status, national origin, ancestry or other protected class in the performance of this Agreement. Consultant shall take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, creed, religion, sex, gender, sexual orientation, marital status, national origin, ancestry or other protected class.

8.4 Unauthorized Aliens.

Consultant hereby promises and agrees to comply with all of the provisions of the Federal Immigration and Nationality Act, 8 U.S.C. § 1101 *et seq.*, as amended, and in connection therewith, shall not employ unauthorized aliens as defined therein. Should Consultant so employ such unauthorized aliens for the performance of work and/or services covered by this Agreement, and should any liability or sanctions be imposed against OCCOG for such use of unauthorized aliens, Consultant hereby agrees to and shall reimburse OCCOG for the cost of all such liabilities or sanctions imposed, together with any and all costs, including attorneys' fees, incurred by OCCOG.

ARTICLE 9. MISCELLANEOUS PROVISIONS

9.1 Notices.

Any notice, demand, request, document, consent, approval, or communication either party desires or is required to give to the other party or any other person shall be in writing and either served personally or sent by prepaid, first-class mail, in the case of the OCCOG, to the OCCOG Executive Director and to the attention of the Project Manager (with her/his name and OCCOG title), OCCOG, _____, California _____ and in the case of the Consultant, to the person(s) at the address designated on the execution page of this Agreement. Either party may change its address by notifying the other party of the change of address in writing. Notice shall be deemed communicated at the time personally delivered or in seventy-two (72) hours from the time of mailing if mailed as provided in this Section.

9.2 Interpretation.

The terms of this Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against either party by reason of the authorship of this Agreement or any other rule of construction which might otherwise apply.

9.3 Counterparts.

This Agreement may be executed in counterparts, each of which shall be deemed to be an original, and such counterparts shall constitute one and the same instrument.

9.4 Integration; Amendment.

This Agreement including the attachments hereto is the entire, complete and exclusive expression of the understanding of the parties. It is understood that there are no oral agreements between the parties hereto affecting this Agreement and this Agreement supersedes and cancels any and all previous negotiations, arrangements, agreements and understandings, if any, between the parties, and none shall be used to interpret this Agreement. No amendment to or modification of this Agreement shall be valid unless made in writing and approved by the Consultant and by the OCCOG Board. The parties agree that this requirement for written modifications cannot be waived and that any attempted waiver shall be void.

9.5 Severability.

In the event that any one or more of the phrases, sentences, clauses, paragraphs, or sections contained in this Agreement shall be declared invalid or unenforceable by a valid judgment or decree of

a court of competent jurisdiction, such invalidity or unenforceability shall not affect any of the remaining phrases, sentences, clauses, paragraphs, or sections of this Agreement which are hereby declared as severable and shall be interpreted to carry out the intent of the parties hereunder unless the invalid provision is so material that its invalidity deprives either party of the basic benefit of their bargain or renders this Agreement meaningless.

9.6 Warranty & Representation of Non-Collusion.

No official, officer, or employee of OCCOG has any financial interest, direct or indirect, in this Agreement, nor shall any official, officer, or employee of OCCOG participate in any decision relating to this Agreement which may affect his/her financial interest or the financial interest of any corporation, partnership, or association in which (s)he is directly or indirectly interested, or in violation of any corporation, partnership, or association in which (s)he is directly or indirectly interested, or in violation of any State or municipal statute or regulation. The determination of "financial interest" shall be consistent with State law and shall not include interests found to be "remote" or "noninterests" pursuant to Government Code Sections 1091 or 1091.5. Consultant warrants and represents that it has not paid or given, and will not pay or give, to any third party including, but not limited to, any OCCOG official, officer, or employee, any money, consideration, or other thing of value as a result or consequence of obtaining or being awarded any agreement. Consultant further warrants and represents that (s)he/it has not engaged in any act(s), omission(s), or other conduct or collusion that would result in the payment of any money, consideration, or other thing of value to any third party including, but not limited to, any OCCOG official, officer, or employee, as a result of consequence of obtaining or being awarded any agreement. Consultant is aware of and understands that any such act(s), omission(s) or other conduct resulting in such payment of money, consideration, or other thing of value will render this Agreement void and of no force or effect.

Consultant's Authorized Initials _____

9.7 Corporate Authority.

The persons executing this Agreement on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of said party, (iii) by so executing this Agreement, such party is formally bound to the provisions of this Agreement, and (iv) that entering into this Agreement does not violate any provision of any other Agreement to which said party is bound. This Agreement shall be binding upon the heirs, executors, administrators, successors and assigns of the parties.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date and year first-above written.

OCCOG:

ORANGE COUNTY COUNCIL OF GOVERNMENTS, a
California Joint Powers Authority

Trevor O’Neil, Chair

ATTEST:

OCCOG Clerk

APPROVED AS TO FORM:
ALESHIRE & WYNDER, LLP

Fred Galante, General Counsel

CONSULTANT:

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

Address: _____

Two corporate officer signatures required when Consultant is a corporation, with one signature required from each of the following groups: 1) Chairman of the Board, President or any Vice President; and 2) Secretary, any Assistant Secretary, Chief Financial Officer or any Assistant Treasurer. CONSULTANT’S SIGNATURES SHALL BE DULY NOTARIZED, AND APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO CONSULTANT’S BUSINESS ENTITY.

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy or validity of that document.

STATE OF CALIFORNIA

COUNTY OF SAN BERNARDINO

On _____, 20xx before me, _____, personally appeared _____, proved to me on the basis of satisfactory evidence to be the person(s) whose names(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capaOCCOG(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: _____

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form

CAPAOCCOG CLAIMED BY SIGNER	DESCRIPTION OF ATTACHED DOCUMENT
<input type="checkbox"/> INDIVIDUAL <input type="checkbox"/> CORPORATE OFFICER _____ TITLE(S)	_____ TITLE OR TYPE OF DOCUMENT
<input type="checkbox"/> PARTNER(S) <input type="checkbox"/> LIMITED <input type="checkbox"/> GENERAL <input type="checkbox"/> ATTORNEY-IN-FACT <input type="checkbox"/> TRUSTEE(S) <input type="checkbox"/> GUARDIAN/CONSERVATOR <input type="checkbox"/> OTHER _____	_____ NUMBER OF PAGES
_____	_____ DATE OF DOCUMENT

SIGNER IS REPRESENTING:
 (NAME OF PERSON(S) OR ENTITY(IES))

 SIGNER(S) OTHER THAN NAMED ABOVE

EXHIBIT "A"

SCOPE OF SERVICES

- I. Consultant will perform the Services described in Consultant's Proposal, attached hereto as Exhibit A-1.

[or, if Proposal is not clear or is not provided, fill in Sections I-III and delete Exhibit A-1. If using Proposal, delete Sections I-III, below, and renumber the Sections that follow]

- I. Consultant will perform the following Services:

- A.
- B.
- C.

- II. As part of the Services, Consultant will prepare and deliver the following tangible work products to the OCCOG:

- A.
- B.
- C.

- III. In addition to the requirements of Section 6.2, during performance of the Services, Consultant will keep the OCCOG apprised of the status of performance by delivering the following status reports:

- A.
- B.
- C.

[The following may be deleted if OCCOG does not intend for specific individuals to perform the services, or if this is included in the Proposal]

- IV. Consultant will utilize the following personnel to accomplish the Services:

- A.
- B.

[Include Following Section If Agreement Is for Design Services and there is a set construction budget; Otherwise Remove]

- VI. All work product is subject to review and acceptance by the OCCOG, and must be revised by the Consultant without additional charge to the OCCOG until found satisfactory and accepted by OCCOG.

EXHIBIT “A-1”

SCOPE OF WORK

INTRODUCTION

In releasing this RFP, OCCOG is demonstrating our commitment to accomplishing the goals of the Subregional Partners Regional Early Action Planning (REAP) Grant Program goals, as well as providing important hands-on support to OCCOG member jurisdictions for planning for increased housing production.

This project has two tasks:

- Geospatial Planning Solution
- 3-D Site Visualization Services

Respondents are expected to be able to provide professional services for BOTH tasks.

The work for this project will be split into two phases, Phase I and Phase II. Funding for Phase I has already been allocated from SCAG as part of the REAP. The funding for Phase II will be made available once the SCAG Regional Council approves the final 6th cycle RHNA allocations. Upon Contract Award for this RFP, OCCOG will immediately issue a Notice to Proceed (NTP) for Phase I. NTP for Phase II will not take place until funding from SCAG has been allocated and the Amendment I to the MOU between SCAG and OCCOG has been signed, anticipated in April 2021.

BENEFITS

- Consistent regional GIS mapping foundation for consistent results.
- Locally-calibrated site inventory results.
- Scenario planning tools to rapid explore policy alternatives for achieving RHNA targets.
- Automatic site yield calculation for more refined plans with more accurate reporting
- Visual planning process directly connected to capacity reporting.
- Automatically-created HCD-compliant reporting.
- Intuitive, web-based 3D mapping applications with secure, cloud-hosted data, reducing training needs and eliminating the need for local GIS/IT infrastructure.

ALIGNMENT TO ELIGIBLE USES AND ACTIVITIES

This project aligns with eligible uses and activities by enabling member agencies to produce more informed and regionally-consistent Housing Elements that result in a net-positive production of housing supply and align with state, SCAG, and sub-regional goals.

1. Technical Assistance to improve housing-related planning: This project includes technical assistance in the use of the data and tools to ensure successful outcomes.
2. Updates to Housing Elements and housing-supportive updates to General Plans: The outputs of the deliverable are immediately actionable as updates to Housing Elements. This includes

actionable zoning information required to update General Plans for consistency and will be useful for downstream Zoning Code changes needed to implement Housing Element and General Plan policies and goals.

3. Providing data-driven site analysis resulting in adopted policies and plans to further housing goals: The project deliverables are data-driven and connect to the important qualitative aspects of location, resulting in a holistic view of affordable housing potential and the policies required to realize this potential.
4. Location-efficient siting of housing: This project supports location-efficient siting of affordable housing by providing insight into potential synergies gained through co-location with existing infrastructure and amenities.
5. Planning documents promoting development of publicly-owned and surplus property: The use of publicly-owned land (and especially surplus properties) is an important component in the realization of housing goals as catalyst sites or simply providing additional development capacity. The deliverable will include information on publicly-owned and surplus properties in the basemap so that such sites can be prioritized for consideration.
6. New or amended zoning ordinances, including rezoning: Through the use of ArcGIS Urban's web-based zoning tools, local jurisdictions can explore changes to zoning that will result in sufficient growth capacity to meet RHNA targets.

ALIGNMENT TO HOUSING PROGRAM GOALS

Key information layers associated with priorities and strategies in the Connect SoCal Plan will be compiled in a ready-to-use, comprehensive collection of data in GIS format for use directly in the project deliverable tools.

These data layers are used to identify opportunity sites that align with the priorities and strategies in the Connect SoCal Plan and help expose often elusive opportunities for housing production. This will be done in a user-friendly, weighted, suitability modeling application that individual agencies can use to locally calibrate site inventory analysis, producing results that are transparent and defensible. Some examples are the identification of infill sites near transit opportunities, within Opportunity Zones, or in TCAC High Resource tracts, as well as the assessment of ADU housing potential near transit in high-resourced areas with nearby amenities and job centers.

Scenario planning tools allow testing of a various land use scenarios, e.g., dispersed, low density growth scenario versus a compact, higher density scenario, to discover the pros and cons of each approach.

This project enhances partnership opportunities across the region—among cities, the county, SCAG, and the state—through the use of standardized regional data and common GIS mapping and long-range planning tools that enable nearly seamless local and regional planning.

The project will provide training and access to next-generation planning tools that will help in the development of policies that support the Sustainable Communities Strategy above and beyond the immediate needs of RHNA.

GEOSPATIAL PLANNING SOLUTION

Work for this task will be split between Phase I and Phase II as designated below.

This project will deliver a Geospatial Planning Solution called the **Site Opportunity Mapping and Policy Explorer** to all local jurisdictions that are member agencies of the Orange County Council of Governments (OCCOG). This will provide cutting-edge mapping support information, most immediately for use in many of the most challenging aspects of meeting RHNA targets and goals, and is directly related to the production of high-quality, effective Housing Elements and related General Plan updates. In addition, the tool will be able to be used by jurisdictions in an ongoing basis for planning purposes and will enhance public communication and stakeholder engagement.

Deliverables include:

1. Comprehensive database for GIS mapping and community visualization
2. A suite of interactive, web-based, 3D mapping tools, including for RHNA-specific uses:
 - Opportunity site selection tools allowing local refinement of sites,
 - 3D scenario planning tools to explore land use and zoning policy alternatives for achieving RHNA numbers, and
 - Reporting dashboard of RHNA-specific yield calculations and HCD-formatted reports
3. Advisement, technical assistance, and training

Member agencies will be able to produce more data-informed and regionally-consistent Housing Elements that result in a net-positive production of housing supply and align with state, SCAG, and sub-regional goals. Jurisdictions using the tool will be able to:

- Identify opportunity sites that align with HCD and regional planning priorities
- Explore planning policy alternatives to achieve RHNA numbers
- Automatically produce HCD-compliant reports

The project deliverables are compatible with the SCAG Regional Data Platform (RDP), providing agencies with next-generation planning technology infrastructure throughout the 6th Cycle RHNA and future iterations.

DELIVERABLES

For each jurisdiction within the OCCOG region, the deliverables include:

Work for this subtask will take place in Phase I

1. **RHNA Community Snapshot – a comprehensive and interactive Regional RHNA Opportunity Mapping GIS Database**
 - a. This project will provide comprehensive, RHNA-specific GIS mapping data from local, regional, state, and federal sources, creating actionable information that can be directly integrated with other project deliverables. The data will provide a foundation for

understanding existing conditions and awareness of opportunities for affordable housing development.

Examples include:

- What's been identified in last cycle of the element update as housing sites and what's been developed
 - Physical site characteristics: slope, proximity to ocean, etc.
 - Utility data: is the site already served by water, sewer and other utilities?
 - Opportunity zones and Density Bonus Overlays
 - Housing development record (last 5 years)
 - Current housing development pipeline
 - Housing affordability (rent or mortgage vs income: 30% and 50%)
 - Affordability assessment considerations
 - Number of extreme low-income households
 - Number of very low-income households
 - Number of low-income households
 - ADU record history (approval and built)
 - Location of key amenities and resources
 - Schools
 - Groceries
 - Parks
 - Hospital
 - Transit
 - Proximity to key amenities and resources (10-minute walk sheds)
 - Location of key employers
 - Proximity to key employers
 - Race and Diversity
- b. This project will provide a countywide, web-based 3D basemap, including the physical context of each community (e.g., terrain and 3D existing buildings and trees), to act as the planning canvas to explore growth opportunities.

Work for these subtasks will take place in Phase II.

2. RHNA Site Inventory and Opportunity Finder – an interactive and locally-configurable means to help jurisdictions “find the right place to do the right thing”.

- a. This project will provide site suitability modeling tools that tap into the RHNA Community Snapshot data, going beyond simple vacant site evaluation to:
- Identify development potential of underutilized properties (critical for supporting new non-vacant site requirements early in the site inventory process).
 - Emphasize location efficiencies around transit and employment centers.
 - Promote diverse housing choices and Affirmative Further Fair Housing goals.
- b. This project will provide a web-based suitability QA tool that allows each jurisdiction to further refine and locally calibrate this location analysis with local knowledge and expertise, to help ensure a complete and accurate picture of opportunities on the

ground. This may include awareness of key projects in the development pipeline, near-term land assembly or disposition, recently vacated or underutilized properties, etc.

3. Housing Development Planning Scenarios

- a) This project will provide 3D scenario planning tools to evaluate the housing production potential within current land use and zoning policy and explore policy alternatives to achieve RHNA numbers. Scenario planning capabilities are provided via ESRI's ArcGIS Urban 3D web-based tools. This project will deliver fully configured and ready-to-use capabilities of ArcGIS Urban utilizing regional zoning information aggregated by SCAG from local jurisdictions. The use of ArcGIS Urban aligns with SCAG's Regional Data Platform (RDP) effort, ensuring deliverables are usable long after the 6th Cycle RHNA.
- b) ArcGIS Urban provides automated site yield calculations based underlying land use and zoning for each planning scenario. This allows for more accurate, refined, and cost-effective plans.
- c) ArcGIS Urban provides a **zoning and land use explorer** to quickly and easily test policy changes needed to achieve the necessary density for affordable housing production.
- d) ArcGIS Urban provides a visual context for planning decisions. Unlike planning with spreadsheets, which are divorced from the visual and spatial context of the decisions, ArcGIS Urban provides a built-in visual context for building and evaluating RHNA Scenarios. This means that decisions can be seen within the community, strengthening policy through place-based, spatial awareness. This visual context also allows for effective communication with City/County staff, OCCOG, SCAG, HCD, and other relevant stakeholders.
- e) This project will provide a development capacity dashboard showing overall housing yields and providing automated accounting of total RHNA numbers by income level as each site is considered. This allows for quick evaluation of the gap in RHNA housing units at each step of the scenario design process. As policy and market assumptions about each site are clarified, the numbers are added to a scorecard. There are multiple ways of achieving RHNA targets, and RHNA Scenarios allow for the comparison of pros and cons associated with each pathway, ultimately leading to data-informed, defensible decisions.

4. Housing Production and RHNA Reporting

- a. This project will provide a RHNA summary reporting tool that summarizes and reports the overall total and site-specific RHNA numbers in an identical format to the HCD-provided Site Inventory spreadsheet, facilitating the quick and error-free submittal of final reports, and supporting future HCD Annual Progress Reports (APRs) in subsequent years.
- b. This project will provide technical assistance and training via web-based group training for the following topics:
 - Exploring the RHNA Community Snapshot 3D basemap and RHNA-specific data.
 - Identification of opportunities for affordable housing with the RHNA Site Inventory and Opportunity Finder.

- Scenario planning tools to explore Land Use and Zoning policy changes to support affordable housing production.
- Reporting to HCD and communication with stakeholders.

Web-based training will be recorded and made available for future use.

3-D SITE VISUALIZATION SERVICES

All of the work for this task will take place in Phase II.

One of the biggest challenges facing local jurisdictions and property owners looking to build housing, is “seeing” what a project will look like before it is built. Objections to housing projects have unique perspectives but also share common concerns:

- Neighborhood aesthetics and design standards
- Parking impacts
- Utilities and City services
- Massing
- Shadows

By providing jurisdictions with a tool that will help them visualize how a project will look upon completion, earlier in the planning process, jurisdictions may be able to expedite permitting and address community concerns earlier in the project life cycle to overcome resistance to new housing.

The 3-D Site Visualization Services task should provide the following deliverables:

DELIVERABLES

1. **3-D Models for Specified Development Projects throughout Orange County.**
 - a. Develop an off-the-shelf tool that can be utilized by any/all OCCOG jurisdictions based on the ArcGIS suite of applications to produce High-Fidelity 3-D Models. The tool should have the capability to showcase a variety of standard development features such as:
 - Exterior facades
 - Landscaping
 - Parking
 - Bikeways and walking paths
 - Other features as determined by OCCOG in consultation with the successful respondent
 - b. In addition to providing an ArcGIS-based tool to be used by planning staff at OCCOG member jurisdictions, Respondent shall provide custom High-Fidelity 3-D Models. In addition to the “self-service” 3-D Model outlined above in 1.a, the Respondent should have the professional expertise and technical capability to support more complex projects by designing an immersive 3-D visualization experience. The respondent may either customize the tool used/developed in 1.a above or deploy other technology solutions to accomplish the visualization outcome needed by the jurisdiction. As part of this proposal the Respondent must state how many custom visualizations will be

provided to OCCOG on behalf of its member jurisdictions. Provide the following information as part of your response:

- What platform you will use to provide the custom visualizations, if not ArcGIS.
- How many visualizations will you provide, and what technical specifications will each custom visualization have, for example:
 - Is there a maximum size parcel for a development?
 - What level of detail is to be provided?
 - how will the finished product be accessed by jurisdiction, and public if applicable
 - where will the finished product be housed/hosted and for how long
- Propose any enhancements to the customized tool that could help OCCOG achieve its goal of cost-effectively benefitting the most jurisdictions in their efforts to provide more housing opportunities.

2. Professional Advisement Services

- a. 3-D Visualization Services shall include experienced professional advisement and support on local, regional, and state housing policy, urban economics and planning consultation, public/community stakeholder outreach and engagement, as well as engagement of the Real Estate development community in dialogue that ensures successful housing production discussions and projects. As part of this task the Respondent will provide an outreach plan.

3. Technical Assistance and Training

- a. The respondent will develop a curriculum to provide technical assistance and training to OCCOG jurisdiction planning staff via web-based group training to enable jurisdictional staff to learn to use the 3-D site visualization tool.
- b. Web-based training will be recorded and made available for future use.

EXHIBIT "A-2"

STAFFING PLAN

1. KEY PERSONNEL

Name	Title	Years of Experience	Length of Time with Firm

The individuals represented as assigned to the Contract must remain working on the Contract throughout the duration of the Contract unless otherwise requested or approved by OCCOG. Substitution of Respondent's Key Personnel shall be allowed only with prior written approval of OCCOG's Project Manager.

Respondent may reserve the right to involve other Respondent personnel, as their services are required. The specific individuals will be assigned based on the need and timing of the service/classification required. Assignment of additional key personnel shall be subject OCCOG written approval. OCCOG reserves the right to have any of Respondent's personnel removed from providing services to OCCOG under this Contract. OCCOG is not required to provide any reason for the request for removal of any Respondent personnel.

2. SUBCONSULTANTS (S)

Listed below are subconsultant(s) anticipated by Respondent to perform services specified in Attachment A. Substitution or addition of Respondent subconsultant(s) in any given project function shall be allowed only with prior written approval of OCCOG’s Project Manager.

Company Name & Address	Contact Name and Telephone Number	Project Function

EXHIBIT "B"
SPECIAL REQUIREMENTS

(Superseding Contract Boilerplate)

[If Consultant requests changes to boilerplate, forward those requests to the OCCOG Counsel's office;
changes to the boilerplate go in Exhibit "B"]

EXHIBIT "C"

SCHEDULE OF COMPENSATION

I. Consultant shall be compensated for the services provided under this Agreement in accordance with the budget and rates provided in Exhibit "C-1".

[or, if Consultant's proposal does not include a clear budget and/or schedule of rates, fill in Section I, below, and delete Exhibit C-1]

I. Consultant shall perform the following tasks at the following rates:

		RATE	TIME	SUB-BUDGET
A.	Task A	_____	_____	_____
B.	Task B	_____	_____	_____
C.	Task C	_____	_____	_____
D.	Task D	_____	_____	_____

II. A retention of ten percent (10%) shall be held from each payment as a contract retention to be paid as part of the final payment upon satisfactory completion of services. **[Add if there is a reason to withhold a retention; otherwise remove]**

III. Within the budgeted amounts for each Task, and with the approval of the Project Manager, funds may be shifted from one Task sub budget to another so long as the Contract Sum is not exceeded per Section 2.1, unless Additional Services are approved per Section 1.10.

IV. The OCCOG will compensate Consultant for the Services performed upon submission of a valid invoice, as described in Section 2.4.

V. The total compensation for the Services shall not exceed the Contract Sum, as provided in Section 2.1 of this Agreement.

EXHIBIT "C-1"

iii)

iv)

v)

EXHIBIT "D"

SCHEDULE OF PERFORMANCE

I. Consultant shall perform all services and deliver all work products timely in accordance with the schedule attached hereto as Exhibit "D-1".

[or, if Consultant has not provided a schedule, fill in Sections I and II, and delete Exhibit D-1. If a schedule is provided, delete Sections I and II, below, and renumber Section III]

I. Consultant shall perform all Services timely in accordance with the following schedule:

	DAYS TO PERFORM	DEADLINE DATE
A. Task A	_____	_____
B. Task B	_____	_____
C. Task C	_____	_____

II. Consultant shall deliver the following tangible work products to the OCCOG by the following dates.

	WORK PRODUCT	DATE DUE
A.	_____	_____
B.	_____	_____
C.	_____	_____
D.	_____	_____

III. The Project Manager may approve extensions for performance of the services in accordance with Section 3.2.

EXHIBIT "D-1"

SCHEDULE