



# ORANGE COUNTY FIRE AUTHORITY

## AGENDA

Pursuant to the Brown Act, this meeting also constitutes a meeting of the Board of Directors.

### EXECUTIVE COMMITTEE REGULAR MEETING Thursday, October 26, 2017 5:30 P.M.

**Regional Fire Operations and Training Center  
Board Room  
1 Fire Authority Road  
Irvine, CA 92602**

This Agenda contains a brief general description of each item to be considered. Except as otherwise provided by law, no action or discussion shall be taken on any item not appearing on the following Agenda. Unless legally privileged, all supporting documents, including staff reports, and any writings or documents provided to a majority of the Executive Committee after the posting of this agenda are available for review at the Orange County Fire Authority Regional Fire Operations & Training Center, 1 Fire Authority Road, Irvine, CA 92602 or you may contact Sherry A.F. Wentz, Clerk of the Authority, at (714) 573-6040 Monday through Thursday, and every other Friday from 8 a.m. to 5 p.m. and available online at <http://www.ocfa.org>

If you wish to speak before the Fire Authority Executive Committee, please complete a Speaker Form identifying which item(s) you wish to address. Please return the completed form to the Clerk of the Authority prior to being heard before the Committee. Speaker Forms are available at the counters of both entryways of the Board Room.



In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, you should contact the Clerk of the Authority at (714) 573-6040.

### CALL TO ORDER

**INVOCATION** by OCFA Senior Chaplain Robert Benoun

**PLEDGE OF ALLEGIANCE** by Director Spitzer

### ROLL CALL

### 1. PRESENTATIONS

No items.

**REPORT FROM THE HUMAN RESOURCES COMMITTEE CHAIR****REPORT FROM THE BUDGET AND FINANCE COMMITTEE CHAIR****REPORT FROM FIRE CHIEF**

- Capital Improvement Program Quarterly Update (Anderson)

**PUBLIC COMMENTS**

Resolution No. 97-024 established rules of decorum for public meetings held by the Orange County Fire Authority. Resolution No. 97-024 is available from the Clerk of the Authority.

Any member of the public may address the Committee on items within the Committee's subject matter jurisdiction but which are not listed on this agenda during PUBLIC COMMENTS. However, no action may be taken on matters that are not part of the posted agenda. We request comments made on the agenda be made at the time the item is considered and that comments be limited to three minutes per person. Please address your comments to the Committee and do not engage in dialogue with individual Committee Members, Authority staff, or members of the audience.

The Agenda and Minutes are now available through the Internet at [www.ocfa.org](http://www.ocfa.org). You can access upcoming agendas on the Monday before the meeting. The minutes are the official record of the meeting and are scheduled for approval at the next regular Executive Committee meeting.

**2. MINUTES****A. Minutes from the September 28, 2017, Regular Executive Committee Meeting**

Submitted by: Sherry Wentz, Clerk of the Authority

Recommended Action:

Approve as submitted.

**3. CONSENT CALENDAR**

*All matters on the consent calendar are considered routine and are to be approved with one motion unless a Committee Member or a member of the public requests separate action on a specific item.*

**A. Monthly Investment Reports**

Submitted by: Tricia Jakubiak, Treasurer

**Budget and Finance Committee Recommendation: *APPROVE***

Recommended Action:

In compliance with the investment policy of the Orange County Fire Authority and with Government Code Section 53646, it is recommended that the Committee receive and file the reports.

**B. Updated Broker/Dealer List**

Submitted by: Tricia Jakubiak, Treasurer

**Budget and Finance Committee Recommendation: *APPROVE***

Recommended Action:

To update the current list of broker/dealers that the Treasurer uses for competitive bidding of investment purchases, it is recommended that the Committee approve the Broker/Dealer List, which includes FTN Financial Securities Corp., Raymond James Financial Services Inc., RBC Capital Markets, Stifel, Nicolaus & Company, Inc. and Wedbush Securities Inc. and authorize the List for a term of two years through October 31, 2019, as required by OCFA's Investment Policy.

**C. NEOGOV Contract Amendment and Extension**

Submitted by: Brigitte Gibb, Director/Human Resources

Recommended Actions:

To renew and amend the current contract with GovernmentJobs.com doing business as NEOGOV for recruiting, onboarding, and performance evaluation software licenses, it is recommended that the Committee:

1. Approve and authorize the Purchasing Manager to amend the professional services agreement with NEOGOV for software licenses in the amount of \$58,276.
2. Authorize the Purchasing Manager to extend the contract for two additional one-year options with price escalation limited to 5% or less annually for a three-year not to exceed amount of \$182,748.

**D. Sole Source Request for Fire Station Alerting System Replacement for Fire Stations 20 (Irvine) and 22 (Laguna Hills/Laguna Woods)**

Submitted by: Dave Anderson, Assistant Chief/Support Services Department

Recommended Actions:

For the installation and upgrade of fire station alerting system controllers, speakers, lights, and other electrical components, it is recommended that the Committee:

1. Approve and authorize the Purchasing Manager to issue a sole source contract to Westnet, Inc. in the amount of \$121,157 to install a fire station alerting system at OCFA Fire Station 20 and add a 10% contingency (\$12,116) to the contract for additional services that may be required during implementation and the Board Chair and Vice Chair will be notified before use of contingency funds.
2. Approve and authorize the Purchasing Manager to issue a sole source contract to Westnet, Inc. in the amount of \$117,697 to replace the fire station alerting system at OCFA Fire Station 22, and add a 10% contingency (\$11,770) to the contract for additional services that may be required during implementation and the Board Chair and Vice Chair will be notified before use of contingency funds.

**E. Award of Contracts for Apparatus Bay Door Maintenance and Repair Services**

Submitted by: Dave Anderson, Assistant Chief/Support Services Department

**Recommended Actions:**

To award three-year blanket orders and contracts for apparatus bay door maintenance and repair services, it is recommended that the Committee:

1. Approve and authorize the Purchasing Manager to sign agreements with Action Door Repair, Inc. and Mako Overhead Door, Inc. for \$100,000 each, annually, for as-needed apparatus bay door maintenance and repair services at an aggregate amount not to exceed \$200,000 annually (\$600,000 during the three-year agreement).
2. Approve and authorize the Purchasing Manager to redistribute or adjust the annual amount between the two vendors as requested by the department, so long as the aggregate amount does not exceed \$200,000 annually.

**END OF CONSENT CALENDAR****4. DISCUSSION CALENDAR**

No items.

**COMMITTEE MEMBER COMMENTS****CLOSED SESSION**

No items.

**ADJOURNMENT** – The next regular meeting of the Executive Committee is scheduled for Thursday, \*November 16, 2017, at 5:30 p.m.



**AFFIDAVIT OF POSTING**

I hereby certify under penalty of perjury under the laws of the State of California, that the foregoing Agenda was posted in the lobby, front gate public display case, and website of the Orange County Fire Authority, Regional Fire Operations and Training Center, 1 Fire Authority Road, Irvine, CA, not less than 72 hours prior to the meeting. Dated this 19<sup>th</sup> day of October 2017.

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Sherry A.F. Wentz, CMC  
Clerk of the Authority

**UPCOMING MEETINGS:**

Budget and Finance Committee Meeting	Wednesday, November 8, 2017, 12 noon
Claims Settlement Committee Meeting	Thursday, November 16, 2017, 5:00 p.m.
Executive Committee Meeting	Thursday, November 16, 2017, 5:30 p.m.
Board of Directors Meeting	Thursday, November 16, 2017, 6:00 p.m.

\*Meetings moved up a week, due to the Thanksgiving holiday.

# **MINUTES ORANGE COUNTY FIRE AUTHORITY**

**Executive Committee Regular Meeting  
Thursday, September 28, 2017  
5:30 P.M.**

**Regional Fire Operations and Training Center  
Board Room  
1 Fire Authority Road  
Irvine, CA 92602**

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## **CALL TO ORDER**

Chair Swift called the regular meeting of the Orange County Fire Authority Executive Committee to order at 5:30 p.m. on September 28, 2017.

## **INVOCATION**

Senior Chaplain Dave Keehn offered the invocation.

## **PLEDGE OF ALLEGIANCE**

Director Gamble led the assembly in the Pledge of Allegiance to our Flag.

## **ROLL CALL**

**Present:** Carol Gamble, Rancho Santa Margarita  
Noel Hatch, Laguna Woods  
Gene Hernandez, Yorba Linda  
Joe Muller, Dana Point  
Ed Sachs, Mission Viejo  
Dave Shawver, Stanton  
Elizabeth Swift, Buena Park  
Tri Ta, Westminster

**Absent:** Todd Spitzer, County of Orange

## **Also present were:**

Acting Fire Chief Dave Anderson	Assistant Chief Mike Schroeder
Assistant Chief Brian Young	Assistant Chief Lori Smith
Assistant Chief Lori Zeller	General Counsel David Kendig
Clerk of the Authority Sherry Wentz	

## **1. PRESENTATIONS**

No items.

### **REPORT FROM THE HUMAN RESOURCES COMMITTEE CHAIR (F: 12.02A6)**

Human Resources Committee Chair Noel Hatch reported at the September 5, 2017, special meeting of the Human Resources Committee, the Committee met in Closed Session to consider one agendized matter of anticipated litigation; there was no reportable action.

### **REPORT FROM THE BUDGET AND FINANCE COMMITTEE CHAIR**

As there was no meeting this month, there was no report.

### **REPORT FROM FIRE CHIEF (F: 12.02A7)**

Acting Fire Chief Dave Anderson reported on the completion of Phase I of the Urban Search and Rescue warehouse.

## **PUBLIC COMMENTS**

Stephen Wontrobski, Mission Viejo resident, addressed his opposition to State Senate Bill No. 302. (F: 12.02A3)

## **2. MINUTES**

### **A. Minutes from the August 24, 2017, Regular Executive Committee Meeting (F: 12.02A2)**

On motion of Director Shawver and second by Vice Chair Sachs, the Executive Committee voted unanimously by those present to approve the Minutes of the August 24, 2017, Executive Committee as submitted. Director Gamble was recorded as an abstention, due to her absence from the meeting.

## **3. CONSENT CALENDAR**

### **A. Monthly Investment Reports (F: 11.10D2)**

On motion of Director Ta and second by Director Hernandez, the Executive Committee voted unanimously by those present to receive and file the reports.

### **B. Fourth Quarter Financial Newsletter (F: 15.07)**

On motion of Director Ta and second by Director Hernandez, the Executive Committee voted unanimously by those present to receive and file the report.

**C. Sole Source Request for Orange County Fire Incident Reporting System Software License, Maintenance, and Support (F: 19.08A4)**

On motion of Director Ta and second by Director Hernandez, the Executive Committee voted unanimously by those present to approve and authorize the Purchasing Manager to extend the current sole source contract with Zoll Data Systems, Inc., for three additional years at an annual amount of \$59,124 (\$177,372 during the three-year period).

**D. New/Revised Classification Specifications for Emergency Medical Service Nurse Educator Series (F: 17.18)**

On motion of Director Ta and second by Director Hernandez, the Executive Committee voted unanimously by those present to authorize the following:

1. Approve replacement of the EMS Nurse Educator classification with the classifications of Nurse Educator I (entry-level) and Nurse Educator II (journey-level) in order to address the critical difference in efficiency, effectiveness, and level of independence exercised between entry-level and journey-level incumbents based on their fire-service/EMS experience.
2. Approve the establishment of the EMS Nurse Educator I and EMS Nurse Educator II salary ranges for the purpose of addressing recruitment and retention concerns arising from labor market competition.
3. Approve the establishment of the new classification and salary range of EMS Nurse Educator Supervisor to provide a frontline supervisory classification which will provide day-to-day supervision of all EMS Nurse Educators.
4. Approve adoption of the revised classification specification and salary range for EMS Coordinator to both reflect current job functions and requirements, and to correct internal compaction issues, respectively.
5. Direct staff to include the fiscal modification (\$49,424) in the March mid-year budget adjustment for salary adjustments resulting from placing incumbents in the new EMS Nurse Educator I and EMS Nurse Educator II classifications.

**E. New Classification Specification for Communications Services Supervisor (F: 17.18)**

On motion of Director Ta and second by Director Hernandez, the Executive Committee voted unanimously by those present to approve the establishment of a new classification and salary range for Communications Services Supervisor.

**END OF CONSENT CALENDAR**

**4. DISCUSSION CALENDAR**

No items.

**COMMITTEE MEMBER COMMENTS (F: 12.02A4)**

Director Shawver requested an update on a non-OCFA helicopter accident at Fullerton Airport.

Chair Swift reported attending a meeting with a Federal Emergency Management Agency Grant Administrator in Washington, D.C.

**CLOSED SESSION**

There were no items.

**ADJOURNMENT** – Chair Swift adjourned the meeting at 5:46 p.m. The next regular meeting of the Executive Committee is scheduled for Thursday, October 26, 2017, at 5:30 p.m.

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Sherry A.F. Wentz, CMC  
Clerk of the Authority



Orange County Fire Authority  
**AGENDA STAFF REPORT**

Executive Committee Meeting  
October 26, 2017

Agenda Item No. 3A  
Consent Calendar

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**Monthly Investment Reports**

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**Contact(s) for Further Information**

Tricia Jakubiak, Treasurer Treasury & Financial Planning	<a href="mailto:triciajakubiak@ocfa.org">triciajakubiak@ocfa.org</a>	714.573.6301
Jane Wong, Assistant Treasurer	<a href="mailto:jane Wong@ocfa.org">jane Wong@ocfa.org</a>	714.573.6305

**Summary**

This agenda item is a routine transmittal of the monthly investment reports submitted to the Committee in compliance with the investment policy of the Orange County Fire Authority and with Government Code Section 53646.

**Prior Board/Committee Action**

**Budget and Finance Committee Recommendation: *APPROVE***

At its regular October 11, 2017, meeting, the Budget and Finance Committee reviewed and unanimously recommended approval of this item.

**RECOMMENDED ACTION(S)**

In compliance with the investment policy of the Orange County Fire Authority and with Government Code Section 53646, it is recommended that the Committee receive and file the reports.

**Impact to Cities/County**

Not Applicable.

**Fiscal Impact**

Not Applicable.

**Background**

Attached is the final monthly investment report for the month ended August 31, 2017. A preliminary investment report as of September 22, 2017, is also provided as the most complete report that was available at the time this agenda item was prepared.

**Attachment(s)**

Final Investment Report – August 2017/Preliminary Report – September 2017

# ***Orange County Fire Authority Monthly Investment Report***



***Final Report – August 2017***

***Preliminary Report – September 2017***



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***Orange County Fire Authority***

***Final Investment Report***

***August 31, 2017***



## **EXECUTIVE SUMMARY**

### ***Portfolio Activity & Earnings***

During the month of August 2017, the size of the portfolio dropped further to \$145.1 million from \$162.9 million; this declining trend in the portfolio balance is typical during this time of year. Significant receipts for the month included cash contract payments, an apportionment of property taxes, intergovernmental agency payments, and charges for current services totaling \$6.7 million. Significant disbursements for the month included primarily two biweekly payrolls which were approximately \$10.0 million each with related benefits. Total August cash outflows amounted to approximately \$25.5 million. The portfolio's balance is expected to decrease further in the following month as there are no major receipts expected for September.

In August, the portfolio's yield to maturity (365-day equivalent) declined by 3 basis points to 1.04%. The effective rate of return decreased by 2 basis points to 1.02% for the month and edged down by 1 basis point to 1.03% for the fiscal year to date. The average maturity of the portfolio lengthened by 24 days to 93 days to maturity.

### ***Economic News***

The U.S. economy continued to grow moderately in August 2017, although mixed economic activity persisted. Employment conditions were slightly softer than expected due to Hurricane Harvey, but remained solid. There were a total of 156,000 new jobs created in August, and the unemployment rate edged up a notch to 4.4%, still at a low level. Both the Conference Board Consumer Confidence Index and the University of Michigan Consumer Sentiment Index climbed in August. Retail sales, on the other hand, unexpectedly dropped largely due to the effects of Hurricane Harvey. Both manufacturing and non-manufacturing activity increased for the month as well as durable goods orders while industrial production dropped. Housing activity also pulled back in August. The CPI (Consumer Price Index) continued to pick up, but remained low. On September 20, 2017, the Federal Open Market Committee met and voted to keep the federal funds rate unchanged at a target range of 1.00% – 1.25%. The Committee also upgraded its outlook on the economy. Currently, the market continues to expect one more rate increase this year at the Fed's December meeting.

**BENCHMARK COMPARISON AS OF AUGUST 31, 2017**

3 Month T-Bill: 1.03%

1 Year T-Bill: 1.23%

6 Month T-Bill: 1.13%

LAIF: 1.08%

OCFA Portfolio: 1.02%

**PORTFOLIO SIZE, YIELD, & DURATION**

	<u><i>Current Month</i></u>	<u><i>Prior Month</i></u>	<u><i>Prior Year</i></u>
<i>Book Value-</i>	\$145,096,004	\$162,867,749	\$145,605,919
<i>Yield to Maturity (365 day)</i>	1.04%	1.07%	0.67%
<i>Effective Rate of Return</i>	1.02%	1.04%	0.62%
<i>Days to Maturity</i>	93	69	176



**ORANGE COUNTY FIRE AUTHORITY**  
**Portfolio Management**  
**Portfolio Summary**  
**August 31, 2017**

Orange County Fire Authority  
1 Fire Authority Road  
Irvine, CA 92602  
(714)573-6301

(See Note 1 on page 9)

(See Note 2 on page 9)

Investments	Par Value	Market Value	Book Value	% of Portfolio	Term	Days to Maturity	YTM/C 360 Equiv.	YTM/C 365 Equiv.
Money Mkt Mutual Funds/Cash	3,762,000.00	3,762,000.00	3,762,000.00	2.58	1	1	0.523	0.530
Federal Agency Coupon Securities	35,000,000.00	34,933,820.00	35,007,047.00	23.99	971	323	1.117	1.133
Federal Agency Disc. -Amortizing	27,000,000.00	26,980,740.00	26,982,596.25	18.49	160	26	0.908	0.920
Treasury Coupon Securities	9,000,000.00	8,996,400.00	8,999,243.05	6.17	209	75	0.904	0.916
Treasury Discounts -Amortizing	10,000,000.00	9,975,200.00	9,973,750.00	6.84	170	90	1.055	1.070
Local Agency Investment Funds	61,173,154.34	61,108,351.84	61,173,154.34	41.93	1	1	1.069	1.084
<b>Investments</b>	<b>145,935,154.34</b>	<b>145,756,511.84</b>	<b>145,897,790.64</b>	<b>100.00%</b>	<b>287</b>	<b>93</b>	<b>1.026</b>	<b>1.040</b>
<hr/>								
<b>Cash</b>	(See Note 4 on page 9)							
Passbook/Checking (not included in yield calculations)	-595,783.20	-595,783.20	-595,783.20		0	0	0.000	0.000
<b>Total Cash and Investments</b>	<b>145,339,371.14</b>	<b>145,160,728.64</b>	<b>145,302,007.44</b>		<b>287</b>	<b>93</b>	<b>1.026</b>	<b>1.040</b>

Total Earnings	August 31 Month Ending	Fiscal Year To Date
Current Year	134,051.70	289,285.44
<b>Average Daily Balance</b>	<b>155,096,633.47</b>	<b>165,484,018.16</b>
<b>Effective Rate of Return</b>	<b>1.02%</b>	<b>1.03%</b>

"I certify that this investment report accurately reflects all pooled investments and is in compliance with the investment policy adopted by the Board of Directors to be effective on January 1, 2017. A copy of this policy is available from the Clerk of the Authority. Sufficient investment liquidity and anticipated revenues are available to meet budgeted expenditure requirements for the next thirty days and the next six months."

Patricia Jakubiak, Treasurer

**Cash and Investments with GASB 31 Adjustment:**

Book Value of Cash & Investments before GASB 31 (Above)

\$ 145,302,007.44

GASB 31 Adjustment to Books (See Note 3 on page 9)

\$ (206,003.82)

Total

\$ 145,096,003.62

**ORANGE COUNTY FIRE AUTHORITY**  
**Portfolio Management**  
**Portfolio Details - Investments**  
**August 31, 2017**

(See Note 1 on page 9)

(See Note 2 on page 9)

CUSIP	Investment #	Issuer	Average Balance	Purchase Date	Par Value	Market Value	Book Value	Stated Rate	YTM/C 365	Days to Maturity	Maturity Date
<b>Money Mkt Mutual Funds/Cash</b>											
				(See Note 4 on page 9)							
SYS528	528	Federated Treasury Obligations			3,762,000.00	3,762,000.00	3,762,000.00	0.530	0.530	1	
<b>Subtotal and Average</b>			<b>3,830,375.63</b>		<b>3,762,000.00</b>	<b>3,762,000.00</b>	<b>3,762,000.00</b>		<b>0.530</b>	<b>1</b>	
<b>Federal Agency Coupon Securities</b>											
3133EFJP3	869	Federal Farm Credit Bank	Callable Anytime	10/15/2015	10,000,000.00	9,973,600.00	10,000,000.00	1.100	1.054	409	10/15/2018
3133EGPD1	921	Federal Farm Credit Bank	Callable Anytime	04/20/2017	7,000,000.00	6,982,200.00	7,000,000.00	1.180	1.375	699	08/01/2019
3134G7FK2	863	Fed Home Loan Mtg Corp		06/30/2015	9,000,000.00	8,992,800.00	9,000,000.00	1.100	1.065	203	03/23/2018
3134GBHT2	922	Fed Home Loan Mtg Corp	Callable 10-25-17	04/25/2017	9,000,000.00	9,005,220.00	9,007,047.00	1.625	1.100	54	10/25/2019
<b>Subtotal and Average</b>					<b>35,000,000.00</b>	<b>34,933,820.00</b>	<b>35,007,047.00</b>		<b>1.133</b>	<b>323</b>	
<b>Federal Agency Disc. -Amortizing</b>											
313397LL3	917	Freddie Mac		04/20/2017	9,000,000.00	8,998,290.00	8,998,477.50	0.870	0.897	7	09/08/2017
313397MA8	918	Freddie Mac		04/20/2017	9,000,000.00	8,994,780.00	8,995,327.50	0.890	0.918	21	09/22/2017
313397NE7	919	Freddie Mac		04/20/2017	9,000,000.00	8,987,670.00	8,988,791.25	0.915	0.945	49	10/20/2017
<b>Subtotal and Average</b>					<b>27,000,000.00</b>	<b>26,980,740.00</b>	<b>26,982,596.25</b>		<b>0.920</b>	<b>26</b>	
<b>Treasury Coupon Securities</b>											
912828G20	920	Treasury Note		04/20/2017	9,000,000.00	8,998,400.00	8,999,243.05	0.875	0.916	75	11/15/2017
<b>Subtotal and Average</b>					<b>9,000,000.00</b>	<b>8,998,400.00</b>	<b>8,999,243.05</b>		<b>0.916</b>	<b>75</b>	
<b>Treasury Discounts -Amortizing</b>											
912796ME6	923	US Treasury Bill		06/13/2017	10,000,000.00	9,975,200.00	9,973,750.00	1.050	1.070	90	11/30/2017
<b>Subtotal and Average</b>					<b>10,000,000.00</b>	<b>9,975,200.00</b>	<b>9,973,750.00</b>		<b>1.070</b>	<b>90</b>	
<b>Local Agency Investment Funds</b>											
SYS336	336	Local Agency Invstmt Fund			61,173,154.34	61,108,351.84	61,173,154.34	1.084	1.084	1	
<b>Subtotal and Average</b>					<b>61,173,154.34</b>	<b>61,108,351.84</b>	<b>61,173,154.34</b>		<b>1.084</b>	<b>1</b>	
<b>Total and Average</b>					<b>165,096,633.47</b>	<b>145,936,164.34</b>	<b>145,766,511.84</b>		<b>1.040</b>	<b>93</b>	

**ORANGE COUNTY FIRE AUTHORITY**  
**Portfolio Management**  
**Portfolio Details - Cash**  
**August 31, 2017**

CUSIP	Investment #	Issuer	Average Balance	Purchase Date	Par Value	Market Value	Book Value	Stated Rate	YTM/C 365	Days to Maturity
<b>Money Mkt Mutual Funds/Cash</b>										
SYS10033	10033	Revolving Fund		07/01/2017	20,000.00	20,000.00	20,000.00		0.000	1
SYS4	4	Union Bank		07/01/2017	-615,783.20	-615,783.20	-615,783.20	(See Note 4 on page 9)	0.000	1
		<b>Average Balance</b>	<b>0.00</b>							<b>0</b>
<b>Total Cash and Investments</b>			<b>155,096,633.47</b>		<b>145,339,371.14</b>	<b>145,160,728.64</b>	<b>145,302,007.44</b>		<b>1.040</b>	<b>93</b>

**“We visualize problems and solutions  
through the eyes of those we serve.”**



**ORANGE COUNTY FIRE AUTHORITY**  
**Aging Report**  
**By Maturity Date**  
**As of September 1, 2017**

Orange County Fire Authority  
 1 Fire Authority Road  
 Irvine, Irvine, CA 92602  
 (714)573-6301

				Maturity Par Value	Percent of Portfolio	Current Book Value	Current Market Value
Aging Interval: 0 days	(09/01/2017 - 09/01/2017 )	4 Maturities	0 Payments	64,339,371.14	44.28%	64,339,371.14	64,274,568.64
Aging Interval: 1 - 30 days	(09/02/2017 - 10/01/2017 )	2 Maturities	0 Payments	18,000,000.00	12.38%	17,993,806.00	17,993,070.00
Aging Interval: 31 - 60 days	(10/02/2017 - 10/31/2017 )	1 Maturities	0 Payments	9,000,000.00	6.19%	8,988,791.25	8,987,670.00
Aging Interval: 61 - 91 days	(11/01/2017 - 12/01/2017 )	2 Maturities	0 Payments	19,000,000.00	13.06%	18,972,993.05	18,971,600.00
Aging Interval: 92 - 121 days	(12/02/2017 - 12/31/2017 )	0 Maturities	0 Payments	0.00	0.00%	0.00	0.00
Aging Interval: 122 - 152 days	(01/01/2018 - 01/31/2018 )	0 Maturities	0 Payments	0.00	0.00%	0.00	0.00
Aging Interval: 153 - 183 days	(02/01/2018 - 03/03/2018 )	0 Maturities	0 Payments	0.00	0.00%	0.00	0.00
Aging Interval: 184 - 274 days	(03/04/2018 - 06/02/2018 )	1 Maturities	0 Payments	9,000,000.00	6.19%	9,000,000.00	8,992,800.00
Aging Interval: 275 - 365 days	(06/03/2018 - 09/01/2018 )	0 Maturities	0 Payments	0.00	0.00%	0.00	0.00
Aging Interval: 366 - 1095 days	(09/02/2018 - 08/31/2020 )	3 Maturities	0 Payments	26,000,000.00	17.90%	26,007,047.00	26,941,020.00
Aging Interval: 1096 days and after	(09/01/2020 - )	0 Maturities	0 Payments	0.00	0.00%	0.00	0.00
Total for		13 Investments	0 Payments		100.00	146,302,007.44	146,160,728.64





**NOTES TO PORTFOLIO MANAGEMENT REPORT**

- Note 1: Market value of the LAIF investment is calculated using a fair value factor provided by LAIF. The MUFG Union Bank (formerly Union Bank) Trust Department provides market values of the remaining investments.
- Note 2: Book value reflects the cost or amortized cost before the GASB 31 accounting adjustment.
- Note 3: GASB 31 requires governmental entities to report investments at fair value in the financial statements and to reflect the corresponding unrealized gains/ (losses) as a component of investment income. The GASB 31 adjustment is recorded only at fiscal year end. The adjustment for June 30, 2017 includes a decrease of (\$68,353) to the LAIF investment and a decrease of (\$137,651) to the remaining investments.
- Note 4: The Federated Treasury Obligations money market mutual fund functions as the Authority's sweep account. Funds are transferred to and from the sweep account to/from OCFA's checking account in order to maintain a target balance of \$1,000,000 in checking. Since this transfer occurs at the beginning of each banking day, the checking account sometimes reflects a negative balance at the close of the banking day. The negative closing balance is not considered an overdraft since funds are available in the money market mutual fund. The purpose of the sweep arrangement is to provide sufficient liquidity to cover outstanding checks, yet allow that liquidity to be invested while payment of the outstanding checks is pending.



## ***Local Agency Investment Fund (LAIF)***

As of August 31, 2017, OCFA has \$61,173,154 invested in LAIF. The fair value of OCFA's LAIF investment is calculated using a participant fair value factor provided by LAIF on a quarterly basis. The fair value factor as of June 30, 2017 is 0.998940671. When applied to OCFA's LAIF investment, the fair value is \$61,108,352 or (\$64,802) below cost. Although the fair value of the LAIF investment is lower than cost, OCFA can withdraw the actual amount invested at any time.

LAIF is included in the State Treasurer's Pooled Money Investment Account (PMIA) for investment purposes. The PMIA market valuation at August 31, 2017 is included on the following page.



**State of California**  
**Pooled Money Investment Account**  
**Market Valuation**  
**8/31/2017**

Description	Carrying Cost Plus Accrued Interest Purch.	Fair Value	Accrued Interest
United States Treasury:			
Bills	\$ 12,640,985,332.44	\$ 12,685,145,000.00	NA
Notes	\$ 19,724,870,888.39	\$ 19,700,096,500.00	\$ 28,550,338.00
Federal Agency:			
SBA	\$ 890,893,140.28	\$ 881,357,578.92	\$ 940,960.41
MBS-REMICs	\$ 37,538,927.77	\$ 39,203,368.02	\$ 176,145.80
Debentures	\$ 1,414,303,546.45	\$ 1,411,152,000.00	\$ 4,517,750.05
Debentures FR	\$ -	\$ -	\$ -
Debentures CL	\$ 150,000,000.00	\$ 150,033,000.00	\$ 466,736.00
Discount Notes	\$ 11,142,008,485.84	\$ 11,171,756,000.00	NA
GNMA	\$ -	\$ -	\$ -
Supranational Debentures	\$ 349,845,968.23	\$ 348,794,000.00	\$ 1,549,479.50
Supranational Debentures FR	\$ 50,000,000.00	\$ 50,077,000.00	\$ 97,465.28
CDs and YCDs FR	\$ 625,000,000.00	\$ 625,000,000.00	\$ 1,758,732.68
Bank Notes	\$ 900,000,000.00	\$ 899,836,372.88	\$ 3,597,861.11
CDs and YCDs	\$ 13,575,000,000.00	\$ 13,573,694,501.39	\$ 38,666,444.42
Commercial Paper	\$ 7,276,002,152.74	\$ 7,290,266,833.32	NA
Corporate:			
Bonds FR	\$ -	\$ -	\$ -
Bonds	\$ -	\$ -	\$ -
Repurchase Agreements	\$ -	\$ -	\$ -
Reverse Repurchase	\$ -	\$ -	\$ -
Time Deposits	\$ 5,646,740,000.00	\$ 5,646,740,000.00	NA
AB 55 & GF Loans	\$ 704,430,000.00	\$ 704,430,000.00	NA
<b>TOTAL</b>	<b>\$ 75,127,618,442.14</b>	<b>\$ 75,177,582,154.53</b>	<b>\$ 80,321,913.25</b>

Fair Value Including Accrued Interest

\$ 75,257,904,067.78

Repurchase Agreements, Time Deposits, AB 55 & General Fund loans, and Reverse Repurchase agreements are carried at portfolio book value (carrying cost).



***Orange County Fire Authority***  
***Preliminary Investment Report***  
***September 22, 2017***



**ORANGE COUNTY FIRE AUTHORITY**  
**Portfolio Management**  
**Portfolio Summary**  
**September 22, 2017**

Orange County Fire Authority  
1 Fire Authority Road  
Irvine, Irvine, CA 92602  
(714)573-6301

(See Note 1 on page 18)

(See Note 2 on page 18)

Investments	Par Value	Market Value	Book Value	% of Portfolio	Term	Days to Maturity	YTM/C 360 Equiv.	YTM/C 365 Equiv.
Money Mkt Mutual Funds/Cash	9,826,611.36	9,826,611.36	9,826,611.36	7.17	1	1	0.523	0.530
Federal Agency Coupon Securities	35,000,000.00	34,919,110.00	35,004,176.00	25.55	971	301	1.117	1.133
Federal Agency Disc. -Amortizing	9,000,000.00	8,993,610.00	8,993,823.75	6.57	183	27	0.932	0.945
Treasury Coupon Securities	9,000,000.00	8,997,390.00	8,999,465.09	6.57	209	53	0.904	0.916
Treasury Discounts -Amortizing	10,000,000.00	9,981,900.00	9,980,166.67	7.29	170	68	1.055	1.070
Local Agency Investment Funds	64,173,154.34	64,105,173.86	64,173,154.34	46.85	1	1	1.069	1.084
<b>Investments</b>	<b>136,999,765.70</b>	<b>136,823,795.22</b>	<b>136,977,397.21</b>	<b>100.00%</b>	<b>287</b>	<b>88</b>	<b>1.021</b>	<b>1.036</b>
<b>Cash</b>								
Passbook/Checking (not included in yield calculations)	465,825.74	465,825.74	465,825.74		1	1	0.000	0.000
<b>Total Cash and Investments</b>	<b>137,465,591.44</b>	<b>137,289,620.96</b>	<b>137,443,222.95</b>		<b>287</b>	<b>88</b>	<b>1.021</b>	<b>1.036</b>

Total Earnings	September 22 Month Ending	Fiscal Year To Date
Current Year	89,035.22	378,320.66
Average Daily Balance	144,581,886.07	160,009,650.23
Effective Rate of Return	1.02%	1.03%

"I certify that this investment report accurately reflects all pooled investments and is in compliance with the investment policy adopted by the Board of Directors to be effective on January 1, 2017. A copy of this policy is available from the Clerk of the Authority. Sufficient investment liquidity and anticipated revenues are available to meet budgeted expenditure requirements for the next thirty days and the next six months."

Patricia Jakubiak, Treasurer

9/29/17

**Cash and Investments with GASB 31 Adjustment:**

Book Value of Cash & Investments before GASB 31 (Above)

\$ 137,443,222.95

GASB 31 Adjustment to Books (See Note 3 on page 18)

\$ (206,003.82)

Total

\$ 137,237,219.13

# ORANGE COUNTY FIRE AUTHORITY

## Portfolio Management

### Portfolio Details - Investments

September 22, 2017

(See Note 1 on page 18) (See Note 2 on page 18)

CUSIP	Investment #	Issuer	Average Balance	Purchase Date	Par Value	Market Value	Book Value	Stated Rate	YTM/C 365	Days to Maturity	Maturity Date
<b>Money Mkt Mutual Funds/Cash</b>											
SYS528	528	Federated Treasury Obligations			9,826,611.36	9,826,611.36	9,826,611.36	0.530	0.530	1	
		<b>Subtotal and Average</b>	<b>9,301,268.16</b>		<b>9,826,611.36</b>	<b>9,826,611.36</b>	<b>9,826,611.36</b>		<b>0.530</b>	<b>1</b>	
<b>Federal Agency Coupon Securities</b>											
3133EFJP3	869	Federal Farm Credit Bank Callable Anytime		10/15/2015	10,000,000.00	9,978,000.00	10,000,000.00	1.100	1.054	387	10/15/2018
3133EGPD1	921	Federal Farm Credit Bank Callable Anytime		04/20/2017	7,000,000.00	6,948,760.00	7,000,000.00	1.180	1.375	677	08/01/2019
3134G7FK2	863	Fed Home Loan Mtg Corp		08/30/2015	9,000,000.00	8,990,550.00	9,000,000.00	1.100	1.065	181	03/23/2018
3134GBHT2	922	Fed Home Loan Mtg Corp Callable 10-25-17		04/25/2017	9,000,000.00	9,001,800.00	9,004,176.00	1.625	1.100	32	10/25/2019
		<b>Subtotal and Average</b>	<b>35,005,546.25</b>		<b>36,000,000.00</b>	<b>34,919,110.00</b>	<b>36,004,176.00</b>		<b>1.133</b>	<b>301</b>	
<b>Federal Agency Disc. -Amortizing</b>											
313397NE7	919	Freddie Mac		04/20/2017	9,000,000.00	8,993,610.00	8,993,623.75	0.915	0.945	27	10/20/2017
		<b>Subtotal and Average</b>	<b>20,443,636.86</b>		<b>9,000,000.00</b>	<b>8,993,610.00</b>	<b>8,993,623.75</b>		<b>0.945</b>	<b>27</b>	
<b>Treasury Coupon Securities</b>											
912828G20	920	Treasury Note		04/20/2017	9,000,000.00	8,997,390.00	8,999,465.09	0.875	0.916	53	11/15/2017
		<b>Subtotal and Average</b>	<b>8,999,369.12</b>		<b>9,000,000.00</b>	<b>8,997,390.00</b>	<b>8,999,465.09</b>		<b>0.916</b>	<b>53</b>	
<b>Treasury Discounts -Amortizing</b>											
912796ME6	923	US Treasury Bill		08/13/2017	10,000,000.00	9,981,900.00	9,980,166.67	1.050	1.070	68	11/30/2017
		<b>Subtotal and Average</b>	<b>9,977,104.17</b>		<b>10,000,000.00</b>	<b>9,981,900.00</b>	<b>9,980,166.67</b>		<b>1.070</b>	<b>68</b>	
<b>Local Agency Investment Funds</b>											
SYS336	336	Local Agency Invstmt Fund			64,173,154.34	64,105,173.86	64,173,154.34	1.084	1.084	1	
		<b>Subtotal and Average</b>	<b>61,854,972.62</b>		<b>64,173,154.34</b>	<b>64,105,173.86</b>	<b>64,173,154.34</b>		<b>1.084</b>	<b>1</b>	
		<b>Total and Average</b>	<b>144,681,886.07</b>		<b>136,999,765.70</b>	<b>136,823,796.22</b>	<b>136,977,397.21</b>		<b>1.036</b>	<b>88</b>	

**ORANGE COUNTY FIRE AUTHORITY**  
**Portfolio Management**  
**Portfolio Details - Cash**  
**September 22, 2017**

CUSIP	Investment #	Issuer	Average Balance	Purchase Date	Par Value	Market Value	Book Value	Stated Rate	YTM/C 365	Days to Maturity
<b>Money Mkt Mutual Funds/Cash</b>										
SYS10033	10033	Revolving Fund		07/01/2017	20,000.00	20,000.00	20,000.00		0.000	1
SYS4	4	Union Bank		07/01/2017	445,825.74	445,825.74	445,825.74		0.000	1
		<b>Average Balance</b>	<b>0.00</b>							<b>1</b>
<b>Total Cash and Investments</b>			<b>144,581,886.07</b>		<b>137,465,591.44</b>	<b>137,289,620.96</b>	<b>137,443,222.95</b>		<b>1.036</b>	<b>88</b>

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**ORANGE COUNTY FIRE AUTHORITY**  
**Aging Report**  
**By Maturity Date**  
**As of September 23, 2017**

Orange County Fire Authority  
 1 Fire Authority Road  
 Irvine, Irvine, CA 92602  
 (714)573-6301

				Maturity Par Value	Percent of Portfolio	Current Book Value	Current Market Value
Aging Interval: 0 days	( 09/23/2017 - 09/23/2017 )	4 Maturities	0 Payments	74,465,591.44	54.18%	74,465,591.44	74,397,610.96
Aging Interval: 1 - 30 days	( 09/24/2017 - 10/23/2017 )	1 Maturities	0 Payments	9,000,000.00	6.54%	8,993,823.75	8,993,610.00
Aging Interval: 31 - 60 days	( 10/24/2017 - 11/22/2017 )	1 Maturities	0 Payments	9,000,000.00	6.55%	8,999,465.09	8,997,390.00
Aging Interval: 61 - 91 days	( 11/23/2017 - 12/23/2017 )	1 Maturities	0 Payments	10,000,000.00	7.26%	9,980,166.67	9,981,900.00
Aging Interval: 92 - 121 days	( 12/24/2017 - 01/22/2018 )	0 Maturities	0 Payments	0.00	0.00%	0.00	0.00
Aging Interval: 122 - 152 days	( 01/23/2018 - 02/22/2018 )	0 Maturities	0 Payments	0.00	0.00%	0.00	0.00
Aging Interval: 153 - 183 days	( 02/23/2018 - 03/25/2018 )	1 Maturities	0 Payments	9,000,000.00	6.55%	9,000,000.00	8,990,550.00
Aging Interval: 184 - 274 days	( 03/26/2018 - 06/24/2018 )	0 Maturities	0 Payments	0.00	0.00%	0.00	0.00
Aging Interval: 275 - 365 days	( 06/25/2018 - 09/23/2018 )	0 Maturities	0 Payments	0.00	0.00%	0.00	0.00
Aging Interval: 366 - 1095 days	( 09/24/2018 - 09/22/2020 )	3 Maturities	0 Payments	26,000,000.00	18.92%	26,004,176.00	25,928,560.00
Aging Interval: 1096 days and after	( 09/23/2020 - )	0 Maturities	0 Payments	0.00	0.00%	0.00	0.00
Total for		11 Investments	0 Payments		100.00	137,443,222.95	137,289,620.96



**NOTES TO PORTFOLIO MANAGEMENT REPORT**

- Note 1: Market value of the LAIF investment is calculated using a fair value factor provided by LAIF. The MUFG Union Bank Trust Department provides market values of the remaining investments.
- Note 2: Book value reflects the cost or amortized cost before the GASB 31 accounting adjustment.
- Note 3: GASB 31 requires governmental entities to report investments at fair value in the financial statements and to reflect the corresponding unrealized gains/ (losses) as a component of investment income. The GASB 31 adjustment is recorded only at fiscal year end. The adjustment for June 30, 2017 includes a decrease of (\$68,353) to the LAIF investment and a decrease of (\$137,651) to the remaining investments.
- Note 4: The Federated Treasury Obligations money market mutual fund functions as the Authority's sweep account. Funds are transferred to and from the sweep account to/from OCFA's checking account in order to maintain a target balance of \$1,000,000 in checking. Since this transfer occurs at the beginning of each banking day, the checking account sometimes reflects a negative balance at the close of the banking day. The negative closing balance is not considered an overdraft since funds are available in the money market mutual fund. The purpose of the sweep arrangement is to provide sufficient liquidity to cover outstanding checks, yet allow that liquidity to be invested while payment of the outstanding checks is pending.

## GLOSSARY

### INVESTMENT TERMS

**Basis Point.** Measure used in quoting yields on bonds and notes. One basis point is .01% of yield.

**Book Value.** This value may be the original cost of acquisition of the security, or original cost adjusted by the amortization of a premium or accretion of a discount. The book value may differ significantly from the security's current value in the market.

**Commercial Paper.** Unsecured short-term promissory notes issued by corporations, with maturities ranging from 2 to 270 days; may be sold on a discount basis or may bear interest.

**Coupon Rate.** Interest rate, expressed as a percentage of par or face value, that issuer promises to pay over lifetime of debt security.

**Discount.** The amount by which a bond sells under its par (face) value.

**Discount Securities.** Securities that do not pay periodic interest. Investors earn the difference between the discount issue price and the full face value paid at maturity. Treasury bills, bankers' acceptances and most commercial paper are issued at a discount.

**Effective Rate of Return.** Rate of return on a security, based on its purchase price, coupon rate, maturity date, and the period between interest payments.

**Federal Agency Securities.** Securities issued by agencies such as the Federal National Mortgage Association and the Federal Farm Credit Bank. Though not general obligations of the US Treasury, such securities are sponsored by the government and therefore have high credit ratings. Some are issued on a discount basis and some are issued with coupons.

**Federal Funds.** Funds placed in Federal Reserve banks by depository institutions in excess of current reserve requirements. These depository institutions may lend fed funds to each other overnight or on a longer basis. They may also transfer funds among each other on a same-day basis through the Federal Reserve banking system. Fed Funds are considered to be immediately available funds.

**Fed Funds Rate.** The interest rate charged by one institution lending federal funds to another.

**Federal Open Market Committee.** The branch of the Federal Reserve Board that determines the direction of monetary policy.

**Local Agency Investment Fund (LAIF).** A California State Treasury fund which local agencies may use to deposit funds for investment and for reinvestment with a maximum of \$50 million for any agency (*excluding bond funds, which have no maximum*). It offers high liquidity because

deposits can be converted to cash in 24 hours and no interest is lost. Interest is paid quarterly and the State's administrative fee cannot exceed 1/4 of a percent of the earnings.

**Market value.** The price at which the security is trading and could presumably be purchased or sold.

**Maturity Date.** The specified day on which the issuer of a debt security is obligated to repay the principal amount or face value of security.

**Money Market Mutual Fund.** Mutual funds that invest solely in money market instruments (short-term debt instruments, such as Treasury bills, commercial paper, bankers' acceptances, repurchase agreements and federal funds).

**Par.** Face value or principal value of a bond typically \$1,000 per bond.

**Rate of Return.** The amount of income received from an investment, expressed as a percentage. A *market rate of return* is the yield that an investor can expect to receive in the current interest-rate environment utilizing a buy-and-hold to maturity investment strategy.

**Treasury Bills.** Short-term U.S. government non-interest bearing debt securities with maturities of no longer than one year. The yields on these bills are monitored closely in the money markets for signs of interest rate trends.

**Treasury Notes.** Intermediate U.S. government debt securities with maturities of one to 10 years.

**Treasury bonds.** Long-term U.S. government debt securities with maturities of 10 years or longer.

**Yield.** Rate of return on a bond.

**Yield-to-maturity.** Rate of return on a bond taking into account the total annual interest payments, the purchase price, the redemption value and the amount of time remaining until maturity.

## ECONOMIC TERMS

**Conference Board Consumer Confidence Index** A survey that measures how optimistic or pessimistic consumers are with respect to the economy in the near future.

**Consumer Price Index (CPI).** A measure that examines the weighted average of prices of a basket of consumer goods and services, such as transportation, food and medical care. Changes in CPI are used to assess price changes associated with the cost of living.

**Durable Goods Orders.** An economic indicator released monthly that reflects new orders placed with domestic manufacturers for delivery of factory durable goods such as autos and appliances in the near term or future.

**Gross Domestic Product.** The monetary value of all the finished goods and services produced within a country's borders in a specific time period. It includes all of private and public consumption, government outlays, investments and exports less imports that occur within a defined territory.

**Industrial Production.** An economic indicator that is released monthly by the Federal Reserve Board. The indicator measures the amount of output from the manufacturing, mining, electric and gas industries.

**ISM Institute for Supply Management (ISM) Manufacturing Index.** A monthly index that monitors employment, production inventories, new orders and supplier deliveries.

**ISM Non-manufacturing Index.** An index based on surveys of non-manufacturing firms' purchasing and supply executives. It tracks economic data for the service sector.

**Leading Economic Index.** A monthly index used to predict the direction of the economy's movements in the months to come. The index is made up of 10 economic components, whose changes tend to precede changes in the overall economy.

**National Federation of Independent Business Small Business Optimism Index.** An index based on surveys of small business owners' plans and expectations regarding employment, capital, inventories, economic improvement, credit conditions, expansion, and earnings trends in the near term or future.

**Producer Price Index.** An index that measures the average change over time in the selling prices received by domestic producers for their output.

**University of Michigan Consumer Sentiment Index.** An index that measures the overall health of the economy as determined by consumer opinion. It takes into account an individual's feelings toward his or her own current financial health, the health of the economy in the short term and the prospects for longer term economic growth.



**Orange County Fire Authority**  
**AGENDA STAFF REPORT**

**Executive Committee Meeting**  
**October 26, 2017**

**Agenda Item No. 3B**  
**Consent Calendar**

**Updated Broker/Dealer List**

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**Contact(s) for Further Information**

Patricia Jakubiak, Treasurer  
Treasury & Financial Planning

[triciajakubiak@ocfa.org](mailto:triciajakubiak@ocfa.org)

714.573.6301

**Summary**

This agenda item is submitted to the Committee to request approval to update the current list of broker/dealers that the Treasurer uses for competitive bidding of investment purchases.

**Prior Board/Committee Action**

At its regular October 11, 2017 meeting, the Budget and Finance Committee unanimously recommended that the Executive Committee approve the Broker/Dealer list for a term of two years through October 31, 2019. The Committee also requested staff to expand the detail in this staff report explaining those particular areas of broker/dealer experience and firm disclosure events that staff focuses on when reviewing potential broker/dealers.

**RECOMMENDED ACTION(S)**

To update the current list of broker/dealers that the Treasurer uses for competitive bidding of investment purchases, it is recommended that the Committee approve the Broker/Dealer List, which includes FTN Financial Securities Corp., Raymond James Financial Services Inc., RBC Capital Markets, Stifel, Nicolaus & Company, Inc. and Wedbush Securities Inc. and authorize the List for a term of two years through October 31, 2019, as required by OCFA's Investment Policy.

**Impact to Cities/County**

Not Applicable.

**Fiscal Impact**

Not Applicable.

**Background**

On August 9, 2017, OCFA sent a Request for Qualifications (RFQ) for broker/dealer services through the Planet Bids website. Only one qualified bidder, Stifel Nicolaus & Company, Inc. submitted a response by the August 31, 2017, due date.

The proposal was evaluated by the Treasurer and Assistant Treasurer based on the following selection criteria and weighting set forth in the RFQ:

- Branch office in California (10 points)
- Experience/resumes (50 points)
- FINRA certification (10 points)
- Primary or regional dealer (10 points)
- Form 10-K or financials (net capital position) (20 points)

The firm scored well in the evaluation and is being recommended as an addition to OCFA's approved list of qualified broker/dealers. The request for qualification process and criteria that OCFA uses follow the Government Finance Officer's best practices.

Staff also reviewed the Financial Industry Regulatory Authority (FINRA) reports that provide additional information on any disclosure events where the firm was named as a respondent. FINRA oversees virtually all U.S. stock brokers and brokerage firms. It writes and enforces the rules based on Federal securities law and is overseen itself by the Securities and Exchange Commission. The financial industry is heavily regulated and litigated as reflected in the number of disclosure events reported by FINRA.

In reviewing the FINRA reports, staff considered the following in assessing the disclosure events, as well as those areas summarized in Attachment 1:

- Did the event occur in the government sector also known as the municipal market?
- Are the brokers involved in the events assigned to OCFA's account?
- Did the firm take action against the employees involved?
- Did the firm take steps to put controls in place to prevent the event from reoccurring?

The following firms are already on OCFA's list of approved broker/dealers: FTN Financial Securities Corp., Raymond James Financial Services, Inc., RBC Capital Markets, LLC, and Wedbush Securities, Inc. Therefore, their FINRA reports are updates since their last review in either 2014 or 2015. Since this is the first review of Stifel, Nicolaus & Company, Inc., its FINRA report is more comprehensive dating back to 1961. **The Lead Broker from each recommended firm has no disclosure events in FINRA.**

This list shall remain in effect for two years until October 31, 2019, as required by OCFA's Investment Policy. Staff has the ability to discontinue use of the approved brokers at any time, and prior to the conclusion of the two year period.

**Attachment(s)** (Attachments are on file with the Clerk and available upon request.)

1. FINRA Summary Review Areas of Focus
2. Summary of FINRA regulatory event report for FTN Financial Securities Corp.
3. Summary of FINRA regulatory event report for Raymond James Financial Services, Inc.
4. Summary of FINRA regulatory event report for RBC Capital Markets, LLC
5. Summary of FINRA regulatory event report for Stifel, Nicolaus & Company, Inc.
6. Summary of FINRA regulatory event report for Wedbush Securities, Inc.

## FINRA\* Summary Review Areas of Focus

<u>Firm</u>	<u>Lead Broker Experience</u>	<u>Lead Broker Disclosure Events</u>	<u>Firm Disclosure Events for Government Sector</u>	<u>Orange County Clients</u>
FTN	28 years	0	None	County of Orange, San Clemente, Santa Ana, Stanton, Tustin
Raymond James	14 years	0	None	Huntington Beach, Irvine, Lake Forest, Orange County Water District, San Clemente, Santa Ana
RBC Capital	30 years	0	Firm failed to notify its customer that the municipal securities transaction was in an amount below the minimum denomination.	County of Orange
Stifel Nicolaus	30 years	0	As an underwriter, the firm conducted inadequate due diligence and as a result, sold municipal securities on the basis of materially misleading disclosure documents.	Irvine, Irvine Ranch Water District, Huntington Beach, Orange

\*FINRA- Financial Industry Regulatory Authority

Note: Other disclosure events for corporate and other sectors of firms' business are provided in Attachment 2.



## FINRA\* Summary Review Areas of Focus

<u>Firm</u>	<u>Lead Broker Experience</u>	<u>Lead Broker Disclosure Events</u>	<u>Firm Disclosure Events for Government Sector</u>	<u>Orange County Clients</u>
Stifel Nicolaus	30 years	0	Firm failed to provide timely disclosure to a municipal issuer that the firm was serving as both Financial Advisor and Placement Agent on its bond issue.	County of Orange, San Clemente, Santa Ana, Stanton, Tustin
			Firm executed a customer transaction in a municipal security in an amount lower than the minimum denomination.	
			Firm failed to buy and sell securities at a fair price and most favorable to its customers.	
			Firm failed to report municipal debt transactions within 15 minutes of time of trade.	
			Firm failed to file G-36 forms with the Municipal Securities Rule Making Board (MSRB) in a timely manner. Under MSRB Rule G-36, underwriters in a primary offering of municipal securities must send 2 copies of the Official Statement and Form G-36 to the MSRB no later than 10 days after purchase agreement is signed.	
				2

## FINRA\* Summary Review Areas of Focus

<u>Firm</u>	<u>Lead Broker Experience</u>	<u>Lead Broker Disclosure Events</u>	<u>Firm Disclosure Events for Government Sector</u>	<u>Orange County Clients</u>
Stifel Nicolaus	30 years	0	Firm failed to file form G-36 with the MSRB in a timely manner.	County of Orange, San Clemente, Santa Ana, Stanton, Tustin
Wedbush	29 years	0	Firm failed to report information about purchase and sale of municipal debt transactions within 15 minutes, failed to enforce written procedures, and did not review cancel and late trade reports daily to weekly.	Aliso Viejo, Lake Forest

# FTN Financial Securities Corp.

## Firm Profile

<b>Year Formed</b>	1998
<b>2016 Revenues</b>	\$1.3 Billion
<b>Number of Employees</b>	4,300
<b>Types of Businesses</b>	9
<b>Number of Countries</b>	1
<b>Orange County Clients Include</b>	County of Orange, San Clemente, Santa Ana, Stanton, Tustin
<b>Lead Broker's Securities Industry Experience</b>	28 years
<b>Lead Broker's FINRA* Disclosure Events</b>	-0-

\*FINRA- Financial Industry Regulatory Authority

FTN Financial Securities Corp.  
FINRA\* Broker Check Report  
December 9, 2014 – August 1, 2017

<b>A</b>	<b>Disclosure Events Pending</b>			
	<b>None</b>			
<b>B</b>	<b>Disclosure Events Where Claim was Upheld</b>			
	<u><b>Initiated</b></u>	<u><b>Resolved</b></u>	<u><b>Product Type</b></u>	<u><b>Description</b></u>
	<b>None</b>			
<b>C</b>	<b>Disclosure Events Where Firm Paid Fine Without Admitting or Denying the Findings</b>			
	<u><b>Initiated</b></u>	<u><b>Resolved</b></u>	<u><b>Product Type</b></u>	<u><b>Description</b></u>
	<b>None</b>			

# Raymond James Financial Services, Inc.

## Firm Profile

<b>Year Formed</b>	1973
<b>2016 Revenues</b>	\$5.4 Billion
<b>Number of Employees</b>	11,900
<b>Types of Businesses</b>	15
<b>Number of Countries</b>	10
<b>Orange County Clients Include</b>	Huntington Beach, Irvine, Lake Forest, Orange County Water District, San Clemente, Santa Ana
<b>Lead Broker's Securities Industry Experience</b>	14 years
<b>Lead Broker's FINRA* Disclosure Events</b>	-0-

*\*FINRA- Financial Industry Regulatory Authority*

Raymond James Financial Services, Inc.  
FINRA\* Broker Check Report  
December 9, 2014 – August 1, 2017

A Disclosure Events Pending				
	None			
B Disclosure Events Where Claim was Upheld				
	<u>Initiated</u>	<u>Resolved</u>	<u>Product Type</u>	<u>Description</u>
	None			
C Disclosure Events Where Firm Paid Fine Without Admitting or Denying the Findings				
	<u>Initiated</u>	<u>Resolved</u>	<u>Product Type</u>	<u>Description</u>
	5/18/16	5/18/16	Annuities	Firm failed to establish policies and procedures to detect and report suspicious transactions related to its clearing firm.
	3/8/16	3/8/16	No Product	Firm caused newly hired registered representatives from other firms to disclose customer nonpublic personal information without first knowing if customer consent was obtained.
	9/16/15	9/16/15	Auction Rate Securities (ARS)	Firm did not adequately disclose all of the risks of ARS. On February 13, 2008, a number of ARS auctions failed, resulting in an overall market collapse that left thousands of investors, including the firm's customers in Hawaii, holding ARS that they have, in some cases, not been able to liquidate.
	7/6/15	7/6/15	Mutual Funds	Firm disadvantaged certain retirement plan and charitable organization customers that were eligible to purchase Class A shares in mutual funds without a front end sales charge. Instead they were sold a different class of shares with higher fees and expenses.

# RBC Capital Markets, LLC

## Firm Profile

<b>Year Formed</b>	2010
<b>2016 Revenues</b>	\$31 Billion
<b>Number of Employees</b>	80,000
<b>Types of Businesses</b>	21
<b>Number of Countries</b>	38
<b>Orange County Clients Include</b>	County of Orange
<b>Lead Broker's Securities Industry Experience</b>	30 years
<b>Lead Broker's FINRA* Disclosure Events</b>	-0-

*\*FINRA- Financial Industry Regulatory Authority*

RBC Capital Markets, LLC  
FINRA\* Broker Check Report  
August 31, 2015 – August 1, 2017

A Disclosure Events Pending				
	None			
B Disclosure Events Where Claim was Upheld				
	<u>Initiated</u>	<u>Resolved</u>	<u>Product Type</u>	<u>Description</u>
	8/31/16	8/31/16	No Product	Firm served as a financial advisor to Rural/Metro Corp. in its sale to a private equity firm. RBC's fairness opinion contained false and misleading information concerning RBC's valuation analysis.
	7/22/16	7/22/16	No Product	Employees accepted orders for transactions and were not properly licensed in the state of Louisiana.
	3/17/16	3/17/16	No Product	Same as above in Oklahoma.
	11/11/2015	4/11/16	Options	Firm failed to close out numerous fail-to-deliver positions on a timely basis.
C Disclosure Events Where Firm Paid Fine Without Admitting or Denying the Findings				
	<u>Initiated</u>	<u>Resolved</u>	<u>Product Type</u>	<u>Description</u>
	5/3/17	5/3/17	Corporate Debt Securities	Firm reported transactions to the Order Audit Trail System (OATS) incorrectly. Firm also failed to report to the Trade and Reporting Compliance Engine (TRACE) transactions that were required.
	12/21/16	12/21/16	No Product	Firm failed to retain electronic records in WORM format ("write once, read many").
	11/3/16	11/3/16	No Product	Firm overstated its advertised trade volume due to a computer coding error.
	10/19/16	10/19/16	Unspecified Securities	Firm failed to transmit reportable order events to OATS.



RBC Capital Markets, LLC  
FINRA Broker Check Report  
August 31, 2015 – August 1, 2017

C	Disclosure Events Where Firm Paid Fine Without Admitting or Denying the Findings			
	<u>Initiated</u>	<u>Resolved</u>	<u>Product Type</u>	<u>Description</u>
	7/29/16	7/29/16	Block Trade	In 2014, firm executed a block trade that was not reported to the Chicago Board of Trade within the time limit and was reported incorrectly.
	6/10/16	6/10/16	No Product	Firm did not follow FINRA rules when mediating a dispute with a claimant. Firm failed to establish, maintain, and enforce supervisory procedures to achieve compliance with FINRA rules.
	5/4/16	5/4/16	Unspecified Securities	Firm transmitted orders to the OATS system that were incorrect and incomplete.
	4/4/16	4/4/16	Unit Investment Trusts	Firm failed to apply sales charge discounts to certain eligible customers.
	3/31/16	3/31/16	Corporate Debt	Firm failed to report TRACE transactions within the time required by FINRA.
	3/1/16	3/1/16	No Product	Firm failed to amend or timely amend, the form U4 (used by registered representatives to become licensed in a state) to report unsatisfied tax liens and civil judgements.

# Stifel, Nicolaus & Co., Inc.

## Firm Profile

<b>Year Formed</b>	1890
<b>2016 Revenues</b>	\$730 Million
<b>Number of Employees</b>	5,543
<b>Types of Businesses</b>	24
<b>Number of Countries</b>	5
<b>Orange County Clients Include</b>	Irvine, Irvine Ranch Water District, Huntington Beach, Orange
<b>Lead Broker's Securities Industry Experience</b>	30 years
<b>Lead Broker's FINRA* Disclosure Events</b>	-0-

*\*FINRA- Financial Industry Regulatory Authority*

Stifel, Nicolaus & Co., Inc.  
FINRA\* Broker Check Report  
November 14, 1961 – August 1, 2017

A Disclosure Events Pending				
	None			
B Disclosure Events Where Claim was Upheld				
	<u>Initiated</u>	<u>Resolved</u>	<u>Product Type</u>	<u>Description</u>
	2/24/10	7/14/15	Auction Rate Securities (ARS)	Firm failed to supervise registered agents.
	4/30/15	6/8/15	Options	Firm failed to register several proprietary trading individuals.
	3/25/14	3/25/14	No Product	Firm failed to adequately supervise an agent in Nebraska.
	12/26/12	5/29/13	Options	Firm failed to register the minimum number of individuals as proprietary trader principals.
	4/14/10	4/14/10	ARS	Firm failed to supervise the sale of ARS in Indiana.
	6/23/10	6/23/10	ARS	Same as above in Puerto Rico.
	4/12/10	4/12/10	ARS	Same as above in North Dakota.
	5/4/10	5/4/10	ARS	Same as above in Montana.
	5/18/10	5/18/10	ARS	Same as above in Mississippi.
	4/27/10	4/27/10	ARS	Same as above in Kentucky.
	8/29/12	8/29/12	ARS	Same as above in Illinois.

Stifel, Nicolaus & Co., Inc.  
FINRA Broker Check Report  
November 14, 1961 – August 1, 2017

B	Disclosure Events Where Claim was Upheld			
	<u>Initiated</u>	<u>Resolved</u>	<u>Product Type</u>	<u>Description</u>
	8/7/12	8/7/12	ARS	Firm failed to supervise the sale of ARS in Pennsylvania.
	5/29/12	5/29/12	ARS	Same as above in Georgia.
	4/19/12	4/23/12	ARS	Same as above in Florida.
	6/27/11	6/27/11	ARS	Same as above in Maryland.
	5/24/11	5/24/11	No Product	Firm failed to adequately disclose its policy and procedures to certain clients.
	4/14/11	4/14/11	ARS	Firm failed to supervise the sale of ARS in Ohio.
	2/3/11	2/3/11	ARS	Same as above in Nevada.
	1/31/11	1/31/11	ARS	Same as above in Minnesota.
	2/17/11	2/17/11	ARS	Same as above in Oregon.
	10/4/10	10/4/10	ARS	Same as above in South Carolina.
	12/8/10	12/8/10	ARS	Same as above in Wisconsin.
	10/27/10	10/27/10	ARS	Same as above in Alaska.
	5/27/10	10/29/10	ARS	Same as above in New Jersey.
	10/19/10	10/19/10	ARS	Same as above in Arkansas.
	9/29/10	9/29/10	ARS	Same as above in Michigan.
	9/24/10	9/24/10	ARS	Same as above in Maine.

Stifel, Nicolaus & Co., Inc.  
FINRA Broker Check Report  
November 14, 1961 – August 1, 2017

B	Disclosure Events Where Claim was Upheld			
	<u>Initiated</u>	<u>Resolved</u>	<u>Product Type</u>	<u>Description</u>
	9/14/10	9/14/10	ARS	Firm failed to supervise the sale of ARS in the U.S. Virgin Islands.
	9/23/10	9/23/10	ARS	Same as above in Connecticut.
	8/10/10	8/10/10	ARS	Same as above in Rhode Island.
	8/19/10	8/19/10	ARS	Same as above in Kansas.
	8/24/10	8/24/10	ARS	Same as above in Colorado.
	7/19/10	7/19/10	ARS	Same as above in Oklahoma.
	7/8/10	7/8/10	ARS	Same as above in Delaware.
	6/28/10	6/28/10	ARS	Same as above in West Virginia.
	6/1/10	6/1/10	ARS	Same as above in Utah.
	6/16/10	6/16/10	ARS	Same as above in Tennessee.
	5/10/10	5/10/10	ARS	Same as above in Nebraska.
	5/25/10	5/25/10	ARS	Same as above in Louisiana.
	5/5/10	5/5/10	ARS	Same as above in California.
	5/13/10	5/13/10	ARS	Same as above in Alabama.
	4/19/10	4/19/10	ARS	Same as above Iowa.
	4/19/10	4/19/10	ARS	Same as above in South Dakota.

Stifel, Nicolaus & Co., Inc.  
FINRA Broker Check Report  
November 14, 1961 – August 1, 2017

B	Disclosure Events Where Claim was Upheld			
	<u>Initiated</u>	<u>Resolved</u>	<u>Product Type</u>	<u>Description</u>
	4/22/10	4/22/10	ARS	Firm failed to supervise the sale of ARS in Vermont.
	4/26/10	4/26/10	ARS	Same as above in Washington.
	3/10/10	3/10/10	No Product	Firm failed to supervise a Missouri registered agent.
	1/22/10	1/22/10	ARS	Firm failed to supervise the sale of ARS in Missouri.
	3/17/03	6/13/03	Other	Firm failed to establish and maintain appropriate procedures for supervision and control over the activities of trading floor employees. Firm did not preserve required books and records. Firm did not prevent employees with inactive registrations from performing duties.
	10/2/01	5/16/02	Credit Card Product	Firm failed to supervise agents engaged in dishonest and unethical business practices in Indiana.
	6/1/95	6/1/95	No Product	Agents sold securities in Massachusetts without being registered.
	7/17/84	4/16/85	No Product	As a result of accounting and bookkeeping errors, the firm violated the rules of fair practice.
	10/18/91	10/18/91	No Product	Firm failed to properly supervise its business activities by employing a statutorily disqualified person.
	6/14/83	9/20/84	No Product	Employee violated the rules of fair practice when he failed to make a bonafide public distribution of shares of Gott Corp.
	11/13/75	1/28/77	No Product	Registered representative made unsuitable investment recommendations to customers and misstated material fact thereby committing fraud.
	2/25/75	1/18/76	Mutual Funds	Firm engaged in unsuitable mutual fund transactions.

Stifel, Nicolaus & Co., Inc.  
FINRA Broker Check Report  
November 14, 1961 – August 1, 2017

B	Disclosure Events Where Claim was Upheld			
	<u>Initiated</u>	<u>Resolved</u>	<u>Product Type</u>	<u>Description</u>
	7/27/72	8/30/72	No Product	Firm failed to report National Association of Securities Dealers Automated Quotations (NASDAQ) volume.
	11/5/62	6/13/83	No Product	Firm violated Regulation “T” of the Federal Reserve Board. Regulation T governs investors’ cash accounts and the amount of credit that brokerage firms and dealers may extend to customers for the purchase of securities.
	12/3/91	7/21/92	No Product	Firm failed to supervise an employee who deposited a customer’s check into his own account.
	7/13/60	8/12/60	No Product	Firm violated Regulation “T” of the Federal Reserve Board.
	4/23/70	11/3/71	No Product	Firm violated National Association of Securities Dealers (NASD) rules regarding free-riding Interpretation. Free riding is the practice of buying and selling stocks or other securities without actually having the capital to cover the trade.
	3/3/70	11/3/71	No Product	Same as above.
	3/3/70	10/4/71	No Product	Same as above.
	2/14/72	10/28/73	No Product	Same as above. Firm also failed to register an officer as a principal and provided inadequate supervision.
	4/8/69	4/8/69	No Product	Firm violated NASD rules regarding free-riding and Regulation “T” of the Federal Reserve Board.
	2/16/84	7/31/84	No Product	Firm failed to make a bonafide public distribution of shares of Integrated Software Systems Corp.
	10/21/81	6/23/83	No Product	Firm’s Compliance Director failed to conduct an annual inspection of 5 offices on a timely basis.
	11/14/61	5/19/62	No Product	Firm violated NASD rules regarding free-riding interpretation.

Stifel, Nicolaus & Co., Inc.  
FINRA Broker Check Report  
November 14, 1961 – August 1, 2017

C	Disclosure Events Where Firm Paid Fine Without Admitting or Denying the Findings			
	<u>Initiated</u>	<u>Resolved</u>	<u>Product Type</u>	<u>Description</u>
	3/13/17	3/13/17	Other	Firm failed to adopt and implement adequate policies and procedures to track and disclose the trading practices of its subadvisors. When the subadvisors executed trades with firms other than Stifel, the costs were higher for Stifel's clients and not disclosed.
	5/25/16	12/30/16	Annuities / Equities	Firm failed in some instances to make, maintain, and preserve book and records.
	4/11/16	4/11/16	Other	Firm made errors in computing customer reserve deposit requirements resulting in inaccurate records.
	3/3/16	3/24/16	Other	On several occasions, the firm placed a proprietary buy or sell order while having a customer order for the same security that could have been executed at the same price.
	1/5/16	1/5/16	Other	Firm failed to supervise the written communications of institutional salespersons that constituted "research reports" when the individuals were not licensed as research analysts.
	10/27/15	10/27/15	Mutual Funds	Firm disadvantaged certain retirement plan and charitable organization customers that were eligible to purchase Class A shares without a sales charge and instead were sold shares with a sales charge.
	7/2/15	7/2/15	No Product	An individual associated with the firm was not registered in Florida as a financial advisor.



Stifel, Nicolaus & Co., Inc.  
FINRA Broker Check Report  
November 14, 1961 – August 1, 2017

C	Disclosure Events Where Firm Paid Fine Without Admitting or Denying the Findings			
	<u>Initiated</u>	<u>Resolved</u>	<u>Product Type</u>	<u>Description</u>
	6/10/15	6/10/15	No Product	Firm failed to report the correct symbol indicating whether transactions were a buy or sell.
	3/4/15	3/4/15	Common & Preferred Stock	Firm failed to display immediately customer limit orders in the NASDAQ system. A limit order is direction given to a broker to buy or sell a security or commodity at a specified price or better.
	12/23/14	12/23/14	Other	Firm did not execute orders fully and promptly for a customer and, therefore, did not obtain the most favorable price.
	11/3/14	11/3/14	Non-Investment Grade Bonds	Firm sold bonds in an amount below the minimum denomination specified in the official statement.
	10/21/14	10/21/14	Other	Firm failed to report trades correctly and executed short sales without borrowing the securities or making arrangements to borrow the securities in the future so it could be delivered on the due date.
	9/25/14	9/25/14	Options	Firm failed to immediately display customer limit orders in the NASDAQ system.
	9/22/14	9/22/14	Penny Stocks	Firm failed to establish and implement an adequate anti-money laundering program to detect and report suspicious activity.
	6/2/14	6/2/14	Other	Firm reported on transactions it was not required to report; and lacked supervisory procedures to ensure compliance.
	4/2/14	4/2/14	Agency Bonds	Firm sold agency bonds to customers at an unfair price.
	2/27/14	2/27/14	Other	As managing underwriter, firm failed to report new issue offerings in Trade Reporting and Compliance Engine (TRACE) within FINRA's timeframes.
	12/23/13	12/23/13	No Product	An investment advisor associated with the firm was not registered to conduct business in Florida.

Stifel, Nicolaus & Co., Inc.  
FINRA Broker Check Report  
November 14, 1961 – August 1, 2017

C	Disclosure Events Where Firm Paid Fine Without Admitting or Denying the Findings			
	<u>Initiated</u>	<u>Resolved</u>	<u>Product Type</u>	<u>Description</u>
	1/9/14	1/9/14	Non Traditional Exchange Traded Funds (ETFs)	Firm allowed registered representatives to recommend non-traditional ETFs to customers without its representatives conducting adequate due diligence on the products. Customers who held the investments for a long period of time experienced net losses.
	12/23/13	12/23/13	Other	Firm did not execute customer's order at the most favorable price.
	9/27/13	9/27/13	Other	Firm reported inaccurate information on customer confirmation.
	8/6/2013	8/6/13	Corporate Debt	Firm failed to buy and sell securities at a fair price and most favorable to its customers.
	8/6/13	8/6/13	No Product	Firm failed to timely report events to the Order Audit Trail System (OATS) and transmitted inaccurate, incomplete, or improperly formatted reports. Customers' confirmations were inaccurate.
	8/6/13	8/6/13	Other	Firm incorrectly entered orders into the NASDAQ system.
	9/28/12	9/28/12	Agency Debt Securities	Firm failed to report transactions within 15 minutes of the execution time.
	3/26/12	3/26/12	No Product	Firm failed to reasonably supervise a former registered representative who sold unregistered securities.
	1/24/12	1/24/12	No Product	Firm failed to supervise an agent who sold unregistered securities, failed to disclose material facts to investors, and made material misstatements.
	10/27/10	10/27/10	Corporate Debt	The firm bought and sold corporate bonds from or to customers at an unfair price. Firm incorrectly reported transactions.

Stifel, Nicolaus & Co., Inc.  
FINRA Broker Check Report  
November 14, 1961 – August 1, 2017

C	Disclosure Events Where Firm Paid Fine Without Admitting or Denying the Findings			
	<u>Initiated</u>	<u>Resolved</u>	<u>Product Type</u>	<u>Description</u>
	9/23/10	9/23/10	Unit Investment Trusts	Before, during, and shortly after its merger with Stifel, Ryan Beck and Co. failed to apply sales charge discounts to customers.
	9/18/09	9/18/09	ARS	Firm failed to post last sale reports on several transactions in Virginia.
	9/18/07	9/18/07	Other	Firm acquired part of Legg Mason Wood Walker's capital markets business and continued to trade under two market maker symbols instead of combining under one symbol.
	8/21/07	8/21/07	No Product	Firm failed to immediately display customer limit orders in NASDAQ's system.
	8/23/06	10/26/06	Other	Firm failed to adhere to the principles of good business practices by providing customers' nonpublic personal information to a third party without entering into an agreement with the third party on the use of the information.
	1/28/05	1/28/05	No Product	Firm failed to immediately display customer limit orders in the NASDAQ system. Firm also entered information into the OATS system incorrectly.
	6/17/04	6/17/04	No Product	Firm failed to establish a supervisory system to prevent late day trading.
	10/10/02	10/10/02	Over The Counter (OTC) Equities	Firm failed to immediately display customer limit orders in the NASDAQ system.

Stifel, Nicolaus & Co., Inc.  
FINRA Broker Check Report  
November 14, 1961 – August 1, 2017

C	Disclosure Events Where Firm Paid Fine Without Admitting or Denying the Findings			
	<u>Initiated</u>	<u>Resolved</u>	<u>Product Type</u>	<u>Description</u>
	2/13/02	2/13/02	OTC Equities	Firm failed to execute orders upon presentment and thereby failed to honor its published quote.
	3/15/01	8/22/01	No Product	Due to a clerical error, certain transactions were not reported by close of business.
	3/20/01	3/20/01	Mutual Funds	A former broker made unsuitable recommendations to public customers who were also sold mutual fund shares with a higher sales charge than was necessary.
	2/25/99	2/25/99	Other	Firm failed to report high yield debt transactions.
	2/13/97	2/13/97	No Product	Firm failed to include all negotiated municipal underwritings on original filing of Form G-37/38. Rule G37/38 prohibit political contributions related to the sale of municipal securities.
	7/29/76	3/9/77	No Product	Firm directed by Securities and Exchange Commission (SEC) to revise its compliance procedures.
	4/2/92	6/3/92	No Product	Firm failed to report NASDAQ volume in certain securities.
	2/25/87	2/25/87	No Product	Two individuals were acting as principals without having the proper qualifications.
	4/3/86	6/24/86	No Product	Firm failed to report NASDAQ volume.
	1/27/86	4/1/86	No Product	Same as above.
	12/22/83	12/22/83	No Product	Firm failed to properly supervise a former registered representative who executed unauthorized trading in a customer's account.

# Wedbush Securities Inc.

## Firm Profile

<b>Year Formed</b>	1955
<b>2016 Revenues</b>	Owned by Private Equity firm, not disclosed
<b>Number of Employees</b>	800
<b>Types of Businesses</b>	18
<b>Number of Countries</b>	1
<b>Orange County Clients Include</b>	Aliso Viejo and Lake Forest
<b>Lead Broker's Securities Industry Experience</b>	29 Years
<b>Lead Broker's FINRA* Disclosure Events</b>	-0-

*\*FINRA- Financial Industry Regulatory Authority*

Wedbush Securities Inc.  
FINRA\* Broker Check Report  
July 28, 2015 – August 1, 2017

A Disclosure Events Pending				
	None			
B Disclosure Events Where Claim was Upheld				
	<u>Initiated</u>	<u>Resolved</u>	<u>Product Type</u>	<u>Description</u>
	9/29/16	9/29/16	N/A	From 1983-1988, firm cleared trades in Tennessee without being registered as a Broker-Dealer.
	6/13/16	10/12/16	Options	Firm failed to mark orders with proper origin code.
	5/18/16	6/17/16	Commodity Futures	Firm failed to report large trade positions.
	3/1/16	3/23/16	Options	Firm failed to report option positions correctly.
C Disclosure Events Where Firm Paid Fine Without Admitting or Denying the Findings				
	<u>Initiated</u>	<u>Resolved</u>	<u>Product Type</u>	<u>Description</u>
	12/20/16	12/20/16	Stocks	Firm failed within 10 seconds of execution to transmit sale reports and supervise trade reporting.

Wedbush Securities Inc.  
FINRA Broker Check Report  
July 28, 2015 – August 1, 2017

C	Disclosure Events Where Firm Paid Fine Without Admitting or Denying the Findings			
	<u>Initiated</u>	<u>Resolved</u>	<u>Product Type</u>	<u>Description</u>
	2/25/16	2/25/16	Exchange Traded Funds (ETFs)	Firm failed to take sufficient follow-up actions to address a client Broker-Dealer's recurring trade fails.
	10/1/15	12/30/15	Unspecified	Firm failed to detect and prevent customers engaged in repeated manipulative trading activity. Firm's compliance systems and personnel were insufficient.
	9/22/15	9/22/15	Unspecified	Firm transmitted to FINRA's Order Audit Trail System (OATS) reports that contained inaccurate, incomplete, or improperly formatted data.



**Orange County Fire Authority**  
**AGENDA STAFF REPORT**

**Executive Committee Meeting**  
**October 26, 2017**

**Agenda Item No. 3C**  
**Consent Calendar**

**NEOGOV Contract Amendment and Extension**

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**Contact(s) for Further Information**

Brigette Gibb, Director  
Human Resources

[bridgettegibb@ocfa.org](mailto:bridgettegibb@ocfa.org)

714.573.6353

Tamaryn Boston, Human Resources Manager

[tamarynboston@ocfa.org](mailto:tamarynboston@ocfa.org)

714.573.6018

**Summary**

This agenda item seeks approval to renew and amend the current contract with GovernmentJobs.com doing business as NEOGOV for recruiting, onboarding, and performance evaluation software licenses.

**Prior Board/Committee Action**

On November 20, 2014, the Executive Committee approved awarding a contract to NEOGOV, the number one ranked firm in a competitive solicitation process. The Executive Committee approved a three-year contract term with a not to exceed amount of \$170,000.

**RECOMMENDED ACTION(S)**

To renew and amend the current contract with GovernmentJobs.com doing business as NEOGOV for recruiting, onboarding, and performance evaluation software licenses, it is recommended that the Committee:

1. Approve and authorize the Purchasing Manager to amend the professional services agreement with NEOGOV for software licenses in the amount of \$58,276.
2. Authorize the Purchasing Manager to extend the contract for two additional one-year options with price escalation limited to 5% or less annually for a three-year not to exceed amount of \$182,748.

**Impact to Cities/County**

Not Applicable.

**Fiscal Impact**

Funding is included in the General Fund budget.

**Background**

OCFA currently utilizes three integrated NEOGOV software products in order to automate and streamline recruitment, hiring, and performance management: 1) NEOGOV Insight for applicant tracking, 2) NEOGOV Onboard for new employee onboarding, and 3) NEOGOV Perform for performance management. OCFA began utilizing NEOGOV Insight for recruiting and selecting employees in 2006. A solicitation for the other two software products (onboarding and performance management) was issued in 2014. NEOGOV was the number one ranked firm out of nine firms submitting proposals. As a result, staff was able to negotiate co-terming the software licenses and a 7% discount for bundling the three software licenses. The current contract for all three products expires November 30, 2017.



NEOGOV, which specializes in public sector automation of hiring, onboarding, and performance evaluation management, recently partnered with Biddle Consulting Group (“Biddle”) to integrate its powerful applicant tracking system with Biddle’s collection of pre-employment assessments. While OCFA has been utilizing Biddle’s CritiCall pre-employment testing software for Fire Communications Dispatcher recruitments, a need for similar testing software was identified for administrative support positions. Office Proficiency Assessment and Certification (OPAC) is another Biddle product that measures the most critical skills and abilities required of today’s administrative and clerical positions, including Microsoft Office proficiency. Biddle’s assessment library, including both CritiCall and OPAC, integrates seamlessly into NEOGOV’s Insight applicant tracking system, eliminating the staff time previously required to manually enter scores and reducing the likelihood of data entry errors. The Biddle integration has been included in this contract renewal.

Estimated annual pricing for the software bundle including the maximum price adjustment is providing in the chart below:

NEOGOV	Contract Period		
	12/1/17 – 11/30/18	12/1/18 – 11/30/19	12/1/19 – 11/30/20
Insight (Applicant Tracking)	\$ 9,144	\$ 9,601	\$10,081
Onboard (New Employee Onboarding)	14,880	15,624	16,405
Perform (Performance Management)	28,808	30,248	31,761
Biddle Integration (Testing Results)	5,444*	5,245	5,507
<b>Total</b>	<b>\$58,276</b>	<b>\$60,718</b>	<b>\$63,754</b>
<b>Aggregate Three-Year Total</b>			<b>\$182,748</b>
<i>* Co-termed w/current contract 9/15/17 – 11/30/18 includes addl. 1 ½ months (annual license \$4,995)  All software modules subject to a 5% price increase per year</i>			

While the initial contract was a result of a competitive solicitation, any contract amendments to continue utilizing the software becomes a sole source after the initial award, since it would not be cost effective or efficient to change software platforms after three to five years.

Staff recommends the approval of the contract amendment with NEOGOV in the amount of \$58,276 for the first year and a not to exceed amount of \$182,748 for the three-year aggregate total.

#### **Attachment(s)**

1. Professional Services Agreement
2. Amendment One
3. Sole Source Justification Form

**ORANGE COUNTY FIRE AUTHORITY  
PROFESSIONAL SERVICES AGREEMENT**

THIS AGREEMENT FOR PROFESSIONAL SERVICES ("Agreement") is made and entered into this 20th day of November, 2014, by and between the Orange County Fire Authority, a public agency, hereinafter referred to as "OCFA", and GovernmentJobs.Com, Inc. doing business as NEOGOV, hereinafter referred to as "Firm".

**RECITALS**

WHEREAS, OCFA requires the services of a qualified firm to provide Human Resources related online services including online performance evaluation, onboarding, and recruitment services as requested in RFP DC1920, hereinafter referred to as "Project"; and

WHEREAS, Firm has submitted to OCFA a proposal dated April 11, 2014 in response to RFP DC1920, which proposal is incorporated herein by this reference, hereinafter referred to as "Proposal"; and

WHEREAS, based on its experience and reputation, Firm is qualified to provide the necessary services for the Project and desires to provide such services; and

WHEREAS, OCFA desires to retain the services of Firm for the Project.

NOW, THEREFORE, in consideration of the promises and mutual agreements contained herein, OCFA agrees to employ and does hereby employ Firm and Firm agrees to provide professional services as follows:

**AGREEMENT**

**1. PROFESSIONAL SERVICES**

**1.1 Scope of Services.**

In compliance with all terms and conditions of this Agreement, Firm shall provide those services specified in Firm's Proposal as amended by Firm's Best and Final Offer dated October 22, 2014, a copy of which is attached hereto as Exhibit "A" and incorporated herein by this reference. The Scope of Services includes by reference and by addendum: (1) OCFA's Request for Proposal, RFP DC1920, dated March 2, 2014 ("RFP"), (2) Firm's Proposal, (3) Firm's Best and Final Offer, and (4) any amendments, addendums, change orders, or modifications mutually agreed upon by the parties hereto. Firm warrants that all services shall be performed in a competent, professional and satisfactory manner in accordance with all standards prevalent in the industry. In the event of any inconsistency between the terms contained in the Firm's

Proposal or Firm's Best and Final Offer and OCFA's RFP and/or the terms set forth in the main body of this Agreement, the terms set forth in the main body of this Agreement and then the RFP shall govern, in that order.

### **1.2 Compliance with Law.**

All services rendered hereunder shall be provided in accordance with all laws, ordinances, resolutions, statutes, rules, and regulations of OCFA and any federal, state or local governmental agency of competent jurisdiction.

### **1.3 Licenses and Permits.**

Firm 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.

### **1.4 Additional Services.**

Firm shall perform services in addition to those specified in this Agreement when directed to do so in writing by the Contract Officer, provided that Firm shall not be required to perform any additional services without compensation. Any additional compensation not exceeding ten percent (10%) of the original Agreement sum must be approved in writing by the Contract Officer. Any greater increase must be approved in writing by the Fire Chief upon approval from the Executive Committee.

## **2. COMPENSATION OF FIRM**

### **2.1 Compensation of Firm.**

For the services rendered pursuant to this Agreement, Firm shall be compensated and reimbursed, in accordance with the terms set forth in the Exhibit "A," in an amount not to exceed \$169,101 for the three-year contract term.

### **2.2 Method of Payment.**

In any month in which Firm wishes to receive payment, Firm shall no later than the first working day of such month, submit to OCFA in the form approved by OCFA's Director of Finance, an invoice for services rendered prior to the date of the invoice. OCFA shall pay Firm for all expenses stated thereon which are approved by OCFA consistent with this Agreement, within thirty (30) days of receipt of Firm's invoice.

### **2.3 Changes.**

In the event any change or changes in the work is requested by OCFA, the parties hereto shall execute an addendum to this Agreement, setting forth with

particularity all terms of such addendum, including, but not limited to, any additional fees. Addenda may be entered into:

A. To provide for revisions or modifications to documents or other work product or work when documents or other work product or work is required by the enactment or revision of law subsequent to the preparation of any documents, other work product or work;

B. To provide for additional services not included in this Agreement or not customarily furnished in accordance with generally accepted practice in Firm's profession.

#### **2.4 Appropriations.**

This Agreement is subject to and contingent upon funds being appropriated therefore by the OCFA Board of Directors for each fiscal year covered by the Agreement. If such appropriations are not made, this Agreement shall automatically terminate without penalty to OCFA.

### **3. PERFORMANCE SCHEDULE**

#### **3.1 Time of Essence.**

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

#### **3.2 Force Majeure.**

The time for performance of services to be rendered pursuant to this Agreement may be extended because of any delays due to unforeseeable causes beyond the control and without the fault or negligence of the Firm, including, but not restricted to, acts of God or of a public enemy, acts of the government, fires, earthquakes, floods, epidemic, quarantine restrictions, riots, strikes, freight embargoes, and unusually severe weather if the Firm shall within ten (10) days of the commencement of such condition notify the Contract Officer who shall thereupon ascertain the facts and the extent of any necessary delay, and extend the time for performing the services for the period of the enforced delay when and if in the Contract Officer's judgment such delay is justified, and the Contract Officer's determination shall be final and conclusive upon the parties to this Agreement.

#### **3.3 Term.**

This agreement shall become effective on December 1, 2014 and continue in full force and effect for three (3) years, unless earlier terminated as provided herein ("Initial Term"). Following the expiration of the Initial Term, it is understood that there will be ongoing software license maintenance and related fees, which the parties will address through a written amendment to this Agreement or by separate contract.

#### **4. COORDINATION OF WORK**

##### **4.1 Representative of Firm.**

The following principal of the Firm is hereby designated as being the principal and representative of Firm authorized to act in its behalf with respect to the work specified herein and make all decisions in connection therewith: Scott Letourneau, President.

##### **4.2 Contract Officer.**

The Contract Officer shall be Jeremy Hammond, Human Resources Director, unless otherwise designated in writing by OCFA. It shall be the Firm's responsibility to keep the Contract Officer fully informed of the progress of the performance of the services and Firm shall refer any decisions that must be made by OCFA to the Contract Officer. Unless otherwise specified herein, any approval of OCFA required hereunder shall mean the approval of the Contract Officer.

##### **4.3 Prohibition Against Subcontracting or Assignment.**

The experience, knowledge, capability and reputation of Firm, its principals and employees, were a substantial inducement for OCFA to enter into this Agreement. Therefore, Firm shall not contract with any other entity to perform in whole or in part the services required hereunder without the express written approval of OCFA. In addition, neither this Agreement nor any interest herein may be assigned or transferred, voluntarily or by operation of law, without the prior written approval of OCFA.

##### **4.4 Independent Contractor.**

Neither OCFA nor any of its employees shall have any control over the manner, mode or means by which Firm, its agents or employees, perform the services required herein, except as otherwise set forth herein. Firm shall perform all services required herein as an independent Firm of OCFA and shall remain at all times as to OCFA a wholly independent contractor with only such obligations as are consistent with that role. Firm shall not at any time or in any manner represent that it or any of its agents or employees are agents or employees of OCFA.

#### **5. INSURANCE AND INDEMNIFICATION**

##### **5.1 Insurance.**

Firm shall procure and maintain, at its cost, and submit concurrently with its execution of this Agreement, general liability insurance including operations, products, and completed operations insurance in the amount of \$1,000,000 combined single limit for bodily injury, personal injury and property damage/\$2,000,000 aggregate;

automobile insurance in the amount of \$1,000,000 each accident/\$1,000,000 uninsured motorist; professional liability insurance in the amount of \$1,000,000 each occurrence/\$2,000,000 aggregate. The general aggregate limit shall apply separately to this contract or the general aggregate limit shall be twice the required occurrence limit. An endorsement to the General Liability Policy naming OCFA, its officers, officials, employees and volunteers as additional insureds is required to be submitted with the certificate of insurance. Firm shall also carry workers' compensation insurance in accordance with California workers' compensation laws. Such insurance shall be kept in effect during the term of this Agreement. The procuring of such insurance and the delivery of policies or certificates evidencing the same shall not be construed as a limitation of Firm's obligation to indemnify OCFA, its Firms, officers and employees. Coverage shall be provided by admitted insurers with an A.M. Best's Key Rating of at least A-VII. If Firm provides claims made professional liability insurance, Firm shall also agree in writing either (1) to purchase tail insurance in the amount required by this Agreement to cover claims made within three years of the completion of Firm's services under this Agreement, or (2) to maintain professional liability insurance coverage with the same carrier in the amount required by this Agreement for at least three years after completion of Firm's services under this Agreement. The Firm shall also be required to provide evidence to OCFA of the purchase of the required tail insurance or continuation of the professional liability policy if the service requires such coverage.

## **5.2 Indemnification.**

The Firm shall defend, indemnify and hold harmless OCFA, its officers and employees, from and against any and all actions, suits, proceedings, claims, demands, losses, costs, and expenses, including legal costs and attorneys' fees, for injury to or death of person or persons, for damage to property, including property owned by OCFA, and for errors and omissions committed by Firm, its officers, employees and agents, arising out of or related to Firm's performance under this Agreement, except for such loss as may be caused by OCFA's own negligence or that of its officers or employees.

## **6. RECORDS AND REPORTS**

### **6.1 Reports.**

Firm shall periodically prepare and submit to the Contract Officer such reports concerning the performance of the services required by this Agreement as the Contract Officer shall require.

### **6.2 Records.**

Firm shall keep such books and records as shall be necessary to properly perform the services required by this Agreement and enable the Contract Officer to evaluate the performance of such services. The Contract Officer shall have full and free

access to such books and records at all reasonable times, including the right to inspect, copy, audit and make records and transcripts from such records.

### **6.3 Ownership of Documents.**

All drawings, specifications, reports, records, documents and other materials prepared by Firm in the performance of this Agreement shall be the property of OCFA and shall be delivered to OCFA upon request of the Contract Officer or upon the termination of this Agreement, and Firm shall have no claim for further employment or additional compensation as a result of the exercise by OCFA of its full rights or ownership of the documents and materials hereunder. Firm may retain copies of such documents for its own use. Firm shall have an unrestricted right to use the concepts embodied therein.

### **6.4 Release of Documents.**

All drawings, specifications, reports, records, documents and other materials prepared by Firm in the performance of services under this Agreement shall not be released publicly without the prior written approval of the Contract Officer.

## **7. ENFORCEMENT OF AGREEMENT**

### **7.1 California Law.**

This Agreement shall be construed and interpreted 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 Orange, State of California, or any other appropriate court in such county, and Firm covenants and agrees to submit to the personal jurisdiction of such court in the event of such action.

### **7.2 Waiver.**

No delay or omission in the exercise of any right or remedy of a non-defaulting party on any default shall impair such right or remedy or be construed as a waiver. No consent or approval of OCFA shall be deemed to waiver or render unnecessary OCFA's consent to or approval of any subsequent act of Firm. 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.

### **7.3 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.

#### **7.4 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 injunctive relief, a declaratory judgment, or any other remedy consistent with the purposes of this Agreement.

#### **7.5 Termination Prior to Expiration of Term.**

OCFA reserves the right to terminate this Agreement at any time, with or without cause, upon thirty (30) days written notice to Firm, except that where termination is due to the fault of the Firm and constitutes an immediate danger to health, safety and general welfare, the period of notice shall be such shorter time as may be appropriate. Upon receipt of the notice of termination, Firm shall immediately cease all services hereunder except such as may be specifically approved by the Contract Officer. Firm shall be entitled to compensation for all services rendered prior to receipt of the notice of termination and for any services authorized by the Contract Officer thereafter.

Firm may terminate this Agreement, with or without cause, upon thirty (30) days written notice to OCFA.

#### **7.6 Termination for Default of Firm.**

If termination is due to the failure of the Firm to fulfill its obligations under this Agreement, OCFA may take over the work and prosecute the same to completion by contract or otherwise, and the Firm shall be liable to the extent that the total cost for completion of the services required hereunder exceeds the compensation herein stipulated, provided that OCFA shall use reasonable efforts to mitigate damages, and OCFA may withhold any payments to the Firm for the purpose of set-off or partial payment of the amounts owed to OCFA.

#### **7.7 Dedicated Data Files.**

Within thirty (30) days following the expiration or earlier termination of this Agreement, Firm shall provide OCFA, at no cost to OCFA, with dedicated data files suitable for importation into commercially available database software (e.g., MS-Access or MS-SQL) The dedicated data files will be comprised of OCFA's data contained in Firm's system. The structure of the relational database will be specific to the OCFA's data and will not be representative of Firm's proprietary database.



### **7.7 Attorneys' Fees.**

If either party commences an action against the other party arising out of or in connection with this Agreement or its subject matter, the prevailing party shall be entitled to recover reasonable attorneys' fees and costs of suit from the losing party.

## **8. OCFA OFFICERS AND EMPLOYEES; NON-DISCRIMINATION**

### **8.1 Non-Liability of OCFA Officers and Employees.**

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

### **8.2 Covenant Against Discrimination.**

Firm covenants that, by and for itself, its heirs, executors, assigns, and all persons claiming under or through them, that there shall be no discrimination or segregation in the performance of or in connection with this Agreement regarding any person or group of persons on account of race, color, creed, religion, sex, marital status, national origin, or ancestry. Firm shall take affirmative action to insure that applicants and employees are treated without regard to their race, color, creed, religion, sex, marital status, national origin, or ancestry.

## **9. MISCELLANEOUS PROVISIONS**

### **9.1 Additional Firm Responsibilities.**

In connection with the performance of this Agreement, Firm shall be responsible for the following:

(a) Firm shall provide all required hosting and operations support for the applications provided through this Agreement.

(b) Firm shall follow those support, maintenance and other procedures and shall provide those support, maintenance and other services to OCFA more fully described in this Agreement.

### **9.2 OCFA Responsibilities.**

In connection with the performance of this Agreement and the provision of the services, OCFA shall be responsible for the following:

(a) Firm's logos, including the "powered by" logo, will appear on the "employment opportunities", "job description" and other pages of OCFA's web site.

(b) OCFA shall be responsible for ensuring that OCFA's use of the services and the performance of OCFA's other obligations hereunder comply with all laws applicable to OCFA.

(c) OCFA shall be responsible, as between Firm and OCFA, for the accuracy and completeness of all records and databases provided by OCFA in connection with this Agreement for use on Firm's system.

### **9.3 Ownership, Protection and Security.**

(a) The parties agree that the Firm marks and the OCFA marks may both be displayed on and through Firm's system(s).

(b) Ownership of any graphics, text, data or other information or content materials and all records and databases supplied or furnished by OCFA hereunder for incorporation into or delivery through the application(s) described in this agreement shall remain with OCFA, and Firm shall cease use of all such material upon termination of this Agreement.

(c) OCFA acknowledges and agrees that nothing in this Agreement or any other agreement grants OCFA any licenses or other rights with respect to Firm's software system (source code or object code) other than the right to receive services as expressly provided herein. Firm shall retain all ownership in the intellectual property and all other proprietary rights and interests associated with Firm's software system and services and all components thereof and associated documentation, except as expressly provided herein.

(d) Firm grants to OCFA a limited license during the term of this Agreement to use and reproduce Firm's trademarks and logos for purposes of including such trademarks and logos in advertising and publicity materials and links solely as permitted hereunder. All uses of such trademarks and logos shall conform to OCFA's standard guidelines and requirements for use of such trademarks and logos.

### **9.4 Firm's Representations and Warranties.**

(a) *Service Performance Warranty.* Firm warrants that it will perform the services in a manner consistent with industry standards reasonably applicable to the performance thereof.

(b) *No Other Warranty.* EXCEPT FOR THE EXPRESS WARRANTIES SET FORTH IN THIS SECTION 9.4, THE SERVICES ARE PROVIDED ON AN "AS IS" BASIS, AND OCFA'S USE OF THE SERVICES IS AT ITS OWN RISK. FIRM DOES NOT MAKE, AND

HEREBY DISCLAIMS, ANY AND ALL OTHER EXPRESS AND/OR IMPLIED WARRANTIES, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NONINFRINGEMENT AND TITLE, AND ANY WARRANTIES ARISING FROM A COURSE OF DEALING, USAGE, OR TRADE PRACTICE. FIRM DOES NOT WARRANT THAT THE SERVICES WILL BE UNINTERRUPTED, ERROR-FREE, OR COMPLETELY SECURE.

*(c) Disclaimer of Actions Caused by and/or Under the Control of Third Parties.* FIRM DOES NOT AND CANNOT CONTROL THE FLOW OF DATA TO OR FROM THE FIRM SYSTEM AND OTHER PORTIONS OF THE INTERNET. SUCH FLOW DEPENDS IN LARGE PART ON THE PERFORMANCE OF INTERNET SERVICES PROVIDED OR CONTROLLED BY THIRD PARTIES. AT TIMES, ACTIONS OR INACTIONS OF SUCH THIRD PARTIES CAN IMPAIR OR DISRUPT OCFA'S CONNECTIONS TO THE INTERNET (OR PORTIONS THEREOF). ALTHOUGH FIRM WILL USE COMMERCIALY REASONABLE EFFORTS TO TAKE ALL ACTIONS IT DEEMS APPROPRIATE TO REMEDY AND AVOID SUCH EVENTS, FIRM CANNOT GUARANTEE THAT SUCH EVENTS WILL NOT OCCUR. ACCORDINGLY, FIRM DISCLAIMS ANY AND ALL LIABILITY RESULTING FROM OR RELATED TO SUCH EVENTS.

**9.5 Publicity.** Following execution of this Agreement, the parties hereto may issue a press release, the form and substance of which shall be mutually agreeable to the parties, announcing the relationship created by this Agreement. Except as expressly contemplated herein, neither party shall issue any additional press release which mentions the other party or the transactions contemplated by this Agreement without the prior consent of the other party, which consent shall not be unreasonably withheld.

**9.6 Nondisclosure.** Through exercise of each party's rights under this Agreement, each party may be exposed to the other party's technical, financial, business, marketing, planning, and other information and data, in written, oral, electronic, magnetic, photographic and/or other forms, including but not limited to (i) oral and written communications of one party with the officers and staff of the other party which are marked or identified as confidential or secret or similarly marked or identified and (ii) other communications which a reasonable person would recognize from the surrounding facts and circumstances to be confidential or secret ("Confidential Information") and trade secrets. In recognition of the other party's need to protect its legitimate business interests, each party hereby covenants and agrees that it shall regard and treat each item of information or data constituting a trade secret or Confidential Information of the other party as strictly confidential and wholly owned by such other party and that it will not, without the express prior written consent of the other party or except as required by law including the Public Records Act of the State of California, redistribute, market, publish, disclose or divulge to any other person, firm or

entity, or use or modify for use, directly or indirectly in any way for any person or entity: (i) any of the other party's Confidential Information during the term of this Agreement and for a period of three (3) years after the termination of this Agreement or, if later, from the last date services (including any warranty work) are performed by the disclosing party hereunder; and (ii) any of the other party's trade secrets at any time during which such information shall constitute a trade secret under applicable law.

#### **9.7 Liability Limitations.**

(a) If promptly notified in writing of any action brought against OCFA based on a claim that Firm's services infringe a United States patent, copyright or trademark right of a third party (except to the extent such claim or infringement relates to any third party software incorporated into Firm's applications), Firm will defend such action at its expense and will pay any and all fees, costs or damages that may be finally awarded in such action or any settlement resulting from such action (provided that OCFA shall permit Firm to control the defense of such action and shall not make any compromise, admission of liability or settlement or take any other action impairing the defense of such claim without Firm's prior written approval).

(b) OCFA acknowledges and agrees: (i) that Firm has no proprietary, financial, or other interest in the goods or services that may be described in or offered through OCFA's web site; and (ii) that except with respect to any material supplied by Firm, OCFA is solely responsible (as between Firm and OCFA) for the content, quality, performance, and all other aspects of the goods or services and the information or other content contained in or provided through OCFA's web site.

**(c) OTHER THAN THOSE WARRANTIES EXPRESSLY SET FORTH IN THIS AGREEMENT, FIRM DOES NOT MAKE ANY WARRANTIES TO OCFA OR ANY OTHER PERSON OR ENTITY, EITHER EXPRESS OR IMPLIED (INCLUDING, WITHOUT LIMITATION, ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE) WITH RESPECT TO THE SERVICES PROVIDED HEREUNDER. FIRM SHALL NOT BE LIABLE TO OCFA OR TO ANY OTHER PERSON OR ENTITY, UNDER ANY CIRCUMSTANCE OR DUE TO ANY EVENT WHATSOEVER, FOR CONSEQUENTIAL OR INDIRECT DAMAGES, INCLUDING, WITHOUT LIMITATION, LOSS OF PROFIT, LOSS OF USE OR BUSINESS STOPPAGE.**

(d) In no event shall Firm be liable to OCFA for any claim or form of action (whether arising in contract, tort, strict liability or otherwise) in an amount exceeding four (4) times the fees and revenue paid by OCFA to the Firm during the twelve (12) months preceding the claim. Provided, however that the foregoing limitations set forth in this section 9.7(d) shall

not apply to actions brought under 9.7(a) above, or to any personal or bodily injury to persons or damages to property, and shall not be construed as having the effect of imposing a limitation on Firm's duty to indemnify OCFA under Section 5.2 of this Agreement.

**9.8 Notice.**

Any notice, demand, request, 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 pre-paid, first-class mail to the address set forth below. Either party may change its address by notifying the other party of the change of address in writing. Notice shall be deemed communicated forty-eight (48) hours from the time of mailing if mailed as provided in this Section.

Orange County Fire Authority  
Attention: Jeremy Hammond  
1 Fire Authority Road  
Irvine, CA 92602

**WITH COPY TO:**  
David E. Kendig, General Counsel  
Woodruff, Spradlin & Smart  
555 Anton Blvd. Suite 1200  
Costa Mesa, CA 92626

To Firm:

NEOGOV  
Attn: Scott Letourneau, President  
222 N Sepulveda Blvd Suite 2000  
El Segundo, CA 90245

**9.9 Integrated Agreement.**

This Agreement contains all of the agreements of the parties and cannot be amended or modified except by written agreement.

**9.10 Amendment.**

This Agreement may be amended at any time by the mutual consent of the parties by an instrument in writing.

**9.11 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 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 shall be interpreted to carry out the intent of the parties hereunder.

**9.12 Corporate Authority.**

The persons executing this Agreement on behalf of the parties hereto warrant that they are duly authorized to execute this Agreement on behalf of said parties and that by so executing this Agreement the parties hereto are formally bound to the provisions of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the dates stated below.

**"OCFA"**

**ORANGE COUNTY FIRE AUTHORITY**

Date: 11/25/14

By:   
Jeff Bowman, Fire Chief

**APPROVED AS TO FORM.**

By:   
DAVID E. KENDIG  
GENERAL COUNSEL

Date: 11/20/14

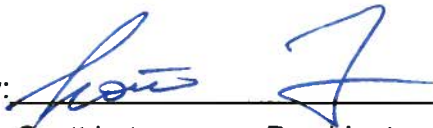
**ATTEST:**

 11/25/14  
Sherry A.F. Wentz  
Clerk of the Board

**"FIRM"**

**GovernmentJobs.com, Inc.  
dba NEOGOV**

Date: 11/9/14

By:   
Scott Letourneau, President

**Exhibit "A"**  
**BEST AND FINAL OFFER**



## REQUEST FOR BEST AND FINAL OFFER

### RFP DC1920 – ONLINE PERFORMANCE EVALUATION SYSTEM

**DATE BEST AND FINAL OFFERS REQUESTED: OCTOBER 9, 2014**

**DUE DATE FOR BEST AND FINAL OFFER: ~~OCTOBER 17, 2014 AT 3:00 P.M.~~  
EXTENDED TO OCTOBER 24, 2014 AT 3:00 P.M.**

Your firm, Government.Jobs.com, Inc., submitted a proposal in response to the above referenced Request for Proposal (RFP) issued by the Orange County Fire Authority.

As part of the negotiation process, the Orange County Fire Authority is exercising the right to request a Best and Final Offer from the top ranking firm for further evaluation and consideration.

The purpose of the Best and Final Offer is to allow both OCFA and your firm to make any modifications to the terms of the contract before making the final decision in the award.

OCFA would like additional consideration from Government.Jobs.com, Inc. on the following items:

- ***Extend proposal to provide time for contract award***
- ***New pricing to bundle current insight enterprise license, onboarding, and performance evaluation (co-term contracts – current Insight contract term is from 10/1-09/30)***
- ***Discounted bundled pricing for three-year contract with no pre-pay requirement***

Please complete the attached price page and provide a response to the questions.

Best and Final Offers must be received by the Orange County Fire Authority - Purchasing Section no later than the deadline specified above. Please submit your response to this request via e-mail to: [debbiecasper@ocfa.org](mailto:debbiecasper@ocfa.org).

The Best and Final Offer will further assist in making our final recommendation. Please complete the pricing page for further consideration. Contingent upon the outcome of the best and final offer, the contractual concerns need to be addressed. OCFA intends to use the standard Professional Services Agreement (PSA) provided in the RFP. No exceptions were identified in your submitted proposal. Please review the attached copy of the PSA and provide a red-line draft or suggestions for incorporating your service level agreement for consideration and legal review.

Thank you for your interest in doing business with Orange County Fire Authority.

Best Regards,

A handwritten signature in cursive script that reads "Debbie Casper".

Debbie Casper, C.P.M., CPPB  
Purchasing & Materials Manager



**BEST AND FINAL PRICING PAGE**

The initial NEOGOV proposal offered design, implementation, training, and 1<sup>st</sup> year maintenance cost for the online performance evaluation system for a total cost of \$37,477.

OCFA is request a Best and Final Offer (BAFO) for the online performance evaluation system, the *addition* of onboarding functionality and the *current* insight enterprise module. Please complete the pricing schedule below and answer the additional questions.

Development Implementation Cost		
DESCRIPTION OF SERVICES	Original Cost	BAFO
Design/Implementation Costs for Performance Evaluation: Includes cost to meet with OCFA project team staff, develop customized forms, adapt system to OCFA needs, develop user interfaces and implement system.	\$4,000.00	\$3,720.00
<b>Design/Implementation Costs for Onboarding Module</b>	N/A	\$2,325.00
Implementation Training Cost		
DESCRIPTION OF SERVICES	Original Cost	BAFO
Performance Evaluation Administrator Training	\$2,500.00	\$2,325.00
Onboarding Administrator Training	N/A	\$2,325.00
First Year Cost		
DESCRIPTION OF SERVICES	Original Cost	BAFO
Performance Evaluation License/Maintenance	\$30,977.00	\$28,808.00
<b>Onboarding License/Maintenance</b>	N/A	\$14,880.00
<b>Insight Enterprise License/Maintenance</b> Current annual cost \$9,800 (10/1 – 9/30)	N/A	\$9,114.00
<b>First Year Cost</b>	<b>\$37,477.00</b>	<b>\$63,497.00</b>

Annual Cost		
DESCRIPTION OF SERVICES	Year Two	Year Three
Performance Evaluation License/Maintenance	\$28,808.00	\$28,808.00
Onboarding License/Maintenance	\$14,880.00	\$14,880.00
Insight Enterprise License/Maintenance	\$9,114.00	\$9,114.00
<b>2<sup>nd</sup> &amp; 3<sup>rd</sup> Year Cost</b>	<b>\$58,802.00</b>	<b>\$58,802.00</b>
<b>Three Year Contract Amount</b>		<b>\$169,101.00</b>

1. The current proposal expires 180 days from the date of submittal April 11, 2014. Can GovernmentJobs.com extend Will you extend this date to allow OCFA to finalize a contract or replace this offer with the BAFO? Please provide information

**NEOGOV Response** – Yes. NEOGOV will honor all items from the original response as well as the BAFO pricing above through contract completion.

2. The original offer provided for a 7% discount for a three year prepayment. Would NEOGOV consider honoring the discount for a three year contract without the prepayment? If not a 7% discount, is there another offer NEOGOV is willing to offer?

**NEOGOV Response** – Yes. In lieu of a pre-payment discount, NEOGOV has applied a 7% discount off ALL items based on bundled pricing and we have extended this pricing for the 3 year period. Please note, that this discount is based on OCFA's purchase of all 3 platforms.

3. Since OCFA is further considering the complete NEOGOV solution for online performance evaluation, onboarding and insight, we are requesting to have the licenses co-terminated. Currently the insight Enterprise module is terminated from October 1 through September 30<sup>th</sup>). Please indicate if you are willing to co-term the licenses and if so what the term will be.

**NEOGOV Response** – Yes. NEOGOV is happy to co-term all license items. In regards to term duration, our recommendation would be to set the new term based on estimated contract completion and then include a pro-rated amount for your existing Insight license as a separate line item. This way OCFA can continue using Insight throughout the contracting process.

#### TO THE ORANGE COUNTY FIRE AUTHORITY:

The Undersigned hereby amends the original proposal as indicated in this Best and Final Offer and shall provide Human Resources software applications in compliance with all terms, scope of work, conditions, specifications, and amendments in the Request for Proposal which is incorporated by reference as if fully set forth herein. The representations herein are made under penalty of perjury.

GovernmentJobs.Com, Inc. (d/b/a NEOGOV)

Name of Company

222 N Sepulveda Blvd, Ste 2000

Address

El Segundo

CA

90245

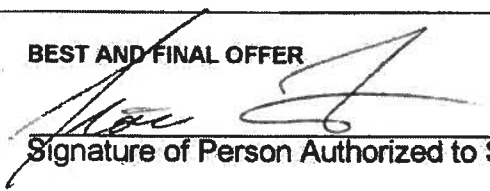
City

State

Zip

BEST AND FINAL OFFER

RFP DC1920 – ONLINE PERFORMANCE EVALUATION SYSTEM

  
Signature of Person Authorized to Sign

October 22, 2014

Date

Scott Letourneau

President

Printed Name

Title

**ORANGE COUNTY FIRE AUTHORITY  
AMENDMENT NUMBER ONE  
PROFESSIONAL SERVICES AGREEMENT**

THIS AMENDMENT NUMBER ONE TO PROFESSIONAL SERVICES AGREEMENT ("Amendment One") is made and entered into this \_\_\_ day of October, 2017, by and between the Orange County Fire Authority, a public agency, hereinafter referred to as "OCFA", and GovernmentJobs.Com, Inc. doing business as NEOGOV, hereafter referred to as "Firm".

**RECITALS**

WHEREAS, OCFA and the Firm entered into that certain Professional Services Agreement on the 20<sup>th</sup> day of November, 2014 ("Agreement"), which is incorporated herein by this reference;

WHEREAS, OCFA desires to extend the term of the Agreement through November 30, 2018, and Firm agrees to such an extension, subject to the terms and provisions of this Amendment.

WHEREAS, OCFA and Firm desire to amend the Agreement to include Biddle Integration software per the order form signed September 13, 2017, attached to this Amendment One as Exhibit "A", which is incorporated herein by this reference.

NOW, THEREFORE, OCFA and the Firm mutually agree as follows:

1. Section 2.1 and Section 3.4 of this Agreement are hereby amended and restated in their entirety to read as follows:

**2.1 Compensation of Firm.**

For the services rendered pursuant to this Agreement, Firm shall be compensated and reimbursed, in accordance with the terms set forth in Exhibit "A". Additionally, OCFA shall compensate Firm for Biddle Integration software per the order form signed September 13, 2017, attached hereto as Attachment "1" to Exhibit "A". The addition is co-termed with the current software services contract. The not to exceed annual contract amount is \$58,246.37.

**3.4 Term.**

This Agreement shall commence on December 1, 2017 and continue for an initial one-year term, with the option, to be exercised in OCFA's sole discretion, to extend for up to two additional one-year renewal terms, unless earlier terminated as provided herein. Notwithstanding the not to exceed annual contract amount set forth in Section 2.1, after the expiration of the initial one-year term, and in the event OCFA exercises its option to extend, Firm may increase its annual service fees by up to five (5) percent.

2. The September 13, 2017 order form providing for Biddle Integration software attached to this Amendment One as Exhibit "A" is hereby added to the Agreement as Attachment "1" to Exhibit "A".

3. Except as expressly modified above, all terms and conditions of the Agreement shall remain unchanged and in full force and effect.

4. The persons executing this Amendment One on behalf of the parties hereto warrant that they are duly authorized to execute this amendment on behalf of said parties and that by so executing this amendment the parties are formally bound to the provisions of this Amendment One.

IN WITNESS WHEREOF, the parties hereto have caused this amendment to be executed on the date(s) indicated below.

**"OCFA"**

**ORANGE COUNTY FIRE AUTHORITY**

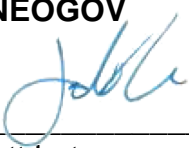
Date: \_\_\_\_\_

By: \_\_\_\_\_  
Debbie Casper, C.P.M., CPPB  
Purchasing & Materials Manager

**"FIRM"**

**GOVERNMENTJOBS.COM, INC  
DBA NEOGOV**

Date: \_\_\_\_\_

By:  \_\_\_\_\_  
~~Scott Letourneau, President~~  
John Closs, Finance

## Exhibit "A"

**EXHIBIT A – RENEWAL FORM****Customer:****Bill To:**

Orange County Fire Authority, (CA)  
1 Fire Authority Rd  
Irvine CA 92619-7115

Orange County Fire Authority, (CA)  
1 Fire Authority Rd  
Irvine CA 92619-7115

Phone:  
Email:

<b>Quote Date:</b>	10/13/2017	<b>Revision:</b>	1
<b>Valid From:</b>	N/A		
<b>Valid To:</b>	N/A	<b>Order Number:</b>	
<b>Requested Service Date:</b>	TBD	<b>Initial Term:</b>	11/25/2017 to 11/24/2018

**Order Summary NOTE:** The following discounts are available if the contract is pre-paid for the specified number of years: 2 year = 4% discount, 3 year = 6% discount, 4 years = 8% discount, 5 years = 10% off your ongoing annual license

Item	2018
<b>Insight Enterprise Software License</b> License Subscription & Maintenance	\$9,114.00
<b>Onboard Software License</b> License Subscription & Maintenance	\$14,880.00
<b>Performance Evaluation Software License</b> License Subscription & Maintenance	\$28,808.00
<b>Total</b>	<b>\$52,802.00</b>



**ORDER FORM****NEOGOV™**Biddle/NEOGOV Integration (Installed)

<b>Customer:</b> Orange County Fire Authority (CA)	<b>Bill To:</b> Attention To: <i>Accounts Payable</i>
<b>Mail Software To:</b> <i>Send electronically</i>	Address: <i>1 Fire Authority Rd IRVING, CA 92602</i>
	Phone: <i>714/573-6357 Rosaura Hernandez</i>
	Email: <i>AP@OCFA.org</i>
<b>Quote Date:</b> <i>6/1/2017</i>	
<b>Valid To:</b> <i>9/30/17</i>	
<b>Requested Service Date:</b> <i>TBD</i>	<b>Initial Term:</b> <i>13.5 Months with annual renewal option</i>

Order Summary:

Line	Description	Annual Recurring Cost
1.0	Biddle Integration – OPAC, CritiCall & Examin (Includes use of Encounter, AutoGOJA & TVAP Online) (Annual license is \$4,995 and renews 11/30/18.)	\$5,619.37
	Credit for CritiCall Biddle Payment 9/15/17 – 11/30/17	(\$175.00)
<b>Order Total:</b>		<b>\$5,444.37</b>

NEOGOV offers standard integrations with Biddle Consulting Group for CritiCall, OPAC and Examin testing. Once the integration is enabled, your Biddle tests will be set-up automatically in Insight. Applicants are downloaded automatically to your Biddle software so they are ready for testing. As soon as the applicant completes their test, their overall score for the test will be updated automatically in NEOGOV. Licensed Biddle products are installed on your organization's PCs or servers with unlimited seat licenses. Each product comes with a standard end user license agreement and is available as an annual subscription. This integration is provided as a real-time web service.

<b>Customer</b>	<b>NEOGOV, Inc.</b>
Signature: <i>Debbie Casper</i>	Signature: <i>John Closs</i>
Print Name: <i>Debbie Casper</i>	Print Name: <i>John Closs</i>
Title: <i>Purchasing Mgr.</i>	Title: <i>Finance</i>
Date: <i>9/7/17</i>	Date: <i>9/13/2017</i>



## OCFA Sole Source Request Form

*The Purchasing Ordinance of the Orange County Fire Authority requires competitive bids and proposals for service and commodity contracts. A sole source is defined as a product or service that is available from only one known supplier as a result of unique performance capabilities, manufacturing processes, compatibility requirements or market conditions. The using department requesting a sole source shall provide written clear and convincing evidence to support a sole source determination, meaning that only one source exists to fulfill the requirements. This form is to be submitted with the purchase requisition to Purchasing with any sole source requests.*

### SECTION I - INSTRUCTIONS

1. Written justification on this form will be completed by the requesting department and submitted with the purchase requisition.
2. The request must be approved by the section manager and assistant chief prior to submitting the request to the purchasing manager.
3. All sole source forms must be submitted to the Purchasing Manager for approval. Based on the new ordinance the Fire Chief is not required to approve the sole source form. The sole source request may be submitted to Assistant Chief of Business Services by the Purchasing Manager for concurrence as required.
4. All sole source contracts exceeding \$50,000 (life of contract) require Executive Committee approval. In this case, the sole source request form must be submitted to the Executive Committee as an attachment to the staff report.
5. The approved sole source justification form will be included in the contract file.

### SECTION II – REQUEST INFORMATION

<b>Department/Section:</b> Human Resources	<b>Requested By:</b> Tamaryn Boston	<b>Date:</b> 10/10/2017
<b>Recommended Vendor:</b> NEOGOV	<b>Vendor Contact:</b> Logan McDaniel	<b>Vendor's E-mail Address:</b> accounting@neogov.net
<b>Vendor Address:</b> 300 Continental BLVD., Suite 565, El Segundo, CA 90245		<b>Vendor's Telephone #:</b> 323 676-6077
<b>Type of Contract:</b> <input type="checkbox"/> One-time <input checked="" type="checkbox"/> Multi-Year <input checked="" type="checkbox"/> Renewal <input type="checkbox"/> Amendment <input type="checkbox"/> Increase	<b>Contract Term (Dates):</b> 12/01/2017 - 11/30/2020	<b>Contract Amount:</b> 182,654.42
<i>If the contract type is a Renewal, Amendment or Increase, please provide previous contract information with this request (PO, BO, previous approval date, Chief approval or EC approval, and dollar amount).</i>		<b>Attachments:</b> <input type="checkbox"/> Yes <input type="checkbox"/> No

### SECTION III – JUSTIFICATION

1. **Provide a detailed description of the product or service requested. Describe what it is. Attach additional sheet if necessary.**

Insight (job announcements, job application review and tracking), Onboard (new hire orientation), Perform (online performance evaluation), and Biddle integration (computer examination and results platform).  
Benefits of NEOGOV integrated software and Biddle Integration provided on attached sheet.

2. **Please state why the recommended vendor is the only one capable of providing the required services and/or commodities. Provide a summary of findings (research and analysis) including any supporting documentation which validates your recommendation (e.g., attach a manufacturer's letter verifying patented design and direct sale with no distributors) and demonstrates the sole source nature of this request. Attach additional sheet if necessary.**

OCFA has utilized the NEOGOV Insight Enterprise Software for recruiting employees since 2006. In 2014, performance evaluation and onboarding was added. The current renewal includes the addition of the Biddle integration testing software, including Office Proficiency and Certification (OPAC). NEOGOV is the market and technology

**SECTION III – JUSTIFICATION (continued)**

leader in on-demand human resources software for the public sector. The contract to NEOGOV is the result of a competitive solicitation. It would not be cost effective or efficient to change software platforms after three to five years.

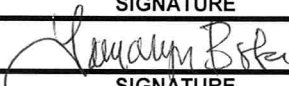
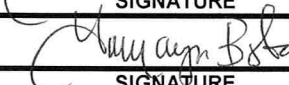
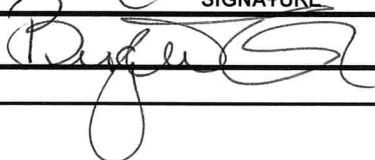
**3. Pricing - What efforts were made to get the best pricing (e.g., did you simply request a quote, negotiate with the vendor, did the vendor provide a discount)? Please provide the quote with your sole source request.**

The current annual price is the same as it was for the past three years. NEOGOV no longer offers the bundled discount unless the contract is pre-paid for three years. The maximum annual increase is 5% which is industry standard.


**4. Will this purchase obligate the OCFA to future purchases (maintenance, licensing or continuing needs)?**  
(If yes, please explain how and what the future costs will be.)

Yes, if OCFA elects to continue using this software, there will be an annual software licensing/maintenance fees subject to an increase of 5%.

**Sole Source Request Submitted by:**

REQUESTORS NAME	SIGNATURE	DATE
Tamaryn Boston		10/12/17
DIVISION CHIEF/SECTION MANAGER NAME	SIGNATURE	DATE
Tamaryn Boston		10/12/17
ASSISTANT CHIEF NAME	SIGNATURE	DATE
Brigette Gibb		10/12/17

**Purchasing Manager's Comments:**

PURCHASING MANAGER'S APPROVAL	DATE
 For Debbie Casper	10/17/17
ASSISTANT CHIEF BUSINESS SERVICES CONCURRENCE	DATE
	10/17/17

Executive Committee Approval Required ☒ Yes ☐ No Sole Source over \$50,000

Executive Committee Approved: ☐ Yes ☐ No Date approved \_\_\_\_\_

## Benefits of NEOGOV integrated Software and Biddle Integration:

**NEOGOV Insight** - Automates the hiring and selection process from requisition to hire and is tailored for the unique needs of the OCFA. Other benefits of this program include:

- Automates application screening (for example, streamlines minimum qualification review)
- Automates EEO reporting
- Generates e-mail notifications to candidates who have signed up to be notified of job opportunities at OCFA
- Allows HR Recruitment team to manage large applicant pools with ease
- Features ability to send mass emails to all candidates in quick, fair and efficient manner
- Features unlimited storage for every past and current recruitment (serves as a recruitment database)
- Houses our class specifications and integrates those class specifications with our Career Opportunities website
- Automates requisition routing
- Features ability to upload recruiting materials, examination notes, and scoring sheets
- Reduces cost per hire
- Reduces time to hire
- Public Sector industry standard software to recruit and select our workforce

**NEOGOV Perform** - Automates year-end and probationary employee appraisals and will allow the Human Resources team to replace manual systems for several employee groups.

- Includes online evaluation routing for management and employee e-signatures
- Allows goals to auto-populate from the previous year
- Includes ability to have multiple raters over the employee's evaluation cycle (weights can be determined)
- Includes ability for Human Resources staff to see where the evaluation is in the completion and/or approval process
- Provides live statistics by department for evaluation completion
- Auto-generates evaluations on employee's anniversary, promotion, or other determined date
- Allows supervisors to generate clear goals and track an employee's progress throughout the year
- Employees and managers can add comments and accomplishments throughout the year
- Includes ability for employees to obtain a copy of their evaluations at any time

**NEOGOV Onboard** - Enables new hires to become more productive by streamlining new hire paperwork processes and training.

- Boosts productivity by having new hires complete paperwork prior to their start date
- Increases job satisfaction and retention
- Allows employees to complete forms/training online
- Keeps in compliance with I-9 forms and lets NEOGOV be the custodian of records
- Saves on printing costs
- Shortens the new hire orientation meeting
- Boosts employee engagement
- Includes personalized message from manager and/or department

- Includes option to automatically route employee forms to different departments within the OCFA
- Includes ability to customize employment forms
- Includes ability to upload videos and welcome messages

#### **Biddle Integration**

- Computer assessment scores automatically upload into NEOGOV
- Reduces manual input time and errors
- Includes access to OPAC/Biddle testing library for computer assessment tests
- Houses CRITICAL software (dispatch examination software)
- Streamlines recruiting testing and reduce time to hire
- Includes unlimited license use for testing



**Orange County Fire Authority**  
**AGENDA STAFF REPORT**

**Executive Committee Meeting**  
**October 26, 2017**

**Agenda Item No. 3D**  
**Consent Calendar**

**Sole Source Request for Fire Station Alerting System Replacement for  
Fire Stations 20 (Irvine) and 22 (Laguna Hills/Laguna Woods)**

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**Contact(s) for Further Information**

Dave Anderson, Assistant Chief  
Support Services Department

[daveanderson@ocfa.org](mailto:daveanderson@ocfa.org)

714.573.6008

Joel Brodowski, IT Manager

[joelbrodowski@ocfa.org](mailto:joelbrodowski@ocfa.org)

714.573.6421

**Summary**

This agenda item seeks approval to issue two sole source contracts to Westnet, Inc. and establish contingency budgets to install and replace fire station alerting system controllers, speakers, lights, and other electrical components at OCFA fire stations 20 (Irvine) and 22 (Laguna Hills/Laguna Woods). Westnet is the sole provider of the proprietary alerting technology selected by the OCFA for new fire stations and routine upgrades to existing fire stations.

**Prior Board/Committee Action**

The contract to upgrade OCFA fire station alerting systems with Westnet, Inc. digital electronic station alerting technology was approved by the Executive Committee in August 2013, after a competitive Request for Proposal (RFP) process.

**RECOMMENDED ACTION(S)**

For the installation and upgrade of fire station alerting system controllers, speakers, lights, and other electrical components, it is recommended that the Committee:

1. Approve and authorize the Purchasing Manager to issue a sole source contract to Westnet, Inc. in the amount of \$121,157 to install a fire station alerting system at OCFA Fire Station 20 and add a 10% contingency (\$12,116) to the contract for additional services that may be required during implementation and the Board Chair and Vice Chair will be notified before use of contingency funds.
2. Approve and authorize the Purchasing Manager to issue a sole source contract to Westnet, Inc. in the amount of \$117,697 to replace the fire station alerting system at OCFA Fire Station 22, and add a 10% contingency (\$11,770) to the contract for additional services that may be required during implementation and the Board Chair and Vice Chair will be notified before use of contingency funds.

**Impact to Cities/County**

Not Applicable.

**Fiscal Impact**

Funding is included in the FY 2017/18 Budget - Fund 12110 CIP Budget.

## Background

### *Sole Source Justification*

Westnet, Inc. is based in Huntington Beach and is the Original Equipment Manufacturer (OEM), sole distributor, and service provider of Westnet, Inc. digital electronic fire station alerting technology. They were selected thru a competitive solicitation process in August 2013 to integrate all existing OCFA fire station alerting systems with the new TriTech Computer Assisted Dispatch (CAD) system being installed at the time. The integration project was completed prior to the September 2014 go-live of the new CAD system and included installing master control units and light-emitting diode timers in all fire stations, and computer hardware, servers, and interfaces at the Regional Fire Operations and Training Center.

All OCFA fire stations will have the full Westnet, Inc. digital electronic fire station alerting system installed during the normal fire station alerting replacement/upgrade schedule, and during construction of new fire stations. This includes replacing all controllers, speakers, lights, and other electrical components used for station alerting. The quantity of components can vary based on the size of the fire station and the number of units and personnel assigned to it. This can result in significant cost variance for individual fire station upgrades. OCFA fire station alerting systems are expected to function 15-20 years before replacement, so it is necessary to upgrade 4-5 fire stations annually so all 72 OCFA fire stations will be upgraded within the 15-20 year system lifespan. Fire Stations 56 (Rancho Mission Viejo) and 57 (Aliso Viejo) were the first two OCFA fire stations to have the complete Westnet, Inc. solution installed.

Staff has worked with Operations representatives to approve the fire station upgrade priority and list of stations for FY 2017/18 (shown below), and approve the standard Westnet, Inc. complement of equipment and options to be installed in all fire stations. The priority list will be reviewed regularly with Operations personnel and revised as needed.

1. Fire Station 20 (Irvine – new construction)
2. Fire Station 22 (Laguna Hills/Laguna Woods)
3. Fire Station 43 (Tustin)
4. Fire Station 66 (Westminster)

Staff anticipates developing a master contract to upgrade five or more fire stations annually after completing several more fire station upgrades, but for now will continue to bring fire station alerting system upgrade contracts for one or two stations at a time to the Executive Committee for approval.

Staff is requesting approval and authorization for the Purchasing Manager to issue a sole source contract to Westnet, Inc. in the amount of \$121,157 plus a 10% contingency (\$12,116) for a total contract value of \$133,273 to install a fire station alerting system at OCFA Fire Station 20, and issue a second sole source contract to Westnet, Inc. in the amount of \$117,697 plus 10% contingency (\$11,770) for total contract value of \$129,467 to install a fire station alerting system at OCFA Fire Station 22. The 10% contingency budgets will be used for additional services that may be required during installation and the Board Chair and Vice Chair will be notified before use of contingency funds. (see price matrix on next page)

<b>Summary of Westnet, Inc. Fire Station Alerting System Costs for FS20, FS22</b>		
Fire Station 20 Station Alerting System Installation Contract	\$	121,157
Fire Station 20 Contingency Budget - 10% of Installation Contract	\$	12,116
Fire Station 20 Contract Total	\$	<b>133,273</b>
Fire Station 22 Station Alerting System Replacement Contract	\$	117,697
Fire Station 22 Contingency Budget - 10% of Replacement Contract	\$	11,770
Fire Station 22 Contract Total	\$	<b>129,467</b>
Total of contracts for FS20, FS22 Installation and Replacment of alerting systems	\$	<b>262,740</b>

**Attachment(s)**

1. Proposed Westnet Agreement FS 20
2. Proposed Westnet Agreement FS 22
3. Sole Source Justification Form

**ORANGE COUNTY FIRE AUTHORITY  
CONTRACTOR SERVICES AGREEMENT**

THIS AGREEMENT FOR CONTRACTOR SERVICES ("Agreement") is made and entered into this \_\_\_\_\_ day of October 2017 ("Effective Date"), by and between the Orange County Fire Authority, a California Joint Powers Authority, hereinafter referred to as "OCFA", and Westnet Inc., a California Corporation, hereinafter referred to as "Contractor". OCFA and Contractor are sometimes individually referred to herein as a "Party" and collectively as the "Parties".

**RECITALS**

WHEREAS, OCFA requires the services of a Contractor for the purchase and installation of the First-In Fire Station Alerting system for Fire Station 20 located at 7050 Corsair, Irvine, CA 92618, hereinafter referred to as "Project"; and

WHEREAS, based on its experience and reputation, Contractor is qualified to provide the necessary services for the Project and desires to provide such services; and

WHEREAS, OCFA desires to retain Contractor to provide the necessary Project services.

NOW, THEREFORE, in consideration of the promises and mutual agreements contained herein, OCFA agrees to employ and does hereby employ Contractor and Contractor agrees to provide professional services as follows:

**AGREEMENT**

**1. CONTRACTOR SERVICES**

**1.1 Scope of Services.**

In compliance with all terms and conditions of this Agreement, Contractor shall provide those services specified in in the Statement of Work for Installation of First-In Fire Station Alerting Systems Fire Station 20, which is attached hereto as Exhibit "A" (hereinafter, the "Services" or "Work"). Should any conflict or inconsistency exist between the body of this Agreement and Exhibit "A", the terms of this Agreement shall control. Contractor warrants that all Services shall be performed in a skillful, competent, professional and satisfactory manner in accordance with all standards prevalent in the same discipline in the State of California and in accordance with all applicable laws per Sections 1.2 and 1.3. Contractor represents and warrants that it and all of its employees and subcontractors providing any Services or Work under this Agreement shall have sufficient skill and expertise to perform the Services and Work assigned to them. All Services and Work shall be completed to the reasonable satisfaction of the OCFA in



accordance with the Acceptance Test Plan and Final System Acceptance specifications incorporated within Exhibits E & F to the applicable Statement of Work.

## **1.2 Compliance with Law.**

Contractor shall comply at all times during the term of this Agreement with all laws, ordinances, resolutions, statutes, rules, and regulations of OCFA and any federal, state or local governmental agency of competent jurisdiction. Contractor shall be liable for all violations of such laws, ordinances, resolutions, statutes, rules and regulations in connection with performing the Work and Services. If Contractor performs any Work or Services in violation of such laws, ordinances, resolutions, statutes, rules or regulations, Contractor shall be solely responsible for all penalties and costs arising therefrom. Contractor shall defend, indemnify, and hold OCFA, its officials, officers, employees, agents and volunteers, free and harmless from any claim or liability arising out of any failure or alleged failure to comply with such laws, ordinances, resolutions, statutes, rules or regulations.

## **1.3 Public Contracts Law.**

The Authority is subject to the provisions of law relating to public contracts in the State of California. It is agreed that all provisions of law applicable to public contracts are a part of this contract to the same extent as though set forth herein, and will be complied with the Contractor.

No contractor or subcontractor may be listed on a bid proposal for a public works project (submitted on or after March 1, 2015) unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5 [with limited exceptions from this requirement for bid purposes only under Labor Code section 1771.1 (a)].

No contractor or subcontractor may be awarded or perform a contract for public work on a public works project (awarded on or after April 1, 2015) unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5.

This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations. Contractor shall not pay less than the prevailing wage. It shall be the responsibility of the Contractor to obtain the prevailing wage rates from the Director of Industrial Relations directly.

## **1.4 Licenses and Permits.**

Prior to performing any Services or Work hereunder, Contractor shall obtain all licenses, permits, qualifications, and approvals of whatever nature that are legally required to practice its profession and perform the Work and Services required by this Agreement. Contractor represents and warrants to OCFA that Contractor shall, at its sole cost and expense, keep in effect at all times during the term of this Agreement and any extension, any license, permit, qualification, or approval that is legally required for

Contractor to perform the Work and Services under this Agreement. Contractor 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 Contractor's performance of the Work and Services required by this Agreement, and shall defend, indemnify, and hold the OCFA, its officials, officers, employees, agents and volunteers, free and harmless from and against any claim or liability arising out of any failure or alleged failure to obtain such license, permits, and approvals of whatever nature that are legally required to perform the Work or Services.

### **1.5 Familiarity with Work.**

By executing this Agreement, Contractor warrants that Contractor (a) has thoroughly investigated and considered the Work to be performed, (b) has investigated the site of the Work and become fully acquainted with the conditions there existing, (c) has carefully considered how the Work should be performed, and (d) fully understands the facilities, difficulties and restrictions attending performance of the Work under this Agreement. Should the Contractor discover any latent or unknown conditions materially differing from those inherent in the Work or as represented by OCFA, Contractor shall immediately inform OCFA of such fact and shall not proceed with any Work except at Contractor's risk until written instructions are received from the Contract Officer.

### **1.6 Care of Work.**

Contractor shall adopt and follow reasonable procedures and methods during the term of the Agreement to prevent loss or damage to materials, papers or other components of the Work, and shall be responsible for all such damage until acceptance of the Work by OCFA, except such loss or damages as may be caused by OCFA's own negligence.

### **1.7 Prevailing Wage.**

Contractor is aware of the requirements of California Labor Code Section 1720, et seq., and 1770, et seq., as well as California Code of Regulations, Title 8, Section 16000, et seq., ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on "public works" and "maintenance" projects. Contractor agrees to fully comply with all applicable federal and state labor laws (including, without limitation, if applicable, the Prevailing Wage Laws). It is agreed by the Parties that, in connection with the Work or Services provided pursuant to this Agreement, Contractor shall bear all risks of payment or non-payment of prevailing wages under California law, and Contractor hereby agrees to defend, indemnify, and hold the OCFA, its officials, officers, employees, agents and volunteers, free and harmless from any claim or liability arising out of any failure or alleged failure to comply with the Prevailing Wage Laws. The foregoing indemnity shall survive termination of this Agreement.

## **2. TIME FOR COMPLETION**

The time for completion of the services to be performed by Contractor is an essential condition of this Agreement. Contractor shall prosecute regularly and diligently the work of this Agreement according to the schedule set forth in Contractor's Quote. Contractor shall not be accountable for delays in the progress of its work caused by any condition beyond its control and without the fault or negligence of Contractor. Delays shall not entitle Contractor to any additional compensation regardless of the party responsible for the delay.

### **3. COMPENSATION**

#### **3.1 Compensation of Contractor and Payment Terms.**

Authority agrees to pay and the Contractor agrees to accept as full consideration for the faithful performance of this Contract, subject to any subsequent additions or deductions as provided in approved change orders, the sum of one hundred twenty-one thousand, one hundred fifty-seven dollars and three cents (\$121,157.03) as shown on the Contractor's Quote.

Payments shall be made by Authority within thirty (30) days of invoicing by the Contractor per the progress schedule set forth in the Contractor's Quote. Payments may be subject to a retention of five (5) percent of the invoice amount to be released upon satisfactory completion of all work pursuant to this Agreement, subject to any extension granted under Section 4.2 of this Agreement.

Payments shall be made on demands drawn in the manner required by law, stating that the work for which payment is demanded has been performed in accordance with the terms of the Contract, and that the amount stated in the certificate is due under the terms of the Contract. Partial payments on the Contract price shall not be considered as an acceptance of any part of the work.

#### **3.3 Changes.**

In the event any change or changes in the Work is requested by OCFA, the Parties shall execute a written amendment to this Agreement, setting forth with particularity all terms of such amendment, including, but not limited to, any additional fees for services. An amendment may be entered into, among other things: (a) to provide for revisions or modifications to documents or other work product or work when documents or other work product or work is required by the enactment or revision of law subsequent to the preparation of any documents, other work product or work; and/or (b) to provide for additional services not included in this Agreement or not customarily furnished in accordance with generally accepted practice in Contractor's profession.

#### **3.4 Appropriations.**

This Agreement is subject to and contingent upon funds being appropriated therefore by the OCFA Board of Directors for each fiscal year covered by the Agreement. If such appropriations are not made, this Agreement shall automatically terminate without penalty to OCFA. In the event of termination under this Section, Contractor shall be entitled to compensation in accordance with Section 8.5.

#### **4. PERFORMANCE SCHEDULE**

##### **4.1 Time of Essence.**

Time is of the essence in the performance of this Agreement. The time for completion of the Services to be performed by Contractor is an essential condition of this Agreement.

##### **4.2 Schedule of Performance.**

All services rendered pursuant to this Agreement and the Contractor's Quote, except technical support, shall be completed within 90 days of the execution of this Agreement ("Completion Date"). Any request for an extension must be submitted to the Contract Officer for review and approval at least twenty-one (21) days in advance of the Completion Date.

##### **4.3 Force Majeure.**

The time for performance of Services to be rendered pursuant to this Agreement may be extended because of any delays due to unforeseeable causes beyond the control and without the fault or negligence of the Contractor (financial inability excepted), including, but not restricted to, acts of God or of a public enemy, unusually severe weather, fires, earthquakes, floods, epidemics, quarantine restrictions, riots, strikes, freight embargoes, wars, and/or acts of any governmental agency, including the OCFA, if the Contractor, within ten (10) days of the commencement of such condition, notifies the Contract Officer in writing of the causes of the delay. The Contract Officer shall thereupon ascertain the facts and the extent of the delay, and extend the time for performing the Services for the period of the enforced delay when and if in the Contract Officer's judgment such delay is justified. The Contract Officer's determination shall be final and conclusive upon the Parties to this Agreement. In no event shall Contractor be entitled to recover damages against OCFA for any delay in the performance of this Agreement under this section, Contractor's sole remedy being extension of the Agreement pursuant to this section.

##### **4.4 Term.**

Unless earlier terminated in accordance with Sections 8.5 and 8.6 of this Agreement, this Agreement shall continue in full force and effect until satisfactory completion of the services but not exceeding ninety (90) days from the date hereof, unless extended by mutual written agreement of the parties.

## **5. COORDINATION OF WORK**

### **5.1 Representative of Contractor.**

The following principal of the Contractor is hereby designated as being the principal and representative of Contractor authorized to act in its behalf with respect to the Services to be performed under this Agreement and make all decisions in connection therewith: Dawn Matheny, Chief Financial Officer.

It is expressly understood that the experience, knowledge, capability and reputation of the foregoing principal is a substantial inducement for OCFA to enter into this Agreement. Therefore, the foregoing principal shall be responsible during the term of this Agreement for directing all activities of Contractor and devoting sufficient time to personally supervise the Services performed hereunder. The foregoing principal may not be changed by Contractor without the express written approval of the Contract Officer.

### **5.2 Contract Officer.**

The Contract Officer shall be IT Manager, Joel Brodowski, unless otherwise designated in writing by OCFA. It shall be the Contractor's responsibility to keep the Contract Officer fully informed of the progress of the performance of the Services and Contractor shall refer any decisions that must be made by OCFA to the Contract Officer. Unless otherwise specified herein, any approval of OCFA required hereunder shall mean the approval of the Contract Officer. The Contract Officer shall have authority to sign all documents on behalf of the OCFA required hereunder to carry out the terms of this Agreement.

### **5.3 Prohibition Against Subcontracting or Assignment.**

The experience, knowledge, capability and reputation of Contractor, its principals and employees, were a substantial inducement for OCFA to enter into this Agreement. Contractor shall disclose in its Statement of Work any subcontractors which shall be utilized in the performance of its obligations under this Agreement. OCFA shall have the right to reject any subcontractor designated by Subcontractor in its sole and absolute discretion. Contractor shall be responsible to OCFA for the acts and omissions of its subcontractor(s) in the same manner as it is for persons directly employed. Nothing contained in this Agreement shall create any contractual relationships between any subcontractor and OCFA. All persons engaged in the Work will be considered employees of Contractor. OCFA will deal directly with and will make all payments to Contractor. In addition, neither this Agreement nor any interest herein may be assigned, transferred, conveyed, hypothecated, or encumbered voluntarily or by operation of law, whether for the benefit of creditors or otherwise, without the prior written approval of OCFA. 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 Contractor, 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 Contractor or any surety of Contractor from any liability hereunder without the express written consent of OCFA.

### **5.4 Independent Contractor.**

A. The legal relationship between the Parties is that of an independent contractor, and nothing herein shall be deemed to make Contractor, or any of its personnel, an OCFA employee. During the performance of this Agreement, Contractor and its officers, employees, and agents shall act in an independent capacity and shall not act as OCFA officers or employees. Contractor will determine the means, methods and details of performing the Services subject to the requirements of this Agreement. The personnel performing the Services under this Agreement on behalf of Contractor shall at all times be under Contractor's exclusive direction and control. Neither OCFA nor any of its officials, officers, employees, agents or volunteers shall have control over the conduct of Contractor or any of its officers, employees, or agents, except as set forth in this Agreement. Contractor, its officers, employees or agents, shall not maintain a permanent office or fixed business location at OCFA's offices. OCFA shall have no voice in the selection, discharge, supervision, or control of Contractor's officers, employees, representatives or agents or in fixing their number, compensation, or hours of service. Contractor shall pay all wages, salaries, and other amounts due its employees in connection with the performance of Services under this Agreement and shall be responsible for all reports and obligations respecting them, including but not limited to social security income tax withholding, unemployment compensation, workers' compensation, and other similar matters. OCFA shall not in any way or for any purpose be deemed to be a partner of Contractor in its business or otherwise a joint venturer or a member of any joint enterprise with Contractor.

B. Contractor shall not incur or have the power to incur any debt, obligation, or liability against OCFA, or bind OCFA in any manner.

C. No OCFA benefits shall be available to Contractor, its officers, employees, or agents, in connection with the performance of any Work or Services under this Agreement. Except for professional fees paid to Contractor as provided for in this Agreement, OCFA shall not pay salaries, wages, or other compensation to Contractor for the performance of any Work or Services under this Agreement. OCFA shall not be liable for compensation or indemnification to Contractor, its officers, employees, or agents, for injury or sickness arising out of performing any Work or Services hereunder. If for any reason any court or governmental agency determines that the OCFA has financial obligations, other than pursuant to Section 3 herein, of any nature relating to salary, taxes, or benefits of Contractor's officers, employees, representatives, agents, or subconsultants or subcontractors, Contractor shall defend, indemnify, and hold harmless OCFA from and against all such financial obligations.

#### **5.5 Employee Retirement System Eligibility Indemnification.**

A. In the event that Contractor or any employee, agent, or subcontractor of Contractor providing any Work or Services under this Agreement claims or is determined by a court of competent jurisdiction to be eligible for enrollment in an employee retirement system as an employee of the OCFA, Contractor shall indemnify, defend, and hold harmless OCFA against: (1) all such claim(s) and determination(s); (2) for the payment of any employee and/or employer contributions for employee retirement system benefits on behalf of Contractor or its employees, agents or subcontractors; and (3) the payment of any penalties and interest on such contributions which would otherwise be the responsibility of the OCFA.

B. Notwithstanding any other agency, state or federal policy, rule, regulation, law or ordinance to the contrary, Contractor and any of its employees, agents, and subcontractors providing any Work or Services under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any claims to, any compensation, benefit, or any incident of employment by OCFA, including but not limited to eligibility to enroll in PERS as an employee of OCFA and entitlement to any contribution to be paid by OCFA for employer contribution and/or employee contributions for PERS benefits.

### **6. INSURANCE, INDEMNIFICATION AND BONDS**

#### **6.1 Compliance with Insurance Requirements.**

Contractor shall obtain, maintain, and keep in full force and effect during the term of this Agreement, at its sole cost and expense, and in a form and content satisfactory to OCFA, all insurance required under this section. Contractor shall not commence any Work or Services under this Agreement unless and until it has provided evidence satisfactory to OCFA that it has secured all insurance required under this

section. In addition, Contractor shall not allow any subconsultant or subcontractor to commence any Work or Services until it has provided evidence satisfactory to OCFA that the subconsultant or subcontractor has secured all insurance required under this section. If Contractor's existing insurance policies do not meet the insurance requirements set forth herein, Contractor agrees to amend, supplement or endorse the policies to do so.

## **6.2 Types of Insurance Required.**

As a condition precedent to the effectiveness of this Agreement, and without limiting the indemnity provisions set forth in this Agreement, Contractor shall obtain and maintain in full force and effect during the term of this Agreement, including any extension thereof, the following policies of insurance:

A. Commercial General Liability Insurance. Contractor shall obtain and maintain, in full force and effect throughout the term of this Agreement, a policy of Commercial General Liability Insurance written on an occurrence basis with limits of at least one million dollars (\$1,000,000.00) per occurrence, two million dollars (\$2,000,000.00) in the general aggregate, and one million dollars (\$1,000,000.00) for products and completed operations. The policy shall contain no endorsements or provisions limiting coverage for (1) contractual liability; (2) cross liability exclusion for claims or suits by one insured against another; or (3) contain any other exclusion contrary to the Agreement.

B. Automobile Liability Insurance. Contractor shall obtain and maintain, in full force and effect throughout the term of this Agreement, a policy of Automobile Liability Insurance written on a per occurrence basis with limits of at least one million dollars (\$1,000,000.00) combined limit for each occurrence covering bodily injury and property damage. The policy shall specifically include coverage for owned, non-owned, leased, and hired automobiles. Additionally, the policy should be endorsed to include Transportation Pollution Liability insurance, covering materials to be transported by Contractor pursuant to this Agreement.

C. Workers' Compensation Insurance. Contractor shall obtain and maintain, in full force and effect throughout the term of this Agreement, a policy of Workers' Compensation Insurance in at least the minimum statutory amounts, and in compliance with all other statutory requirements, as required by the State of California. Contractor agrees to waive and obtain endorsements from its workers' compensation insurer waiving all subrogation rights under its workers' compensation insurance policy against the OCFA, its officials, officers, employees, agents and volunteers, and to require each of its subconsultants and subcontractors, if any, to do likewise under their workers' compensation insurance policies. Contractor shall obtain and maintain, in full force and effect throughout the term of this Agreement, a policy of Employer's Liability Insurance written on a per occurrence basis with limits of at least one million dollars (\$1,000,000.00) per accident for bodily injury or disease.



**D. Professional Liability/Errors and Omissions Insurance (“PLI”).**

Contractor shall obtain and maintain PLI insurance applicable to each licensed profession practiced by Contractor. Contractor shall maintain PLI insurance with per-claim and aggregate limits no lower than one million dollars (\$1,000,000.00) (the “Minimum PLI Limits”). Covered professional services shall specifically include all Work or Services to be performed under this Agreement and the policy shall be endorsed to delete any exclusions that may exclude coverage for claims within the Minimum PLI Limits for the Work or Services to be performed under this Agreement.

1. The PLI policy shall be endorsed to delete any Contractual Liability Exclusion. The PLI shall include contractual liability coverage applicable to this Agreement. The policy must “pay on behalf of” the insured, and include a provision establishing the insurer’s duty to defend the insured.

2. If the PLI policy of insurance is written on a “claims-made” basis, the policy must be continued in full force and effect at all times during the term of this Agreement, and for a period of three (3) years from the date of the completion of the Work or Services provided hereunder (the “PLI Coverage Period”). If any PLI policy is replaced, cancelled, non-renewed, discontinued, or otherwise terminated, or if the limits of a PLI policy are reduced or available coverage depleted below the required minimum coverage amounts for any reason during the PLI Coverage Period, Contractor shall immediately obtain replacement PLI coverage meeting the requirements of this Section 6.2.D. Such replacement coverage shall satisfy all requirements herein, and shall include coverage for the prior acts or omissions of Contractor during the time period during which any Work or Services were performed. The coverage shall be evidenced by either a new policy evidencing no gap in coverage, or by obtaining separate extended “tail” coverage with the present or new carrier or other insurance arrangements providing for complete coverage, either of which shall be subject to the written approval by the OCFA.

3. If the PLI policy is written on an “occurrence” basis, the policy shall be continued in full force and effect during the term of this Agreement, or until completion of the Work or Services provided for in this Agreement, whichever is later. In the event of termination of the PLI policy during this period, new coverage shall immediately be obtained, and written evidence of the policy shall be immediately provided to OCFA, to ensure PLI coverage during the entire course of performing the Work or Services provided hereunder.

4. Contractor shall not perform any Work or Services at any time during which required types or amounts of PLI insurance are not in effect, and OCFA shall have no obligation to pay Contractor for Work or Services performed while required PLI insurance is not in effect.

**6.3 Acceptability of Insurers.**

Insurance required by this section shall be issued by a licensed company authorized to transact business in the state by the Department of Insurance for the State

of California with a current rating of A:VII or better (if an admitted carrier), or a current rating of A:X or better (if offered by a non-admitted insurer) listed on the State of California List of Eligible Surplus Lines Insurers (LESLI), by the latest edition of A.M. Best's Key Rating Guide, except that the OCFA will accept workers' compensation insurance from the State Compensation Fund. In the event the OCFA determines that the Work or Services to be performed under this Agreement creates an increased or decreased risk of loss to the OCFA, the Contractor agrees that the minimum limits of the insurance policies may be changed accordingly upon receipt of written notice from the OCFA. Contractor shall immediately substitute any insurer whose A.M. Best rating drops below the levels specified herein.

#### **6.4 Insurance Endorsements.**

Required insurance policies shall not be in compliance if they include any limiting provision or endorsement that has not been submitted to the OCFA for written approval. Required insurance policies shall contain the following provisions, or Contractor shall provide endorsements on forms approved by the OCFA to add the following provisions to the insurance policies:

A. The policy or policies of insurance required by this section for Commercial General Liability, Automobile Liability, and Contractor's Pollution Liability Insurance shall be endorsed to provide the following:

(i) Additional Insured: The OCFA, its officials, officers, employees, agents and volunteers, shall be additional insureds with regard to liability and defense of suits or claims arising out of the performance of this Agreement; and

(ii) Additional Insured Endorsements: Additional insured endorsements shall not (1) be restricted to "ongoing operations", (2) exclude "contractual liability", (3) restrict coverage to "sole" liability of Contractor, or (4) contain any other exclusions contrary to the Agreement; and, the coverage shall contain no special limitations on the scope of protection afforded to additional insureds.

(iii) Notice: The policy or policies of insurance required by this section for Commercial General Liability, Automobile Liability, and Contractors Pollution Liability Insurance shall be endorsed to state that coverage shall not be suspended, voided, cancelled, or modified, or reduced in coverage or in limits, except after thirty (30) days' prior written notice by First Class U.S. Mail, postage-prepaid, has been provided to the OCFA. Notwithstanding the foregoing, if coverage is to be suspended, voided, or cancelled because of Consultant's failure to pay the insurance premium, the notice provided to OCFA shall be by ten (10) days' prior written notice.

B. For all policies of Commercial General Liability Insurance and Contractor's Pollution Liability Insurance, Contractor shall provide endorsements for ongoing operations and completed operations to effectuate this requirement.

### **6.5 Deductibles and Self-Insured Retentions.**

Any deductible or self-insured retention must be approved in writing by the OCFA in advance and shall protect the OCFA, its officials, officers, employees, agents and volunteers, in the same manner and to the same extent as they would have been protected had the policy or policies not contained a deductible or self-insured retention.

### **6.6 Primary and Non-Contributing Insurance.**

All policies of Commercial General Liability, Automobile Liability, and Contractors Pollution Liability Insurance shall be primary and any other insurance, deductible, or self-insurance maintained by the OCFA, its officials, officers, employees, agents or volunteers, shall not contribute with this primary insurance. Policies shall contain or be endorsed to contain such provisions.

### **6.7 Waiver of Subrogation.**

All policies of Commercial General Liability, Automobile Liability, and Contractors Pollution Liability Insurance shall contain or be endorsed to waive subrogation against the OCFA, its officials, officers, employees, agents and volunteers, or shall specifically allow Contractor or others providing insurance evidence in compliance with the requirements set forth in this section to waive their right to recovery prior to a loss. Contractor hereby agrees to waive its own right of recovery against the OCFA, its officials, officers, employees, agents and volunteers, and Contractor hereby agrees to require similar written express waivers and insurance clauses from each of its subconsultants or subcontractors.

### **6.8 Evidence of Coverage.**

Concurrently with the execution of this Agreement, Contractor shall deliver certificates of insurance together with original endorsements affecting each of the insurance policies required by this section. Required insurance policies shall not be in compliance if they include any limiting provision or endorsement that has not been submitted to the OCFA for written approval. The certificates of insurance and original endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf. At least fifteen (15) days prior to the expiration of any such policy, evidence of insurance showing that such insurance coverage has been renewed or extended shall be filed with the OCFA. If such coverage is cancelled or reduced and not replaced immediately so as to avoid a lapse in the required coverage, Contractor shall, within ten (10) days after receipt of written notice of such cancellation or reduction of coverage, file with the OCFA evidence of insurance showing that the required insurance has been reinstated or has been provided through another insurance company or companies. Contractor shall promptly furnish, at OCFA's request, copies of actual policies including all declaration pages, endorsements, exclusions and any other policy documents OCFA requires to verify coverage.

#### **6.9 Requirements Not Limiting.**

Requirement of specific coverage or minimum 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. Nothing in this section shall be construed as limiting in any way the indemnification provision contained in this Agreement, or the extent to which Contractor may be held responsible for payments of damages to persons or property.

#### **6.10 Enforcement of Agreement (Non-Estoppel).**

Contractor acknowledges and agrees that actual or alleged failure on the part of the OCFA to inform Contractor of any non-compliance with any of the insurance requirements set forth in this section imposes no additional obligation on the OCFA nor does it waive any rights hereunder.

#### **6.11 Insurance for Subcontractors.**

Contractor shall include all subconsultants or subcontractors engaged in any Work or Services for Contractor relating to this Agreement as additional insureds under the Contractor's insurance policies, or Contractor shall be responsible for causing its subconsultants or subcontractors to procure and maintain the appropriate insurance in compliance with the terms of the insurance requirements set forth in this section, including adding the OCFA, its officials, officers, employees, agents and volunteers, as additional insureds to their respective policies. All policies of Commercial General Liability, Automobile Liability, and Contractors Pollution Liability Insurance provided by Contractor's subconsultants or subcontractors performing any Work or Services related to this Agreement shall be endorsed to name the OCFA, its officials, officers, employees, agents and volunteers, as additional insureds. Contractor shall not allow any subconsultant or subcontractor to commence any Work or Services relating to this Agreement unless and until it has received satisfactory evidence of their compliance with all insurance requirements under this Agreement, to the extent applicable. Contractor agrees to provide satisfactory evidence of compliance with this subsection upon request of the OCFA.

#### **6.12 Other Insurance Requirements.**

The following terms and conditions shall apply to the insurance policies required of Contractor pursuant to this Agreement:

A. Contractor shall provide immediate written notice to OCFA if (1) any of the insurance policies required herein are terminated, cancelled or suspended, (2) the limits of any of the insurance coverages required herein are reduced, or (3) the deductible or self-insured retention is increased.

B. All insurance coverage and limits provided by Contractor and available or applicable to this Agreement are intended to apply to each insured, including additional insureds, against whom a claim is made or suit is brought to the full extent of the policies. Nothing contained in this Agreement or any other agreement relating to the OCFA or its operations shall limit the application of such insurance coverage.

C. None of the insurance coverages required herein will be in compliance with the requirements of this section if they include any limiting endorsement which substantially impairs the coverages set forth herein (e.g., elimination of contractual liability or reduction of discovery period), unless the endorsement has first been submitted to the OCFA and approved in writing.

D. Certificates of insurance will not be accepted in lieu of required endorsements, and submittal of certificates without required endorsements may delay commencement of the Work. It is Contractor's obligation to ensure timely compliance with all insurance submittal requirements as provided herein.

E. Contractor agrees to ensure that subconsultants and subcontractors, if any, and any other parties involved with the Work under this Agreement who are brought onto or involved in the Work by Contractor, provide the same minimum insurance coverage required of Contractor. Contractor 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. Contractor agrees that upon request, all agreements with subcontractors and others engaged in the Work will be submitted to the OCFA for review.

F. Contractor agrees to provide immediate written notice to OCFA of any claim, demand or loss against Contractor arising out of the Work or Services performed under this Agreement and for any other claim, demand or loss which may reduce the insurance available to pay claims, demands or losses arising out of this Agreement.

### **6.13 Indemnification.**

To the fullest extent permitted by law, Contractor shall defend (at Contractor's sole cost and expense with legal counsel reasonably acceptable to OCFA), indemnify and hold the OCFA, its officials, officers, employees, agents and volunteers, free and harmless from any and all claims, demands, orders, causes of action, costs, expenses, liabilities, losses, penalties, judgments, arbitration awards, settlements, damages or injuries of any kind, in law or in equity, arising out of third party claims, including but not limited to property or persons, including wrongful death, (collectively "Claims") in any manner arising out of, pertaining to, related to, or incident to any alleged acts, errors or omissions, or willful misconduct of Contractor, its officers, directors, employees, subcontractors, subconsultants, contractors or agents, in connection with Contractor's performance under this Agreement, including without limitation the payment of all consequential damages, expert witness fees and attorneys' fees and other related

costs and expenses. Notwithstanding the foregoing, to the extent that the Work or Services performed by Contractor are subject to Civil Code Section 2782.8, the above indemnity shall be limited, to the extent required by Civil Code Section 2782.8, to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Contractor. Under no circumstances shall the insurance requirements and limits set forth in this Agreement be construed to limit Contractor's indemnification obligation or other liability hereunder. Notwithstanding the foregoing, such obligation to defend, hold harmless and indemnify the OCFA, its officials, officers, employees, agents and volunteers, shall not apply to the extent that such Claims are caused in part by the sole negligence or willful misconduct of the OCFA, its officials, officers, employees agents and volunteers.

#### **6.14 Payment Bond.**

Pursuant to Civil Code section 9950, the Contractor shall furnish, and maintain thereafter a payment bond for 100% of the amount specified in the Contractor's Quote until the project is complete. Authority shall release the bond upon satisfactory completion of work as provided for in this Agreement, and in a manner consistent with state law.

### **7. RECORDS AND REPORTS**

#### **7.1 Reports.**

Contractor shall periodically prepare and submit to the Contract Officer such reports concerning the performance of the Services required by this Agreement as the Contract Officer shall require.

#### **7.2 Records.**

Contractor shall keep complete, accurate, and detailed accounts of all time, costs, expenses, and expenditures pertaining in any way to this Agreement. Contractor shall keep such books and records as shall be necessary to properly perform the Services required by this Agreement and enable the Contract Officer to evaluate the performance of such Services. The Contract Officer shall have full and free access to such books and records at all reasonable times, including the right to inspect, copy, audit and make records and transcripts from such records. Contractor shall maintain such books and records in accordance with generally accepted accounting principles and shall clearly identify and retain the same for a period of three (3) years from the date of final payment by OCFA hereunder.

#### **7.3 Ownership of Documents.**

Except for any documents required by the rules of conduct governing Contractor's profession to be owned by Contractor, all reports, graphics, wiring diagrams, plans, as built drawings, system documentation and other materials

prepared by Contractor, its employees, subconsultants, subcontractors and agents for OCFA in the performance of this Agreement shall be the property of OCFA and shall be delivered to OCFA upon request of the Contract Officer or upon the termination of this Agreement, and Contractor shall have no claim for further employment or additional compensation as a result of the exercise by OCFA of its full rights or ownership of the documents and materials hereunder. Contractor may retain copies of such documents for its own use. Contractor shall have an unrestricted right to use the concepts embodied therein. Contractor shall ensure that all of its subconsultants and subcontractors shall provide for assignment to OCFA of any documents or materials prepared by them, and in the event Contractor fails to secure such assignment, Contractor shall indemnify OCFA for all damages resulting therefrom.

#### **7.4 Release of Documents.**

All drawings, specifications, reports, records, documents and other materials prepared by Contractor, its employees, subconsultants, subcontractors and agents in the performance of Services under this Agreement shall not be released publicly without the prior written approval of the Contract Officer.

### **8. ENFORCEMENT OF AGREEMENT**

#### **8.1 California Law.**

This Agreement shall be construed and interpreted 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 Orange, State of California, or any other appropriate court in such county, and Contractor covenants and agrees to submit to the personal jurisdiction of such court in the event of such action.

#### **8.2 Waiver.**

No delay or omission in the exercise of any right or remedy of a non-defaulting Party on any default shall impair such right or remedy or be construed as a waiver. No consent or approval of OCFA shall be deemed to waiver or render unnecessary OCFA's consent to or approval of any subsequent act of Contractor. 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.

#### **8.3 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.

#### **8.4 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 injunctive relief, a declaratory judgment, or any other remedy consistent with the purposes of this Agreement.

#### **8.5 Termination Prior to Expiration of Term.**

OCFA reserves the right to terminate this Agreement at any time, with or without cause, upon thirty (30) days' written notice to Contractor, except that where termination is due to the fault of the Contractor and constitutes an immediate danger to health, safety and general welfare, the period of notice shall be such shorter time as may be appropriate. Upon receipt of the notice of termination, Contractor shall immediately cease all Services hereunder except such as may be specifically approved by the Contract Officer. Contractor shall be entitled to compensation for all services rendered prior to receipt of the notice of termination and for any services authorized by the Contract Officer thereafter.

Contractor may terminate this Agreement, with or without cause, upon thirty (30) days' written notice to OCFA.

#### **8.6 Termination for Default.**

A. OCFA or Contractor's failure to comply with any provision of this Agreement shall constitute a default.

B. If the Contract Officer on behalf of OCFA, or Representative of Contractor (the "Notifying Party"), determines that the other party is in default in the performance of any of the terms or conditions of this Agreement (the "Defaulting Party"), he/she shall notify the Defaulting Party in writing of such default. The Defaulting Party shall have ten (10) days, or such longer period as may be designated in writing, to cure the default by rendering satisfactory performance. In the event the Defaulting Party fails to cure its default within such period of time, the Notifying Party shall have the right, notwithstanding any other provision of this Agreement, to terminate this Agreement without further notice and without prejudice of any remedy to which the Notifying Party may be entitled at law, in equity, or under this Agreement. The Defaulting Party shall be liable for any and all reasonable costs incurred by the Notifying Party as a result of such default. Compliance with the provisions of this section shall not constitute a waiver of any right to take legal action in the event that the dispute is not cured, provided that nothing herein shall limit either party's right to terminate this Agreement without cause pursuant to Section 8.5.



C. If termination is due to the failure of the Contractor to fulfill its obligations under this Agreement, OCFA may, after compliance with the provisions of Section 8.6(B), take over the work and prosecute the same to completion by contract or otherwise. OCFA may withhold any payments to the Contractor for the purpose of set-off or partial payment of the amounts owed the OCFA under this Section. The withholding or failure to withhold payments to Contractor shall not limit Contractor's liability for completion of the Services as provided herein.

#### **8.7 Attorneys' Fees.**

In the event any dispute between the Parties with respect to this Agreement results in litigation or any non-judicial proceeding, the prevailing Party shall be entitled, in addition to such other relief as may be granted, to recover from the non-prevailing Party all reasonable costs and expenses, including but not limited to reasonable attorneys' fees, expert witness fees, court costs and all fees, costs, and expenses incurred in any appeal or in collection of any judgment entered in such proceeding.

### **9. OCFA OFFICERS AND EMPLOYEES; NON-DISCRIMINATION**

#### **9.1 Non-Liability of OCFA Officers and Employees.**

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

#### **9.2 Covenant Against Discrimination.**

Contractor covenants that, by and for itself, its heirs, executors, assigns, and all persons claiming under or through them, that there shall be no discrimination or segregation in the performance of or in connection with this Agreement regarding any person or group of persons on account of race, disability, medical condition, color, creed, religion, sex, sexual orientation, marital status, age, national origin, or ancestry. Contractor shall take affirmative action to insure that applicants and employees are treated without regard to their race, disability, medical condition, color, creed, religion, sex, sexual orientation, marital status, national origin, or ancestry.

### **10. MISCELLANEOUS PROVISIONS**

#### **10.1 Confidentiality.**

Information obtained by Contractor in the performance of this Agreement shall be treated as strictly confidential and shall not be used by Contractor for any purpose other than the performance of this Agreement without the written consent of OCFA.

#### **10.2 Notice.**

Any notice, demand, request, 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 pre-paid, first-class mail to the address set forth below. Either Party may change its address by notifying the other Party of the change of address in writing. Notice shall be deemed communicated forty-eight (48) hours from the time of mailing if mailed as provided in this Section.

To OCFA: Orange County Fire Authority  
Attention: Debbie Casper, Purchasing Mgr.  
1 Fire Authority Road  
Irvine, CA 92602

To Contractor: Westnet Inc.  
Attention: Dawn Matheny,  
Chief Financial Officer  
15542 Chemical Lane  
Huntington Beach, CA 92649

**10.3 Entire Agreement.**

This Agreement constitutes the entire agreement between the Parties and supersedes all prior negotiations, arrangements, agreements, representations, and understandings, if any, made by or among the Parties with respect to the subject matter hereof. No amendments or other modifications of this Agreement shall be binding unless executed in writing by both Parties hereto, or their respective successors, assigns, or grantees.

#### 10.4 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 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 shall be interpreted to carry out the intent of the Parties hereunder.

### 10.5 Successors in Interest.

This Agreement shall be binding upon and inure to the benefit of the Parties' successors and assignees.

## 10.6 Third Party Beneficiary.

Nothing contained in this Agreement is intended to confer, nor shall this Agreement be construed as conferring, any rights, including, without limitation, any rights as a third-party beneficiary or otherwise, upon any entity or person not a party hereto.

**10.7 Recitals.**

The above-referenced Recitals are hereby incorporated into the Agreement as though fully set forth herein and each Party acknowledges and agrees that such Party is bound, for purposes of this Agreement, by the same.

**10.8 Survival.**

Any responsibility of Contractor for warranties, insurance, indemnity, record-keeping or compliance with laws with respect to this Agreement shall not be invalidated due to the expiration or termination of this Agreement.

**10.9 Corporate Authority.**

Each of the undersigned represents and warrants that (i) the Party for which he/she is executing this Agreement is duly authorized and existing, (ii) he/she is duly authorized to execute and deliver this Agreement on behalf of the Party for which he/she is signing, (iii) by so executing this Agreement, the Party for which he/she is signing is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which the Party for which he/she is signing is bound.

**[Signatures on Next Page]**

IN WITNESS WHEREOF, the Parties have executed and entered into this Agreement as of the date first written above.

**"OCFA"**

**ORANGE COUNTY FIRE AUTHORITY**

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Debbie Casper, Purchasing Manager

**"CONTRACTOR"**

**WESTNET INC.**

Date: 10/18/17

  
By: \_\_\_\_\_  
Dawn Matheny, Chief Financial Officer

## EXHIBIT A

## ***Exhibit "A"***

# ***ORANGE COUNTY FIRE AUTHORITY***



## ***Statement of Work for Installation of First-In Fire Station Alerting Systems Fire Station 20***

Westnet, Inc.  
Huntington Beach, CA 92649  
(800) 807-1700  
[www.FirstInAlerting.com](http://www.FirstInAlerting.com)



## **PROJECT OVERVIEW:**

This purpose of this project is to implement a new Westnet First-In<sup>®</sup> Fire Station Alerting System. The parties to this project are: Westnet, Inc. (Westnet or "Contractor") as the provider, installer, and implementer of the system and Orange County Fire Authority as the "Client", or "Customer".

Westnet will provide and install a First-In Fire Station Alerting System in Client Fire Station #20.

Upon receipt of an alert from the Client's CAD, the Westnet System will utilize the Client's network and radio system to activate the Westnet Systems in the Client Fire Stations. Depending upon Station relays and interfaces, the various First-In Smart Station Units (Units) and/or other non-Smart Station units, if implemented, (i.e. Client's public address system, traffic lights, stove, etc.) will emit an audible and/or visual indication of an incoming alert from Dispatch.

### **EXHIBITS:**

The Exhibits listed below are incorporated into and made a part of this Statement of Work (SOW). In interpreting this SOW and resolving any ambiguities, the main body of this SOW will take precedence over the Exhibits and any inconsistency between the Exhibits will be resolved in the order in which they are listed.

Exhibit A	Delivery and Installation Verification Forms
Exhibit B	Warranty
Exhibit C	Contract Price and Deliverables
Exhibit D	Payment Schedule
Exhibit E	Acceptance Test Plan
Exhibit F	Final System Acceptance Certificate
Exhibit G	Maintenance and Support Statement of Work

### **PROJECT SCHEDULE:**

The estimated project timeline starts upon Westnet's acceptance of the Customer's purchase order which includes by reference this Statement of Work. The timeline for completion is 90 days from the later of the accepted Purchase Order or receipt by Westnet of all programming information necessary to deliver the System. Factors that may expedite or delay this schedule are: each party completing their respective tasks, the technical assistance or items provided by Client third parties (i.e. CAD vendor) and successful completion of a project milestone.

### **CHANGE ORDERS:**

No changes to this SOW that result in additional charges will be implemented without an approved written Change Order executed by both parties.

### **WESTNET'S SUBCONTRACTOR INFORMATION:**

**In The Light Electric, Inc.**  
**419 Promontory Drive East**  
**Newport Beach, CA 92660**  
Ken Radford  
Office: (909) 319-1125  
Email: [rad4jc@gmail.com](mailto:rad4jc@gmail.com)



#### **WESTNET TO PROVIDE:**

1. The Deliverables as listed Exhibit C.
2. Installation of the Deliverables, which includes installation and testing of the new station cabling.
3. Participation in on-site acceptance testing as listed in Exhibit E.
4. A Westnet Representative at the conclusion of the installation to certify the installation and provide operator training. Operator training will consist of one (1) class per fire station.
5. Project management and coordination with Customer technical staff on system configuration.
6. A one year warranty per Exhibit B. The warranty and technical support period commences upon first beneficial use as described in the Westnet Limited Warranty.
7. Provide as-built drawings depicting the Westnet equipment in the fire station(s).

#### **CUSTOMER TO PROVIDE:**

1. Complete and return to Westnet all RFI documents, and provide written approval of a completed Voice Track Configuration Sheet thirty (30) days prior to scheduled equipment shipment.
2. A VPN or IP connection for remote system adjustments, maintenance, troubleshooting and updates. It is estimated that the System will need one (1) additional IP address for maintenance purposes.
3. Rough-in of boxes and any conduit required by the electrical code or Customer.
4. Confirmation that all rough-in is complete prior to scheduling installation of the System.
5. Removal or disposal of any existing equipment.
6. Existing amplifier or speaker troubleshooting, repair or replacement.
7. Any interfaces in Dispatch (i.e. CAD or radio console) or licenses to other dispatcher centers.
8. Locked storage for the equipment. The Customer will bear the risk of loss on the equipment once it has been delivered to the Customer, or permanently affixed to the fire station. The Customer's Project Manager will inspect the equipment as each Station's equipment is delivered and will execute the Delivery Verification Form in Exhibit A-1.
9. All antivirus and operating system updates for any Dispatch computers supplied for this project. The Customer will need to schedule the updates in order to minimize system interruption.
10. Provide a minimum of five (5) business days notice to the Westnet Project Manager or Westnet's Installation Company should the Customer need to postpone the scheduled installation or any project-related visits. Remobilization charges may apply if the Customer has not provided all items listed in this Statement of Work prior to the scheduled installation and if Westnet is unable to reasonably continue work at another Customer location.
11. One unused electrical wall outlet for each UPS, Appliance and Systems Interface Unit, flat panel display or Messenger.
12. Adequate space to install the System. If the Customer desires the System to be installed in a rack, a First-In rack mount kit and other accessories will be required. The Master Control Unit, Power Module and UPS must not be more than six (6) feet from the fire station radio(s), the network switch and a 110-volt outlet.





13. Provide the radio equipment necessary for integration. The installed radio equipment includes, but is not limited to, a properly operating radio, installed outside antenna and feedline, and a lightening arrestor with a five-ohm earth ground circuit connected to the radio antenna lightening suppressing circuit. The radio must produce an acceptable level of signaling, as well as an acceptable level of Dispatch voice audio. An acceptable level of signaling shall be a fixed line level output of 500 millivolts peak-to-peak of Dispatch audio and alerting data (e.g. DTMF, P25, Digital, 2-tone sequential, etc.).
14. Access for Westnet at its discretion to install a Westnet-owned Performance Monitoring Computer in Dispatch. The computer is used to administer technical support and maintenance services. The computer will be returned to Westnet at the conclusion of the warranty and/or maintenance period.
15. Technical assistance on integration with the Customer equipment to be integrated with the alerting system and associated with fire station alerting (e.g. radio, network equipment).
16. If permits are required, the Customer will provide electronic drawings of the station. These drawings must be capable of being edited and used for the permit process. Unless otherwise listed as a Deliverable, a separate fee will be assessed for permit fees.
17. The supply or install of any conduit work, power receptacles, shunt trip circuit breakers, coils for the kitchen appliances, gas solenoid, power contactors, any wiring in excess of 24-volts, bond fees, or any other work and/or materials not specifically included or listed herein
18. Provide any other support to Westnet to ensure successful installation and integration of the alerting Systems.

#### **DEPENDENCIES AND ASSUMPTIONS:**

1. The Customer will obtain any required installation approval of the Historical Society or other agencies having jurisdiction over installing/relocating equipment in the Fire Stations. The Customer agrees to pay the permit fees if any.
2. The number of contact closures in a Control Remote will not exceed 8. Stations requiring more zones or contact closures will require an additional Control Remote. There is no physical limit to the number of Control Remotes that can be installed in a station. Westnet will not do any high-voltage wiring.
3. Alerting Equipment Tone, Voice or Programming Changes: Any changes in the wording or tones of the voice announcements or reprogramming to any units once the Customer had signed the System Configuration Form may be billable to the Customer.
4. If during the installation process, Westnet suspects or encounters asbestos, Westnet will inform the Customer. Westnet will use best efforts to utilize alternate installation methods, but will not drill any holes or disturb the asbestos in the related area. Westnet shall have no liability to the Customer, its employees or to any other persons for any asbestos related claims, including, without limitation, removal or cleanup costs, loss of use, lost profits or personal injury or property damages.
5. Westnet will use best efforts to conceal all wiring. However, due to station construction or other installation limitations (i.e. the possibility of asbestos, inaccessibility), certain cables and raceway may need to be surface-mounted or devices relocated to a more practical location. Westnet understands that the term "optimal" is subjective. Although Westnet will attempt to place the equipment in the Customer's desired locations, Westnet reserves the right to place the equipment in the safest and most beneficial location for system performance
6. Any issue affecting the installation such as corrections or repairs, discrepancies among Customer personnel in regards to the placement, mounting methods or other installation matters, must be resolved within twenty-four (24) hours while Westnet personnel is on-site. If such resolution does not occur, Westnet may bill the Customer and customer agrees to pay for any standby time until such discrepancy is resolved.



## EXCLUSIONS:

Unless specifically stated otherwise, the following items are excluded from the goods and services to be provided by Westnet:

1. Any equipment not listed in the Contract Deliverables Schedule (Exhibit C).
2. Spare/loaner equipment unless an on-site warranty is purchased.
3. Westnet does not warranty equipment provided under this Statement of Work should a party other than Westnet or Westnet's installation subcontractor or Westnet trained installer install or integrate any non-Westnet equipment into the alerting or dispatch systems. An exception to this is the CAD interface and Customer's radio system.
4. Westnet and/or any Westnet-supplied equipment will not make a recommendation as to which apparatus or personnel assigned to an emergency call. Rather, Dispatch personnel, the CAD and/or any other Customer mechanism are responsible for equipment and personnel assignment.
5. The Customer will be notified of any non-functioning Customer equipment. Westnet's proposal does not include repair or replacement of any Customer-owned systems. If a station's public address, lighting, or any other existing systems to be tied into the alerting system are not functioning properly, the Customer will need to repair those items.
6. Westnet's pricing does not include any new circuits, breakers or upgrades to the electrical system or wiring to the emergency panel or generator.
7. Aesthetic restoration of installation areas (e.g. color/texture matching), of ceilings, walls, or conduit runs, beyond what Westnet determines is commercially viable.
8. Taxes and Permit Fees: Unless specifically included in Exhibit C, the Contract Price excludes federal, state, or local sales, use, or other taxes (other than federal, state, and local taxes based on Westnet's income or net worth), all of which will be paid by Customer except as exempt by law. Increases in any tax rate as listed in Exhibit C shall be paid by Customer. The Customer agrees to pay or reimburse Westnet plus overhead for all permit fees, fees by others, and related expenses unless specifically listed and at the amount in Exhibit C.

In witness whereof, the parties hereby agree to this Statement of Work on the dates set forth below.

**WESTNET:**  
**WESTNET, INC.**

**CUSTOMER:**  
**ORANGE COUNTY FIRE AUTHORITY**

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_



**EXHIBIT A-1**

**DELIVERY VERIFICATION FORM\***

**First-In Fire Station Alerting Equipment**

The signature below serves as verification that the boxes with equipment listed for Station \_\_\_\_\_ in Exhibit C were delivered with no apparent damage.

\_\_\_\_\_  
Customer Representative

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name & Title

(For partial deliveries, the following form shall be used.)

The signature below serves as verification that the following boxes with equipment listed for Station \_\_\_\_\_ in Exhibit C were delivered with apparent damage:

1. \_\_\_\_\_

3. \_\_\_\_\_

2. \_\_\_\_\_

4. \_\_\_\_\_

\_\_\_\_\_  
Customer Representative

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name & Title

\* Print and execute one copy of this form for each station.



## **EXHIBIT A-2**

### **INSTALLATION VERIFICATION FORM\***

The signature below serves as verification that the Fire Station Alerting Equipment enumerated in Exhibit C, plus or minus the following mutually agreed upon changes, has been installed in a commercially reasonable manner and functions properly in the **System Test Mode**. Any punch-list items will be resolved prior to final System Acceptance.

☐ A check in this box means that no equipment changes were made, and that the only equipment installed at the Fire Station is that which is listed in Exhibit C.

☐ A check in this box means the following mutually agreed upon changes have been installed.

1. \_\_\_\_\_

6. \_\_\_\_\_

2. \_\_\_\_\_

7. \_\_\_\_\_

3. \_\_\_\_\_

8. \_\_\_\_\_

4. \_\_\_\_\_

9. \_\_\_\_\_

5. \_\_\_\_\_

10. \_\_\_\_\_

\_\_\_\_\_  
Customer Representative

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name & Title

**\* Print and execute one copy of this form for each station.**



## **EXHIBIT B**

### **WESTNET, INC. STANDARD LIMITED WARRANTY**

Westnet, Inc. ("Westnet") is providing its Standard Limited Warranty ("Limited Warranty") covering the First-In™ products, parts, components, software and systems purchased by Customer (collectively, the "Product"). If Westnet, or an authorized Westnet subcontractor performs the installation, such installation service will be deemed to be part of the Product for purposes of this Limited Warranty.

**Warranty Commencement Date:** When Westnet, or an authorized Westnet subcontractor, installs the Product, this Warranty shall commence upon the (1) first beneficial use of the Product by Customer, or (2) when installation is complete, whichever occurs first. In all other instances, this warranty commences upon delivery. This Limited Warranty is not extended if Westnet repairs or replaces the Product.

**Scope of Warranty:** Westnet warrants exclusively to Customer that the Product will be free from defects in material and workmanship for a period of one (1) year from the Warranty Commencement Date. Westnet will perform all warranty work at its service location only, unless Westnet agrees, in its sole discretion, to perform at Customer's location. Customer's exclusive remedy for any breach of this Limited Warranty will be either (1) the repair or replacement, at Westnet's option, of the non-conforming Product, or (2) at Westnet's sole discretion, reimburse Customer the purchase price paid by Customer for the Product, provided Customer has returned the Product to Westnet. Repairs may be made with either new or reconditioned components and will be shipped to Customer at the expense of Westnet. Any replaced Product becomes the property of Westnet.

**Limitations/Exclusions:** This Limited Warranty applies only if Westnet confirms that the alleged defect or non-conformance exists and was not caused by Customer's or any third person's misuse, negligence, improper installation or testing, or unauthorized attempts to open, repair or modify the Product, or by accident, fire, water, lightening, power cuts or outages, power or telephone line transients, viruses, other hazards, or acts of God, or by any other cause beyond the range of intended use in accordance with the Product's normal usage and Westnet's published instructions. ***This Limited Warranty does not cover the following:*** (1) Any parts and cabling used in the installation of a Product unless Westnet or an authorized Westnet subcontractor (and not Customer or a third party installation company) performs the complete installation, (2) Physical damage to the surface of the Product after its delivery to Customer, including cracks or scratches on the LCD or outside casing, (3) When the malfunction results from the use of this Product in conjunction with other products, or ancillary or peripheral equipment, and Westnet determines there is no fault with the Product itself, (4) Any defect or malfunction of the Product due to any communications software or device Customer may use with the Product, (5) Any damages to or defects in the delivered Products that are observable in a reasonable visual inspection ***unless*** a Claim is made in writing to Westnet within thirty (30) days after the date of delivery. This Limited Warranty does not cover loss or damage of any kind resulting from any delay in delivery.

EXCEPT FOR THIS EXPRESS LIMITED WARRANTY AND WESTNET'S STATUTORY WARRANTY OF GOOD TITLE, WESTNET MAKES NO WARRANTIES OR REPRESENTATIONS, EITHER EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, REGARDING THE PRODUCT COVERED HEREBY, AND EXPRESSLY DISCLAIMS THE **IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, SATISFACTORY QUALITY, CORRESPONDENCE WITH DESCRIPTION, OR (SUBJECT TO THE INFRINGEMENT PARAGRAPH SET FORTH HEREIN) NONINFRINGEMENT OF PATENTS OR OTHER PROPRIETARY RIGHTS.** NO EMPLOYEE, AGENT OR REPRESENTATIVE OF WESTNET IS AUTHORIZED TO MAKE ANY REPRESENTATION OR WARRANTY ON BEHALF OF WESTNET RELATING TO THE PRODUCTS EXCEPT TO THE EXTENT SPECIFICALLY STATED HEREIN. WESTNET NEITHER ASSUMES NOR AUTHORIZES ANY OTHER PERSON TO ASSUME FOR IT ANY OTHER LIABILITY IN CONNECTION WITH THE SALE, INSTALLATION, MAINTENANCE OR USE OF THE PRODUCTS.

**Warranty Claims:** In order to make a Claim under this Limited Warranty, Customer must first notify Westnet in writing not more than one (1) year after the Warranty Commencement Date. Notice must be sent to: **Westnet, Attention Warranty Department, 15542 Chemical Lane, Huntington Beach, California 92649** or can be faxed to **(714) 901-5610**. Inquiries regarding this Limited Warranty can also be directed by phone to **(714) 548-3500**.



Upon receipt of written notice, Westnet will first, at its option and expense, inspect the Product in its installed location. Unless otherwise waived by Westnet in writing, Customer must return the alleged non-conforming Product to Westnet's designated service center. Customer shall be responsible for all expenses associated with the transportation to/from Westnet's designated service center. Westnet shall not be liable for any damage incurred in the transportation of Product to/from Westnet's designated service center.

**LIMITATION OF LIABILITY:** IN NO EVENT SHALL WESTNET, ITS OFFICERS, DIRECTORS, EMPLOYEES, AGENTS OR SUBCONTRACTORS, BE LIABLE TO CUSTOMER OR ANY THIRD PARTY FOR ANY INCIDENTAL, SPECIAL, INDIRECT, EXEMPLARY, PUNITIVE, OR CONSEQUENTIAL DAMAGES (INCLUDING DAMAGES FOR LOST PROFITS, LOSS OF USE, LOSS OF DATA OR LOSS OF GOODWILL) COST OF CAPITOL OR COST OF COVER ARISING OUT OF OR RELATING TO CUSTOMER'S SELECTION, ORDERING, DELIVERY, PURCHASE, USE, RESALE OR DISTRIBUTION OF THE PRODUCT, EVEN IF WESTNET HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

**AGGREGATE LIABILITY:** TO THE EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL THE TOTAL AGGREGATE LIABILITY OF WESTNET, ITS OFFICERS, DIRECTORS, SHAREHOLDERS, EMPLOYEES, AGENTS, OR SUBCONTRACTORS, ARISING FROM, RELATING TO, OR CONNECTED WITH THE PRODUCT, EXCEED **THE PURCHASE PRICE OF THE PRODUCT**. IT IS INTENDED THAT THIS LIMITATION WILL APPLY TO ANY AND ALL LIABILITY OR CAUSE OF ACTION, EXCEPT FOR THAT PROVIDED FOR IN THE INFRINGEMENT PARAGRAPH SET FORTH HEREIN, HOWEVER ALLEGED OR ARISING.

**INFRINGEMENT.** Westnet agrees to defend Customer and to pay (1) any damages award issued by a court of competent jurisdiction against Customer, and (2) direct expenses, including reasonable attorneys' fees (but excluding any lost revenues, lost profits or other consequential economic damages of Customer) as a result of any action brought against Customer, if and to the extent the action is based on a valid claim that any Product purchased by Customer under this Agreement infringes another person's U.S. patent, copyright, trade secret or trademark. Westnet will not have liability for, and Customer will defend Westnet against, and pay any damages awarded against Westnet and direct expenses, including reasonable attorneys' fees (but excluding any lost revenues, lost profits or other consequential economic damages of Westnet) to the extent the claimed infringement is based on or results in any material part from (a) any use of the Product other than in accordance with Westnet's published instructions, (b) any unauthorized modification or alteration of the Product, (c) any combination or use of the Product with any other product or system or technologies not supplied by Westnet; (d) Westnet's compliance with Customer's design or specifications, or (d) any refusal to accept or use suitable modified or replacement Products provided by Westnet to avoid infringement. Westnet's obligations under this paragraph will be conditioned upon Customer promptly notifying Westnet in writing of the existence of any such claim, giving Westnet full authority to conduct the defense and settlement of the claim, at Westnet's expense and with counsel of Westnet's selection, and cooperating fully with Westnet and such counsel.

This Limited Warranty will be governed by the laws of the State of California, U.S.A., excluding their conflicts of laws principles. The United Nations Convention of Contracts for the International Sale of Goods is hereby excluded in its entirety from application to this Limited Warranty.



## **EXHIBIT C**

### **CONTRACT PRICE AND DELIVERABLES – FIRE STATION #20**

**OCFA FIRE STATION # 20**  
(Quote ID # Q-02515-G0X4)

Product ID	Product	QTY	Price	Sub Total
FIN-AUX-L01	First-In MCU Auxiliary Module Lite	1.00	\$635.00	\$635.00
FIN-Eth-T10	Ethernet Data Activated First-In Type 10 MCU	1.00	\$7,395.95	\$7,395.95
FRMKIT5X19	MCU Rack Mount Kit	1.00	\$164.94	\$164.94
MCU-SW-MON	First-In MCU Remote Monitor Switch	1.00	\$225.00	\$225.00
RMPKIT	Equipment Rack Mount Kit - 3U	1.00	\$315.00	\$315.00
SCR26-24VC5	Control Remote (each controls up to 8 functions)	1.00	\$1,175.95	\$1,175.95
SDBS1	Doorbell Button	1.00	\$225.00	\$225.00
SDRM38V-FM	Dorm Remote -Flush Mount Kit also required	9.00	\$898.25	\$8,084.25
SDRMKIT-HOF	Dorm Remote Flush Mount Hoffman Kit	9.00	\$218.25	\$1,964.25
SHPA150	High Power Paging Audio Module (includes one speaker)	1.00	\$1,495.00	\$1,495.00
SHPA150-D	High Power Paging Audio Module (includes two speakers)	2.00	\$2,175.49	\$4,350.98
SPC28-HS-1K2PS	Power Module w/ Hub & Spoke Controller, UPS & Dual Power Supplies	3.00	\$3,194.38	\$9,583.14
SPK-VC	Volume Controller	13.00	\$225.00	\$2,925.00
SSAT	Satellite (driven off Satellite Controller)	12.00	\$295.00	\$3,540.00
SSATKIT-TBD	Satellite Mounting Kit - TBD	28.00	\$48.00	\$1,344.00
SSAT-M	Satellite Controller	16.00	\$599.98	\$9,599.68
SSETS	Emergency Button	2.00	\$225.00	\$450.00
SS-OSA	Outside Speaker Audio Module (includes one speaker)	1.00	\$599.98	\$599.98
SS-TIM-01	Telephone Interface Module	1.00	\$1,199.95	\$1,199.95
SSTSW	System Test Button	1.00	\$225.00	\$225.00
SS-TTMR-M	Turnout Timer (Medium)	2.00	\$825.00	\$1,650.00
SVC-LIFT-FEE	Lift Service Fee	1.00	\$795.00	\$795.00
Equipment Total				\$57,943.07
Install Supplies				\$2,970.00
Total Tax (7.7500000000 %)				\$4,720.76
Station Equipment Install				\$44,625.00
One Year Toll Free Technical Support				\$0.00
On Site Warranty				\$2,465.00
Project Coordination				\$3,300.00
Permitting and Bonding				\$3,608.00
Special Engineering Services				\$1,525.00
<b>Total Amount</b>				<b>\$121,157.03</b>



## **EXHIBIT D**

### **WESTNET PROJECT MILESTONE PAYMENT SCHEDULE FOR EQUIPMENT AND INSTALLATION**

<b>Description</b>	<b>Total Project</b>
Fire Station # 20	\$121,157.03

	<b>PROJECT MILESTONE</b>	<b>EXHIBIT</b>
1	Equipment Delivery	Exhibit A-1
2	Installation	Exhibit A-2
3	Acceptance Testing	Exhibit E
4	Due Upon Final System Acceptance	Exhibit F

	<b>Payment Schedule</b>	<b>Project Cost %</b>	<b>Invoice Amount</b>
1	Contract Design Review	15%	\$18,173.55
2	Test Procedure Signoff	5%	\$6,057.85
3	Manufacturing and Staging	20%	\$24,231.41
4	Installation	50%	\$60,578.52
5	Final System Acceptance	10%	\$12,115.70

**Total Amount: \$121,157.03**

If payment is not received within thirty (30) days from the date of invoice, a late fee of one and a half percent (1.5%) per month of the unpaid balance will be charged and immediately due.





## EXHIBIT E

### ACCEPTANCE TEST PLAN

**OBJECTIVE:** The purpose of completing this Acceptance Test Plan is to achieve "System Acceptance" by demonstrating to the Customer that the installed fire station alerting system ("System") equipment is operational and properly performs the function specified herein. Upon successful execution of this ATP, the System will have achieved "System Acceptance". Minor omissions or variances in the System that do not materially impair the operation of the System as a whole will not postpone System Acceptance, but will be corrected according to a mutually agreed upon schedule. In the event that a part of the System does not pass the ATP, the System will be re-tested when Westnet determines that a corrective action has been taken to ensure proper operation. Final System Acceptance will occur after System Acceptance and when all deliverables and other work have been completed. When Final System Acceptance occurs, the parties will promptly memorialize this final event by so indicating on the Final System Acceptance Certificate.

**SCOPE:** The scope of this ATP is limited to the System supplied by Westnet, Inc. It does not include any other equipment or systems upon which the alerting system, once in use, relies for proper activation and function (i.e. the Customer's CAD, radio, network and/or electrical systems). The failure or unavailability of these other systems during the ATP shall not affect the outcome of this ATP, nor shall it affect the System Acceptance and subsequent Final System Acceptance of the System.

**TEST SCHEDULE:** Westnet and the Customer will conduct the ATP at a mutually agreed-upon time and date once Westnet informs the Customer that the System is ready for acceptance testing.

**FIRE STATION METHODOLOGY:** The ATP will test devices that, operationally, are activated by Dispatch, as well as devices that are not activated by Dispatch, but rather the fire station crew.

1. Data / Network Activation Operation - This section tests/simulates a test of a network-based alert of the station from Dispatch. Data sequences assigned to the fire station zones shall be applied to the Ethernet port of the Master Control Unit using the Alerting Platform or a computer equipped with the First-In API. The alerting response from the alerting system shall announce the specific unit(s) associated with the alerted and audio distribution shall activate all areas associated with the zone alerted. Once the zone is activated, the pre-announcement will announce the units alerted, nature of the call, and other preannouncement information detailed in the ZIR signoff sheet. After the preannouncement is complete, the dispatch audio will be heard throughout the station speakers.

<input type="checkbox"/>	Pass
<input type="checkbox"/>	N/A
<input type="checkbox"/>	Fail

Notes:

2. Radio Activation Operation – This section tests a radio-activated alert of the station from Dispatch, more specifically the Radio Interface Controller (RIC)'s activation of a station's Master Control Unit (MCU). This test will utilize First-In RIC's alert signaling on the customer's radio system

- A. Test of All-Call. This test will activate the "All-Call" zone in every station. Successful performance of this test requires All-Call activation from the Alerting Platform User Application, as well as All-Call activation from the manual RIC keypad. Once the zone is activated, the pre-announcement will announce the All-Call message and the dispatch audio is heard throughout the station speakers .

<input type="checkbox"/>	Pass
<input type="checkbox"/>	N/A
<input type="checkbox"/>	Fail

Notes:



- B. Test of Specific Zones in a Designated Station. This test will activate a specific zone (i.e. Engine) in a Designated Station. Step 1 of this test requires the proper station to be activated both from the Alerting Platform User Application, as well as the manual RIC keypad. Step 2 of this test requires that the specific zone selected be activated. Once the zone is activated, the pre-announcement will announce unit(s) assigned to the call and the dispatch audio is heard throughout the station speakers.

<input type="checkbox"/>	Pass
<input type="checkbox"/>	N/A
<input type="checkbox"/>	Fail

Notes:

3. Turnout Timer Operation - This section tests the activation of the Turnout Timer(s). Upon activation of the Master Control Unit, the Timer(s) will begin to count up on a per-second basis. The Timer(s) will continue to count up and will automatically shut down when the Master Control Unit send the shutdown command to the station.

<input type="checkbox"/>	Pass
<input type="checkbox"/>	N/A
<input type="checkbox"/>	Fail

Notes:

4. Automatic Backup Alerting - This section tests the automatic failover from the IP system to the RIC for a radio based alert. The RIC shall automatically be activated from the First-In Alerting Platform (FiAP) as soon as the FiAP detects that the primary alert was not successful. Without any action required on the part of the dispatcher, the RIC will send the alert to the proper station and units assigned to the call.

<input type="checkbox"/>	Pass
<input type="checkbox"/>	N/A
<input type="checkbox"/>	Fail

Notes:

5. Manual Backup Alerting - Using the manual keypad of the RIC, the Customer selects the station and units to activate in the selected fire station. The station MCU activates the appropriate station and unit(s).

<input type="checkbox"/>	Pass
<input type="checkbox"/>	N/A
<input type="checkbox"/>	Fail

Notes:

Customer Representative

Date

Printed Name & Title



## **EXHIBIT F**

### **FINAL SYSTEM ACCEPTANCE CERTIFICATE**

The signature below serves as verification that the System has passed Acceptance Test Plan and that all deliverables and work have been completed.

\_\_\_\_\_  
Customer Representative

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name & Title



## **EXHIBIT G**

### **MAINTENANCE AND SUPPORT STATEMENT OF WORK**

#### **1. SCOPE OF SERVICES**

Westnet will provide comprehensive turn-key maintenance and support services for the installed First-In Fire Station Alerting System, ensuring all components are operating at peak performance according to Westnet's original manufacturing specifications. The Services to be provided under this agreement include the following:

- One year, 24/7 toll-free Technical Support and On-Site Maintenance for all equipment and software
- Repair and/or replacement of damaged units at no cost
- Spare equipment delivered the next business day (and Saturday's where available)
- Remote diagnostic analysis and uploads, software upgrades

#### **2. RESPONSE TIMES**

Response times shall be determined in accordance with the Priority Level and Descriptions set forth in the following table. The response time shall commence from the time the Customer requests service or notifies Westnet of problems with the System by contacting Westnet's Call Center ("Notification"). Issue resolution may include phone support, VPN remote access, or on-site service (for issues not resolved via phone support or remote access).

**Westnet Technical Support: (800) 807-1700**  
**Office Hours: 8:00 – 5:00 PST, Monday – Friday**

Priority Levels	Hours / Days	Description
1	24/7/365 Including Holidays  3-6 Hour Response	This priority level represents a significant issue that results in the inability to use the alerting systems. <ul style="list-style-type: none"><li>• Station reports that it is not receiving any form of an alert or there is no audio in a fire station.</li><li>• Other failures that render the fire station MCU and more than five audio transmitting devices unusable.</li></ul>
2	8:00 – 5:00 PST, Monday – Friday  2-Business- Day Response	This priority level represents a moderate issue that restricts normal use of the alerting systems. <ul style="list-style-type: none"><li>• Any non-essential Fire Station device reported inoperable.</li><li>• Reports of receiving other stations' or companies' alerts.</li><li>• Requests to increase fire station volume levels within fire department-approved parameters.</li></ul>
3	8:00 – 5:00 PST, Monday – Friday  3-Business- Day Response	This priority level represents minor or non-emergency issues that do not restrict normal use of the station alerting systems. <ul style="list-style-type: none"><li>• Requests to decrease volume levels within fire department-approved parameters</li><li>• Add additional equipment, request programming, or voice-chip changes.</li><li>• Requests for additional training.</li><li>• Other non mission-critical matters in the dispatch centers or fire stations</li></ul>



### 3. WESTNET'S RESPONSIBILITIES

Westnet shall:

- A. Provide Westnet-owned spare equipment while a System component is returned to Westnet for repair or replacement.
  - 1. Any Westnet-owned spare equipment parts provided under this Agreement are the property of Westnet. Any damage to Westnet's spare equipment parts is not covered under this Scope of Services and the Customer shall pay for the repair or replacement of the spare equipment parts.
  - 2. Westnet may service replaceable parts, by way of new or remanufactured replacement parts to Customer on an exchange basis. Upon receipt by the Customer of the replacement part, the original part becomes the property of Westnet, and shall be returned by Customer to Westnet. The Customer shall pay Westnet the full retail value of the replacement part if Westnet provides notice to the Customer to return the original part and Westnet does not receive the original part within thirty (30) days after replacement part installation.
- B. Upon request, Westnet shall provide a written quote for additional work not specifically identified in this Agreement. Such work could include, but is not limited to, additions and installation of new equipment, relocation of existing equipment, upgrades (not part of Westnet standard releases) and enhancements, and other system related goods and services. If the Customer decides to proceed with the work, a new purchase order will be issued exclusively for the work to be ordered.

### 4. CUSTOMER'S RESPONSIBILITIES

The Customer shall at all times or upon request:

- A. Make no modifications to the System without obtaining approval from Westnet in writing.
- B. Notify Westnet of any problems with the System by calling the Westnet Systems Group at 1-800-807-1700 (Westnet's call center).
- C. Provide and maintain an operating 24/7 VPN with IP access to the stations for the duration of the Agreement. The VPN shall allow Westnet to connect to all fire stations that are equipped with the First-In Fire Station Alerting (First-In) equipment. The VPN must be operating and the Customer must allow Westnet to test the VPN prior to the commencement of this Agreement.
- D. Ensure that the Westnet monitor computer in the Dispatch Center (if provided) has 24/7 access to the VPN and to all Customer fire stations. The Customer will return the Westnet monitor computer to Westnet at the conclusion of this Agreement and any additional extensions.
- E. Provide the make and model number of the fire station radio the System is connected to for the source of dispatch audio. If there are any connections to this radio other than the outside antenna and the power source, the Customer will provide a diagram showing the method of connection, connector pins used, signals obtained from the radio and signals sent to the radio by the fire station equipment.
- F. Provide the name, 24-hour telephone number and position of responsible party that can be contacted about each station's radio communication, public address, CAD, and network equipment.
- G. Provide Westnet with either code-access to the stations or an escort that is available 24/7 and within one (1) hour of notice of an on-site visit.
- H. If applicable, provide the make and model number of fire station amplifier, type of connectors used by fire alerting input, input impedance and the necessary audio level to drive station amplifier.



- I. Provide a description of station control circuits (e.g., lighting, door openers, gas shut-off) and the number of circuits to be controlled by the Control Remote.
- J. Ensure that the MCU at each station is at all times plugged into the Westnet supplied on-line fulltime UPS.
- K. Ensure that the MCU at each station is at all times plugged into the First-In Radio Isolation Unit. Westnet will exclude from this Agreement the repair of any equipment not properly connected to the Radio Isolation Unit.
- L. Ensure that the radio antenna and lightning arrestor is installed, is installed per current engineering standards and that all lightning protection equipment is connected to a 5-ohm earth ground by a #6 or larger cable not exceeding eight (8) feet in length between the 5-ohm earth ground and the protected equipment.
- M. Notify Westnet prior to making any change in any equipment connected to the fire station System.

## **ORANGE COUNTY FIRE AUTHORITY CONTRACTOR SERVICES AGREEMENT**

THIS AGREEMENT FOR CONTRACTOR SERVICES ("Agreement") is made and entered into this \_\_\_\_\_ day of October 2017 ("Effective Date"), by and between the Orange County Fire Authority, a California Joint Powers Authority, hereinafter referred to as "OCFA", and Westnet Inc., a California Corporation, hereinafter referred to as "Contractor". OCFA and Contractor are sometimes individually referred to herein as a "Party" and collectively as the "Parties".

### **RECITALS**

WHEREAS, OCFA requires the services of a Contractor for the purchase and installation of the First-In Fire Station Alerting system for Fire Station 22 located at 24001 Paseo de Valencia, Laguna Hills, CA 92637, hereinafter referred to as "Project"; and

WHEREAS, based on its experience and reputation, Contractor is qualified to provide the necessary services for the Project and desires to provide such services; and

WHEREAS, OCFA desires to retain Contractor to provide the necessary Project services.

NOW, THEREFORE, in consideration of the promises and mutual agreements contained herein, OCFA agrees to employ and does hereby employ Contractor and Contractor agrees to provide professional services as follows:

### **AGREEMENT**

#### **1. CONTRACTOR SERVICES**

##### **1.1 Scope of Services.**

In compliance with all terms and conditions of this Agreement, Contractor shall provide those services specified in the Statement of Work for Installation of First-In Fire Station Alerting Systems Fire Station 22, which is attached hereto as Exhibit "A" (hereinafter, the "Services" or "Work"). Should any conflict or inconsistency exist between the body of this Agreement and Exhibit "A", the terms of this Agreement shall control. Contractor warrants that all Services shall be performed in a skillful, competent, professional and satisfactory manner in accordance with all standards prevalent in the same discipline in the State of California and in accordance with all applicable laws per Sections 1.2 and 1.3. Contractor represents and warrants that it and all of its employees and subcontractors providing any Services or Work under this Agreement shall have sufficient skill and expertise to perform the Services and Work assigned to them. All Services and Work shall be completed to the reasonable satisfaction of the OCFA in

accordance with the Acceptance Test Plan and Final System Acceptance specifications incorporated within Exhibits E & F to the applicable Statement of Work.

## **1.2 Compliance with Law.**

Contractor shall comply at all times during the term of this Agreement with all laws, ordinances, resolutions, statutes, rules, and regulations of OCFA and any federal, state or local governmental agency of competent jurisdiction. Contractor shall be liable for all violations of such laws, ordinances, resolutions, statutes, rules and regulations in connection with performing the Work and Services. If Contractor performs any Work or Services in violation of such laws, ordinances, resolutions, statutes, rules or regulations, Contractor shall be solely responsible for all penalties and costs arising therefrom. Contractor shall defend, indemnify, and hold OCFA, its officials, officers, employees, agents and volunteers, free and harmless from any claim or liability arising out of any failure or alleged failure to comply with such laws, ordinances, resolutions, statutes, rules or regulations.

## **1.3 Public Contracts Law.**

The Authority is subject to the provisions of law relating to public contracts in the State of California. It is agreed that all provisions of law applicable to public contracts are a part of this contract to the same extent as though set forth herein, and will be complied with by the Contractor.

No contractor or subcontractor may be listed on a bid proposal for a public works project (submitted on or after March 1, 2015) unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5 [with limited exceptions from this requirement for bid purposes only under Labor Code section 1771.1 (a)].

No contractor or subcontractor may be awarded or perform a contract for public work on a public works project (awarded on or after April 1, 2015) unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5.

This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations. Contractor shall not pay less than the prevailing wage. It shall be the responsibility of the Contractor to obtain the prevailing wage rates from the Director of Industrial Relations directly.

## **1.4 Licenses and Permits.**

Prior to performing any Services or Work hereunder, Contractor shall obtain all licenses, permits, qualifications, and approvals of whatever nature that are legally required to practice its profession and perform the Work and Services required by this Agreement. Contractor represents and warrants to OCFA that Contractor shall, at its sole cost and expense, keep in effect at all times during the term of this Agreement and any extension, any license, permit, qualification, or approval that is legally required for



Contractor to perform the Work and Services under this Agreement. Contractor 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 Contractor's performance of the Work and Services required by this Agreement, and shall defend, indemnify, and hold the OCFA, its officials, officers, employees, agents and volunteers, free and harmless from and against any claim or liability arising out of any failure or alleged failure to obtain such license, permits, and approvals of whatever nature that are legally required to perform the Work or Services.

### **1.5 Familiarity with Work.**

By executing this Agreement, Contractor warrants that Contractor (a) has thoroughly investigated and considered the Work to be performed, (b) has investigated the site of the Work and become fully acquainted with the conditions there existing, (c) has carefully considered how the Work should be performed, and (d) fully understands the facilities, difficulties and restrictions attending performance of the Work under this Agreement. Should the Contractor discover any latent or unknown conditions materially differing from those inherent in the Work or as represented by OCFA, Contractor shall immediately inform OCFA of such fact and shall not proceed with any Work except at Contractor's risk until written instructions are received from the Contract Officer.

### **1.6 Care of Work.**

Contractor shall adopt and follow reasonable procedures and methods during the term of the Agreement to prevent loss or damage to materials, papers or other components of the Work, and shall be responsible for all such damage until acceptance of the Work by OCFA, except such loss or damages as may be caused by OCFA's own negligence.

### **1.7 Prevailing Wage.**

Contractor is aware of the requirements of California Labor Code Section 1720, et seq., and 1770, et seq., as well as California Code of Regulations, Title 8, Section 16000, et seq., ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on "public works" and "maintenance" projects. Contractor agrees to fully comply with all applicable federal and state labor laws (including, without limitation, if applicable, the Prevailing Wage Laws). It is agreed by the Parties that, in connection with the Work or Services provided pursuant to this Agreement, Contractor shall bear all risks of payment or non-payment of prevailing wages under California law, and Contractor hereby agrees to defend, indemnify, and hold the OCFA, its officials, officers, employees, agents and volunteers, free and harmless from any claim or liability arising out of any failure or alleged failure to comply with the Prevailing Wage Laws. The foregoing indemnity shall survive termination of this Agreement.

## **2. TIME FOR COMPLETION**

The time for completion of the services to be performed by Contractor is an essential condition of this Agreement. Contractor shall prosecute regularly and diligently the work of this Agreement according to the schedule set forth in Contractor's Quote. Contractor shall not be accountable for delays in the progress of its work caused by any condition beyond its control and without the fault or negligence of Contractor. Delays shall not entitle Contractor to any additional compensation regardless of the party responsible for the delay.

### **3. COMPENSATION**

#### **3.1 Compensation of Contractor and Payment Terms.**

Authority agrees to pay and the Contractor agrees to accept as full consideration for the faithful performance of this Contract, subject to any subsequent additions or deductions as provided in approved change orders, the sum of one hundred seventeen thousand, six hundred ninety-six dollars and ninety-four cents (\$117,696.94) as shown on the Contractor's Quote.

Payments shall be made by Authority within thirty (30) days of invoicing by the Contractor per the progress schedule set forth in the Contractor's Quote. Payments may be subject to a retention of five (5) percent of the invoice amount to be released upon satisfactory completion of all work pursuant to this Agreement, subject to any extension granted under Section 4.2 of this Agreement.

Payments shall be made on demands drawn in the manner required by law, stating that the work for which payment is demanded has been performed in accordance with the terms of the Contract, and that the amount stated in the certificate is due under the terms of the Contract. Partial payments on the Contract price shall not be considered as an acceptance of any part of the work.

#### **3.3 Changes.**

In the event any change or changes in the Work is requested by OCFA, the Parties shall execute a written amendment to this Agreement, setting forth with particularity all terms of such amendment, including, but not limited to, any additional fees for services. An amendment may be entered into, among other things: (a) to provide for revisions or modifications to documents or other work product or work when documents or other work product or work is required by the enactment or revision of law subsequent to the preparation of any documents, other work product or work; and/or (b) to provide for additional services not included in this Agreement or not customarily furnished in accordance with generally accepted practice in Contractor's profession.

#### **3.4 Appropriations.**

This Agreement is subject to and contingent upon funds being appropriated therefore by the OCFA Board of Directors for each fiscal year covered by the Agreement. If such appropriations are not made, this Agreement shall automatically terminate without penalty to OCFA. In the event of termination under this Section, Contractor shall be entitled to compensation in accordance with Section 8.5.

#### **4. PERFORMANCE SCHEDULE**

##### **4.1 Time of Essence.**

Time is of the essence in the performance of this Agreement. The time for completion of the Services to be performed by Contractor is an essential condition of this Agreement.

##### **4.2 Schedule of Performance.**

All services rendered pursuant to this Agreement and the Contractor's Quote, except technical support, shall be completed within 90 days of the execution of this Agreement ("Completion Date"). Any request for an extension must be submitted to the Contract Officer for review and approval at least twenty-one (21) days in advance of the Completion Date.

##### **4.3 Force Majeure.**

The time for performance of Services to be rendered pursuant to this Agreement may be extended because of any delays due to unforeseeable causes beyond the control and without the fault or negligence of the Contractor (financial inability excepted), including, but not restricted to, acts of God or of a public enemy, unusually severe weather, fires, earthquakes, floods, epidemics, quarantine restrictions, riots, strikes, freight embargoes, wars, and/or acts of any governmental agency, including the OCFA, if the Contractor, within ten (10) days of the commencement of such condition, notifies the Contract Officer in writing of the causes of the delay. The Contract Officer shall thereupon ascertain the facts and the extent of the delay, and extend the time for performing the Services for the period of the enforced delay when and if in the Contract Officer's judgment such delay is justified. The Contract Officer's determination shall be final and conclusive upon the Parties to this Agreement. In no event shall Contractor be entitled to recover damages against OCFA for any delay in the performance of this Agreement under this section, Contractor's sole remedy being extension of the Agreement pursuant to this section.

##### **4.4 Term.**

Unless earlier terminated in accordance with Sections 8.5 and 8.6 of this Agreement, this Agreement shall continue in full force and effect until satisfactory completion of the services but not exceeding ninety (90) days from the date hereof, unless extended by mutual written agreement of the parties.

## **5. COORDINATION OF WORK**

### **5.1 Representative of Contractor.**

The following principal of the Contractor is hereby designated as being the principal and representative of Contractor authorized to act in its behalf with respect to the Services to be performed under this Agreement and make all decisions in connection therewith: Dawn Matheny, Chief Financial Officer.

It is expressly understood that the experience, knowledge, capability and reputation of the foregoing principal is a substantial inducement for OCFA to enter into this Agreement. Therefore, the foregoing principal shall be responsible during the term of this Agreement for directing all activities of Contractor and devoting sufficient time to personally supervise the Services performed hereunder. The foregoing principal may not be changed by Contractor without the express written approval of the Contract Officer.

### **5.2 Contract Officer.**

The Contract Officer shall be IT Manager, Joel Brodowski, unless otherwise designated in writing by OCFA. It shall be the Contractor's responsibility to keep the Contract Officer fully informed of the progress of the performance of the Services and Contractor shall refer any decisions that must be made by OCFA to the Contract Officer. Unless otherwise specified herein, any approval of OCFA required hereunder shall mean the approval of the Contract Officer. The Contract Officer shall have authority to sign all documents on behalf of the OCFA required hereunder to carry out the terms of this Agreement.

### **5.3 Prohibition Against Subcontracting or Assignment.**

The experience, knowledge, capability and reputation of Contractor, its principals and employees, were a substantial inducement for OCFA to enter into this Agreement. Contractor shall disclose in its Statement of Work any subcontractors which shall be utilized in the performance of its obligations under this Agreement. OCFA shall have the right to reject any subcontractor designated by Subcontractor in its sole and absolute discretion. Contractor shall be responsible to OCFA for the acts and omissions of its subcontractor(s) in the same manner as it is for persons directly employed. Nothing contained in this Agreement shall create any contractual relationships between any subcontractor and OCFA. All persons engaged in the Work will be considered employees of Contractor. OCFA will deal directly with and will make all payments to Contractor. In addition, neither this Agreement nor any interest herein may be assigned, transferred, conveyed, hypothecated, or encumbered voluntarily or by operation of law, whether for the benefit of creditors or otherwise, without the prior written approval of OCFA. 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 Contractor, 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 Contractor or any surety of Contractor from any liability hereunder without the express written consent of OCFA.

### **5.4 Independent Contractor.**

A. The legal relationship between the Parties is that of an independent contractor, and nothing herein shall be deemed to make Contractor, or any of its personnel, an OCFA employee. During the performance of this Agreement, Contractor and its officers, employees, and agents shall act in an independent capacity and shall not act as OCFA officers or employees. Contractor will determine the means, methods and details of performing the Services subject to the requirements of this Agreement. The personnel performing the Services under this Agreement on behalf of Contractor shall at all times be under Contractor's exclusive direction and control. Neither OCFA nor any of its officials, officers, employees, agents or volunteers shall have control over the conduct of Contractor or any of its officers, employees, or agents, except as set forth in this Agreement. Contractor, its officers, employees or agents, shall not maintain a permanent office or fixed business location at OCFA's offices. OCFA shall have no voice in the selection, discharge, supervision, or control of Contractor's officers, employees, representatives or agents or in fixing their number, compensation, or hours of service. Contractor shall pay all wages, salaries, and other amounts due its employees in connection with the performance of Services under this Agreement and shall be responsible for all reports and obligations respecting them, including but not limited to social security income tax withholding, unemployment compensation, workers' compensation, and other similar matters. OCFA shall not in any way or for any purpose be deemed to be a partner of Contractor in its business or otherwise a joint venturer or a member of any joint enterprise with Contractor.

B. Contractor shall not incur or have the power to incur any debt, obligation, or liability against OCFA, or bind OCFA in any manner.

C. No OCFA benefits shall be available to Contractor, its officers, employees, or agents, in connection with the performance of any Work or Services under this Agreement. Except for professional fees paid to Contractor as provided for in this Agreement, OCFA shall not pay salaries, wages, or other compensation to Contractor for the performance of any Work or Services under this Agreement. OCFA shall not be liable for compensation or indemnification to Contractor, its officers, employees, or agents, for injury or sickness arising out of performing any Work or Services hereunder. If for any reason any court or governmental agency determines that the OCFA has financial obligations, other than pursuant to Section 3 herein, of any nature relating to salary, taxes, or benefits of Contractor's officers, employees, representatives, agents, or subconsultants or subcontractors, Contractor shall defend, indemnify, and hold harmless OCFA from and against all such financial obligations.

#### **5.5 Employee Retirement System Eligibility Indemnification.**

A. In the event that Contractor or any employee, agent, or subcontractor of Contractor providing any Work or Services under this Agreement claims or is determined by a court of competent jurisdiction to be eligible for enrollment in an employee retirement system as an employee of the OCFA, Contractor shall indemnify, defend, and hold harmless OCFA against: (1) all such claim(s) and determination(s); (2) for the payment of any employee and/or employer contributions for employee retirement system benefits on behalf of Contractor or its employees, agents or subcontractors; and (3) the payment of any penalties and interest on such contributions which would otherwise be the responsibility of the OCFA.

B. Notwithstanding any other agency, state or federal policy, rule, regulation, law or ordinance to the contrary, Contractor and any of its employees, agents, and subcontractors providing any Work or Services under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any claims to, any compensation, benefit, or any incident of employment by OCFA, including but not limited to eligibility to enroll in PERS as an employee of OCFA and entitlement to any contribution to be paid by OCFA for employer contribution and/or employee contributions for PERS benefits.

### **6. INSURANCE, INDEMNIFICATION AND BONDS**

#### **6.1 Compliance with Insurance Requirements.**

Contractor shall obtain, maintain, and keep in full force and effect during the term of this Agreement, at its sole cost and expense, and in a form and content satisfactory to OCFA, all insurance required under this section. Contractor shall not commence any Work or Services under this Agreement unless and until it has provided evidence satisfactory to OCFA that it has secured all insurance required under this

section. In addition, Contractor shall not allow any subconsultant or subcontractor to commence any Work or Services until it has provided evidence satisfactory to OCFA that the subconsultant or subcontractor has secured all insurance required under this section. If Contractor's existing insurance policies do not meet the insurance requirements set forth herein, Contractor agrees to amend, supplement or endorse the policies to do so.

## **6.2 Types of Insurance Required.**

As a condition precedent to the effectiveness of this Agreement, and without limiting the indemnity provisions set forth in this Agreement, Contractor shall obtain and maintain in full force and effect during the term of this Agreement, including any extension thereof, the following policies of insurance:

A. Commercial General Liability Insurance. Contractor shall obtain and maintain, in full force and effect throughout the term of this Agreement, a policy of Commercial General Liability Insurance written on an occurrence basis with limits of at least one million dollars (\$1,000,000.00) per occurrence, two million dollars (\$2,000,000.00) in the general aggregate, and one million dollars (\$1,000,000.00) for products and completed operations. The policy shall contain no endorsements or provisions limiting coverage for (1) contractual liability; (2) cross liability exclusion for claims or suits by one insured against another; or (3) contain any other exclusion contrary to the Agreement.

B. Automobile Liability Insurance. Contractor shall obtain and maintain, in full force and effect throughout the term of this Agreement, a policy of Automobile Liability Insurance written on a per occurrence basis with limits of at least one million dollars (\$1,000,000.00) combined limit for each occurrence covering bodily injury and property damage. The policy shall specifically include coverage for owned, non-owned, leased, and hired automobiles. Additionally, the policy should be endorsed to include Transportation Pollution Liability insurance, covering materials to be transported by Contractor pursuant to this Agreement.

C. Workers' Compensation Insurance. Contractor shall obtain and maintain, in full force and effect throughout the term of this Agreement, a policy of Workers' Compensation Insurance in at least the minimum statutory amounts, and in compliance with all other statutory requirements, as required by the State of California. Contractor agrees to waive and obtain endorsements from its workers' compensation insurer waiving all subrogation rights under its workers' compensation insurance policy against the OCFA, its officials, officers, employees, agents and volunteers, and to require each of its subconsultants and subcontractors, if any, to do likewise under their workers' compensation insurance policies. Contractor shall obtain and maintain, in full force and effect throughout the term of this Agreement, a policy of Employer's Liability Insurance written on a per occurrence basis with limits of at least one million dollars (\$1,000,000.00) per accident for bodily injury or disease.

**D. Professional Liability/Errors and Omissions Insurance (“PLI”).**

Contractor shall obtain and maintain PLI insurance applicable to each licensed profession practiced by Contractor. Contractor shall maintain PLI insurance with per-claim and aggregate limits no lower than one million dollars (\$1,000,000.00) (the “Minimum PLI Limits”). Covered professional services shall specifically include all Work or Services to be performed under this Agreement and the policy shall be endorsed to delete any exclusions that may exclude coverage for claims within the Minimum PLI Limits for the Work or Services to be performed under this Agreement.

1. The PLI policy shall be endorsed to delete any Contractual Liability Exclusion. The PLI shall include contractual liability coverage applicable to this Agreement. The policy must “pay on behalf of” the insured, and include a provision establishing the insurer’s duty to defend the insured.

2. If the PLI policy of insurance is written on a “claims-made” basis, the policy must be continued in full force and effect at all times during the term of this Agreement, and for a period of three (3) years from the date of the completion of the Work or Services provided hereunder (the “PLI Coverage Period”). If any PLI policy is replaced, cancelled, non-renewed, discontinued, or otherwise terminated, or if the limits of a PLI policy are reduced or available coverage depleted below the required minimum coverage amounts for any reason during the PLI Coverage Period, Contractor shall immediately obtain replacement PLI coverage meeting the requirements of this Section 6.2.D. Such replacement coverage shall satisfy all requirements herein, and shall include coverage for the prior acts or omissions of Contractor during the time period during which any Work or Services were performed. The coverage shall be evidenced by either a new policy evidencing no gap in coverage, or by obtaining separate extended “tail” coverage with the present or new carrier or other insurance arrangements providing for complete coverage, either of which shall be subject to the written approval by the OCFA.

3. If the PLI policy is written on an “occurrence” basis, the policy shall be continued in full force and effect during the term of this Agreement, or until completion of the Work or Services provided for in this Agreement, whichever is later. In the event of termination of the PLI policy during this period, new coverage shall immediately be obtained, and written evidence of the policy shall be immediately provided to OCFA, to ensure PLI coverage during the entire course of performing the Work or Services provided hereunder.

4. Contractor shall not perform any Work or Services at any time during which required types or amounts of PLI insurance are not in effect, and OCFA shall have no obligation to pay Contractor for Work or Services performed while required PLI insurance is not in effect.

**6.3 Acceptability of Insurers.**

Insurance required by this section shall be issued by a licensed company authorized to transact business in the state by the Department of Insurance for the State



of California with a current rating of A:VII or better (if an admitted carrier), or a current rating of A:X or better (if offered by a non-admitted insurer) listed on the State of California List of Eligible Surplus Lines Insurers (LESLI), by the latest edition of A.M. Best's Key Rating Guide, except that the OCFA will accept workers' compensation insurance from the State Compensation Fund. In the event the OCFA determines that the Work or Services to be performed under this Agreement creates an increased or decreased risk of loss to the OCFA, the Contractor agrees that the minimum limits of the insurance policies may be changed accordingly upon receipt of written notice from the OCFA. Contractor shall immediately substitute any insurer whose A.M. Best rating drops below the levels specified herein.

#### **6.4 Insurance Endorsements.**

Required insurance policies shall not be in compliance if they include any limiting provision or endorsement that has not been submitted to the OCFA for written approval. Required insurance policies shall contain the following provisions, or Contractor shall provide endorsements on forms approved by the OCFA to add the following provisions to the insurance policies:

A. The policy or policies of insurance required by this section for Commercial General Liability, Automobile Liability, and Contractor's Pollution Liability Insurance shall be endorsed to provide the following:

(i) Additional Insured: The OCFA, its officials, officers, employees, agents and volunteers, shall be additional insureds with regard to liability and defense of suits or claims arising out of the performance of this Agreement; and

(ii) Additional Insured Endorsements: Additional insured endorsements shall not (1) be restricted to "ongoing operations", (2) exclude "contractual liability", (3) restrict coverage to "sole" liability of Contractor, or (4) contain any other exclusions contrary to the Agreement; and, the coverage shall contain no special limitations on the scope of protection afforded to additional insureds.

(iii) Notice: The policy or policies of insurance required by this section for Commercial General Liability, Automobile Liability, and Contractors Pollution Liability Insurance shall be endorsed to state that coverage shall not be suspended, voided, cancelled, or modified, or reduced in coverage or in limits, except after thirty (30) days' prior written notice by First Class U.S. Mail, postage-prepaid, has been provided to the OCFA. Notwithstanding the foregoing, if coverage is to be suspended, voided, or cancelled because of Consultant's failure to pay the insurance premium, the notice provided to OCFA shall be by ten (10) days' prior written notice.

B. For all policies of Commercial General Liability Insurance and Contractor's Pollution Liability Insurance, Contractor shall provide endorsements for ongoing operations and completed operations to effectuate this requirement.

## **6.5 Deductibles and Self-Insured Retentions.**

Any deductible or self-insured retention must be approved in writing by the OCFA in advance and shall protect the OCFA, its officials, officers, employees, agents and volunteers, in the same manner and to the same extent as they would have been protected had the policy or policies not contained a deductible or self-insured retention.

## **6.6 Primary and Non-Contributing Insurance.**

All policies of Commercial General Liability, Automobile Liability, and Contractors Pollution Liability Insurance shall be primary and any other insurance, deductible, or self-insurance maintained by the OCFA, its officials, officers, employees, agents or volunteers, shall not contribute with this primary insurance. Policies shall contain or be endorsed to contain such provisions.

## **6.7 Waiver of Subrogation.**

All policies of Commercial General Liability, Automobile Liability, and Contractors Pollution Liability Insurance shall contain or be endorsed to waive subrogation against the OCFA, its officials, officers, employees, agents and volunteers, or shall specifically allow Contractor or others providing insurance evidence in compliance with the requirements set forth in this section to waive their right to recovery prior to a loss. Contractor hereby agrees to waive its own right of recovery against the OCFA, its officials, officers, employees, agents and volunteers, and Contractor hereby agrees to require similar written express waivers and insurance clauses from each of its subconsultants or subcontractors.

## **6.8 Evidence of Coverage.**

Concurrently with the execution of this Agreement, Contractor shall deliver certificates of insurance together with original endorsements affecting each of the insurance policies required by this section. Required insurance policies shall not be in compliance if they include any limiting provision or endorsement that has not been submitted to the OCFA for written approval. The certificates of insurance and original endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf. At least fifteen (15) days prior to the expiration of any such policy, evidence of insurance showing that such insurance coverage has been renewed or extended shall be filed with the OCFA. If such coverage is cancelled or reduced and not replaced immediately so as to avoid a lapse in the required coverage, Contractor shall, within ten (10) days after receipt of written notice of such cancellation or reduction of coverage, file with the OCFA evidence of insurance showing that the required insurance has been reinstated or has been provided through another insurance company or companies. Contractor shall promptly furnish, at OCFA's request, copies of actual policies including all declaration pages, endorsements, exclusions and any other policy documents OCFA requires to verify coverage.

#### **6.9 Requirements Not Limiting.**

Requirement of specific coverage or minimum 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. Nothing in this section shall be construed as limiting in any way the indemnification provision contained in this Agreement, or the extent to which Contractor may be held responsible for payments of damages to persons or property.

#### **6.10 Enforcement of Agreement (Non-Estoppel).**

Contractor acknowledges and agrees that actual or alleged failure on the part of the OCFA to inform Contractor of any non-compliance with any of the insurance requirements set forth in this section imposes no additional obligation on the OCFA nor does it waive any rights hereunder.

#### **6.11 Insurance for Subcontractors.**

Contractor shall include all subconsultants or subcontractors engaged in any Work or Services for Contractor relating to this Agreement as additional insureds under the Contractor's insurance policies, or Contractor shall be responsible for causing its subconsultants or subcontractors to procure and maintain the appropriate insurance in compliance with the terms of the insurance requirements set forth in this section, including adding the OCFA, its officials, officers, employees, agents and volunteers, as additional insureds to their respective policies. All policies of Commercial General Liability, Automobile Liability, and Contractors Pollution Liability Insurance provided by Contractor's subconsultants or subcontractors performing any Work or Services related to this Agreement shall be endorsed to name the OCFA, its officials, officers, employees, agents and volunteers, as additional insureds. Contractor shall not allow any subconsultant or subcontractor to commence any Work or Services relating to this Agreement unless and until it has received satisfactory evidence of their compliance with all insurance requirements under this Agreement, to the extent applicable. Contractor agrees to provide satisfactory evidence of compliance with this subsection upon request of the OCFA.

#### **6.12 Other Insurance Requirements.**

The following terms and conditions shall apply to the insurance policies required of Contractor pursuant to this Agreement:

A. Contractor shall provide immediate written notice to OCFA if (1) any of the insurance policies required herein are terminated, cancelled or suspended, (2) the limits of any of the insurance coverages required herein are reduced, or (3) the deductible or self-insured retention is increased.

B. All insurance coverage and limits provided by Contractor and available or applicable to this Agreement are intended to apply to each insured, including additional insureds, against whom a claim is made or suit is brought to the full extent of the policies. Nothing contained in this Agreement or any other agreement relating to the OCFA or its operations shall limit the application of such insurance coverage.

C. None of the insurance coverages required herein will be in compliance with the requirements of this section if they include any limiting endorsement which substantially impairs the coverages set forth herein (e.g., elimination of contractual liability or reduction of discovery period), unless the endorsement has first been submitted to the OCFA and approved in writing.

D. Certificates of insurance will not be accepted in lieu of required endorsements, and submittal of certificates without required endorsements may delay commencement of the Work. It is Contractor's obligation to ensure timely compliance with all insurance submittal requirements as provided herein.

E. Contractor agrees to ensure that subconsultants and subcontractors, if any, and any other parties involved with the Work under this Agreement who are brought onto or involved in the Work by Contractor, provide the same minimum insurance coverage required of Contractor. Contractor 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. Contractor agrees that upon request, all agreements with subcontractors and others engaged in the Work will be submitted to the OCFA for review.

F. Contractor agrees to provide immediate written notice to OCFA of any claim, demand or loss against Contractor arising out of the Work or Services performed under this Agreement and for any other claim, demand or loss which may reduce the insurance available to pay claims, demands or losses arising out of this Agreement.

### **6.13 Indemnification.**

To the fullest extent permitted by law, Contractor shall defend (at Contractor's sole cost and expense with legal counsel reasonably acceptable to OCFA), indemnify and hold the OCFA, its officials, officers, employees, agents and volunteers, free and harmless from any and all claims, demands, orders, causes of action, costs, expenses, liabilities, losses, penalties, judgments, arbitration awards, settlements, damages or injuries of any kind, in law or in equity, arising out of third party claims, including but not limited to property or persons, including wrongful death, (collectively "Claims") in any manner arising out of, pertaining to, related to, or incident to any alleged acts, errors or omissions, or willful misconduct of Contractor, its officers, directors, employees, subcontractors, subconsultants, contractors or agents, in connection with Contractor's performance under this Agreement, including without limitation the payment of all consequential damages, expert witness fees and attorneys' fees and other related

costs and expenses. Notwithstanding the foregoing, to the extent that the Work or Services performed by Contractor are subject to Civil Code Section 2782.8, the above indemnity shall be limited, to the extent required by Civil Code Section 2782.8, to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Contractor. Under no circumstances shall the insurance requirements and limits set forth in this Agreement be construed to limit Contractor's indemnification obligation or other liability hereunder. Notwithstanding the foregoing, such obligation to defend, hold harmless and indemnify the OCFA, its officials, officers, employees, agents and volunteers, shall not apply to the extent that such Claims are caused in part by the sole negligence or willful misconduct of the OCFA, its officials, officers, employees agents and volunteers.

#### **6.14 Payment Bond.**

Pursuant to Civil Code section 9950, the Contractor shall furnish, and maintain thereafter a payment bond for 100% of the amount specified in the Contractor's Quote until the project is complete. Authority shall release the bond upon satisfactory completion of work as provided for in this Agreement, and in a manner consistent with state law.

### **7. RECORDS AND REPORTS**

#### **7.1 Reports.**

Contractor shall periodically prepare and submit to the Contract Officer such reports concerning the performance of the Services required by this Agreement as the Contract Officer shall require.

#### **7.2 Records.**

Contractor shall keep complete, accurate, and detailed accounts of all time, costs, expenses, and expenditures pertaining in any way to this Agreement. Contractor shall keep such books and records as shall be necessary to properly perform the Services required by this Agreement and enable the Contract Officer to evaluate the performance of such Services. The Contract Officer shall have full and free access to such books and records at all reasonable times, including the right to inspect, copy, audit and make records and transcripts from such records. Contractor shall maintain such books and records in accordance with generally accepted accounting principles and shall clearly identify and retain the same for a period of three (3) years from the date of final payment by OCFA hereunder.

#### **7.3 Ownership of Documents.**

Except for any documents required by the rules of conduct governing Contractor's profession to be owned by Contractor, all reports, graphics, wiring diagrams, plans, as built drawings, system documentation and other materials

prepared by Contractor, its employees, subconsultants, subcontractors and agents for OCFA in the performance of this Agreement shall be the property of OCFA and shall be delivered to OCFA upon request of the Contract Officer or upon the termination of this Agreement, and Contractor shall have no claim for further employment or additional compensation as a result of the exercise by OCFA of its full rights or ownership of the documents and materials hereunder. Contractor may retain copies of such documents for its own use. Contractor shall have an unrestricted right to use the concepts embodied therein. Contractor shall ensure that all of its subconsultants and subcontractors shall provide for assignment to OCFA of any documents or materials prepared by them, and in the event Contractor fails to secure such assignment, Contractor shall indemnify OCFA for all damages resulting therefrom.

#### **7.4 Release of Documents.**

All drawings, specifications, reports, records, documents and other materials prepared by Contractor, its employees, subconsultants, subcontractors and agents in the performance of Services under this Agreement shall not be released publicly without the prior written approval of the Contract Officer.

### **8. ENFORCEMENT OF AGREEMENT**

#### **8.1 California Law.**

This Agreement shall be construed and interpreted 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 Orange, State of California, or any other appropriate court in such county, and Contractor covenants and agrees to submit to the personal jurisdiction of such court in the event of such action.

#### **8.2 Waiver.**

No delay or omission in the exercise of any right or remedy of a non-defaulting Party on any default shall impair such right or remedy or be construed as a waiver. No consent or approval of OCFA shall be deemed to waiver or render unnecessary OCFA's consent to or approval of any subsequent act of Contractor. 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.

#### **8.3 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.

#### **8.4 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 injunctive relief, a declaratory judgment, or any other remedy consistent with the purposes of this Agreement.

#### **8.5 Termination Prior to Expiration of Term.**

OCFA reserves the right to terminate this Agreement at any time, with or without cause, upon thirty (30) days' written notice to Contractor, except that where termination is due to the fault of the Contractor and constitutes an immediate danger to health, safety and general welfare, the period of notice shall be such shorter time as may be appropriate. Upon receipt of the notice of termination, Contractor shall immediately cease all Services hereunder except such as may be specifically approved by the Contract Officer. Contractor shall be entitled to compensation for all services rendered prior to receipt of the notice of termination and for any services authorized by the Contract Officer thereafter.

Contractor may terminate this Agreement, with or without cause, upon thirty (30) days' written notice to OCFA.

#### **8.6 Termination for Default.**

A. OCFA or Contractor's failure to comply with any provision of this Agreement shall constitute a default.

B. If the Contract Officer on behalf of OCFA, or Representative of Contractor (the "Notifying Party"), determines that the other party is in default in the performance of any of the terms or conditions of this Agreement (the "Defaulting Party"), he/she shall notify the Defaulting Party in writing of such default. The Defaulting Party shall have ten (10) days, or such longer period as may be designated in writing, to cure the default by rendering satisfactory performance. In the event the Defaulting Party fails to cure its default within such period of time, the Notifying Party shall have the right, notwithstanding any other provision of this Agreement, to terminate this Agreement without further notice and without prejudice of any remedy to which the Notifying Party may be entitled at law, in equity, or under this Agreement. The Defaulting Party shall be liable for any and all reasonable costs incurred by the Notifying Party as a result of such default. Compliance with the provisions of this section shall not constitute a waiver of any right to take legal action in the event that the dispute is not cured, provided that nothing herein shall limit either party's right to terminate this Agreement without cause pursuant to Section 8.5.

C. If termination is due to the failure of the Contractor to fulfill its obligations under this Agreement, OCFA may, after compliance with the provisions of Section 8.6(B), take over the work and prosecute the same to completion by contract or otherwise. OCFA may withhold any payments to the Contractor for the purpose of set-off or partial payment of the amounts owed the OCFA under this Section. The withholding or failure to withhold payments to Contractor shall not limit Contractor's liability for completion of the Services as provided herein.

#### **8.7 Attorneys' Fees.**

In the event any dispute between the Parties with respect to this Agreement results in litigation or any non-judicial proceeding, the prevailing Party shall be entitled, in addition to such other relief as may be granted, to recover from the non-prevailing Party all reasonable costs and expenses, including but not limited to reasonable attorneys' fees, expert witness fees, court costs and all fees, costs, and expenses incurred in any appeal or in collection of any judgment entered in such proceeding.

### **9. OCFA OFFICERS AND EMPLOYEES; NON-DISCRIMINATION**

#### **9.1 Non-Liability of OCFA Officers and Employees.**

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

#### **9.2 Covenant Against Discrimination.**

Contractor covenants that, by and for itself, its heirs, executors, assigns, and all persons claiming under or through them, that there shall be no discrimination or segregation in the performance of or in connection with this Agreement regarding any person or group of persons on account of race, disability, medical condition, color, creed, religion, sex, sexual orientation, marital status, age, national origin, or ancestry. Contractor shall take affirmative action to insure that applicants and employees are treated without regard to their race, disability, medical condition, color, creed, religion, sex, sexual orientation, marital status, national origin, or ancestry.

### **10. MISCELLANEOUS PROVISIONS**

#### **10.1 Confidentiality.**

Information obtained by Contractor in the performance of this Agreement shall be treated as strictly confidential and shall not be used by Contractor for any purpose other than the performance of this Agreement without the written consent of OCFA.

#### **10.2 Notice.**



Any notice, demand, request, 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 pre-paid, first-class mail to the address set forth below. Either Party may change its address by notifying the other Party of the change of address in writing. Notice shall be deemed communicated forty-eight (48) hours from the time of mailing if mailed as provided in this Section.

To OCFA: Orange County Fire Authority  
Attention: Debbie Casper, Purchasing Mgr.  
1 Fire Authority Road  
Irvine, CA 92602

To Contractor: Westnet Inc.  
Attention: Dawn Matheny,  
Chief Financial Officer  
15542 Chemical Lane  
Huntington Beach, CA 92649

**10.3 Entire Agreement.**

This Agreement constitutes the entire agreement between the Parties and supersedes all prior negotiations, arrangements, agreements, representations, and understandings, if any, made by or among the Parties with respect to the subject matter hereof. No amendments or other modifications of this Agreement shall be binding unless executed in writing by both Parties hereto, or their respective successors, assigns, or grantees.

#### 10.4 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 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 shall be interpreted to carry out the intent of the Parties hereunder.

### 10.5 Successors in Interest.

This Agreement shall be binding upon and inure to the benefit of the Parties' successors and assignees.

#### 10.6 Third Party Beneficiary.

Nothing contained in this Agreement is intended to confer, nor shall this Agreement be construed as conferring, any rights, including, without limitation, any rights as a third-party beneficiary or otherwise, upon any entity or person not a party hereto.

**10.7 Recitals.**

The above-referenced Recitals are hereby incorporated into the Agreement as though fully set forth herein and each Party acknowledges and agrees that such Party is bound, for purposes of this Agreement, by the same.

**10.8 Survival.**

Any responsibility of Contractor for warranties, insurance, indemnity, record-keeping or compliance with laws with respect to this Agreement shall not be invalidated due to the expiration or termination of this Agreement.

**10.9 Corporate Authority.**

Each of the undersigned represents and warrants that (i) the Party for which he/she is executing this Agreement is duly authorized and existing, (ii) he/she is duly authorized to execute and deliver this Agreement on behalf of the Party for which he/she is signing, (iii) by so executing this Agreement, the Party for which he/she is signing is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which the Party for which he/she is signing is bound.

**[Signatures on Next Page]**

IN WITNESS WHEREOF, the Parties have executed and entered into this Agreement as of the date first written above.

**"OCFA"**

**ORANGE COUNTY FIRE AUTHORITY**

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Debbie Casper, Purchasing Manager

**"CONTRACTOR"**

**WESTNET INC.**

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Dawn Matheny, Chief Financial Officer



## EXHIBIT A

## ***Exhibit "A"***

# ***ORANGE COUNTY FIRE AUTHORITY***



## ***Statement of Work for Installation of First-In Fire Station Alerting Systems Fire Station 22***

Westnet, Inc.  
Huntington Beach, CA 92649  
(800) 807-1700  
[www.FirstInAlerting.com](http://www.FirstInAlerting.com)



## **PROJECT OVERVIEW:**

This purpose of this project is to implement a new Westnet First-In<sup>®</sup> Fire Station Alerting System. The parties to this project are: Westnet, Inc. (Westnet or "Contractor") as the provider, installer, and implementer of the system and Orange County Fire Authority as the "Client", or "Customer".

Westnet will provide and install a First-In Fire Station Alerting System in Client Fire Station #22.

Upon receipt of an alert from the Client's CAD, the Westnet System will utilize the Client's network and radio system to activate the Westnet Systems in the Client Fire Stations. Depending upon Station relays and interfaces, the various First-In Smart Station Units (Units) and/or other non-Smart Station units, if implemented, (i.e. Client's public address system, traffic lights, stove, etc.) will emit an audible and/or visual indication of an incoming alert from Dispatch.

### **EXHIBITS:**

The Exhibits listed below are incorporated into and made a part of this Statement of Work (SOW). In interpreting this SOW and resolving any ambiguities, the main body of this SOW will take precedence over the Exhibits and any inconsistency between the Exhibits will be resolved in the order in which they are listed.

Exhibit A	Delivery and Installation Verification Forms
Exhibit B	Warranty
Exhibit C	Contract Price and Deliverables
Exhibit D	Payment Schedule
Exhibit E	Acceptance Test Plan
Exhibit F	Final System Acceptance Certificate
Exhibit G	Maintenance and Support Statement of Work

### **PROJECT SCHEDULE:**

The estimated project timeline starts upon Westnet's acceptance of the Customer's purchase order which includes by reference this Statement of Work. The timeline for completion is 90 days from the later of the accepted Purchase Order or receipt by Westnet of all programming information necessary to deliver the System. Factors that may expedite or delay this schedule are: each party completing their respective tasks, the technical assistance or items provided by Client third parties (i.e. CAD vendor) and successful completion of a project milestone.

### **CHANGE ORDERS:**

No changes to this SOW that result in additional charges will be implemented without an approved written Change Order executed by both parties.

### **WESTNET'S SUBCONTRACTOR INFORMATION:**

**In The Light Electric, Inc.**  
**419 Promontory Drive East**  
**Newport Beach, CA 92660**  
Ken Radford  
Office: (909) 319-1125  
Email: [rad4jc@gmail.com](mailto:rad4jc@gmail.com)



#### **WESTNET TO PROVIDE:**

1. The Deliverables as listed Exhibit C.
2. Installation of the Deliverables, which includes installation and testing of the new station cabling.
3. Participation in on-site acceptance testing as listed in Exhibit E.
4. A Westnet Representative at the conclusion of the installation to certify the installation and provide operator training. Operator training will consist of one (1) class per fire station.
5. Project management and coordination with Customer technical staff on system configuration.
6. A one year warranty per Exhibit B. The warranty and technical support period commences upon first beneficial use as described in the Westnet Limited Warranty.
7. Provide as-built drawings depicting the Westnet equipment in the fire station(s).

#### **CUSTOMER TO PROVIDE:**

1. Complete and return to Westnet all RFI documents, and provide written approval of a completed Voice Track Configuration Sheet thirty (30) days prior to scheduled equipment shipment.
2. A VPN or IP connection for remote system adjustments, maintenance, troubleshooting and updates. It is estimated that the System will need one (1) additional IP address for maintenance purposes.
3. Rough-in of boxes and any conduit required by the electrical code or Customer.
4. Confirmation that all rough-in is complete prior to scheduling installation of the System.
5. Removal or disposal of any existing equipment.
6. Existing amplifier or speaker troubleshooting, repair or replacement.
7. Any interfaces in Dispatch (i.e. CAD or radio console) or licenses to other dispatcher centers.
8. Locked storage for the equipment. The Customer will bear the risk of loss on the equipment once it has been delivered to the Customer, or permanently affixed to the fire station. The Customer's Project Manager will inspect the equipment as each Station's equipment is delivered and will execute the Delivery Verification Form in Exhibit A-1.
9. All antivirus and operating system updates for any Dispatch computers supplied for this project. The Customer will need to schedule the updates in order to minimize system interruption.
10. Provide a minimum of five (5) business days notice to the Westnet Project Manager or Westnet's Installation Company should the Customer need to postpone the scheduled installation or any project-related visits. Remobilization charges may apply if the Customer has not provided all items listed in this Statement of Work prior to the scheduled installation and if Westnet is unable to reasonably continue work at another Customer location.
11. One unused electrical wall outlet for each UPS, Appliance and Systems Interface Unit, flat panel display or Messenger.
12. Adequate space to install the System. If the Customer desires the System to be installed in a rack, a First-In rack mount kit and other accessories will be required. The Master Control Unit, Power Module and UPS must not be more than six (6) feet from the fire station radio(s), the network switch and a 110-volt outlet.



13. Provide the radio equipment necessary for integration. The installed radio equipment includes, but is not limited to, a properly operating radio, installed outside antenna and feedline, and a lightening arrestor with a five-ohm earth ground circuit connected to the radio antenna lightening suppressing circuit. The radio must produce an acceptable level of signaling, as well as an acceptable level of Dispatch voice audio. An acceptable level of signaling shall be a fixed line level output of 500 millivolts peak-to-peak of Dispatch audio and alerting data (e.g. DTMF, P25, Digital, 2-tone sequential, etc.).
14. Access for Westnet at its discretion to install a Westnet-owned Performance Monitoring Computer in Dispatch. The computer is used to administer technical support and maintenance services. The computer will be returned to Westnet at the conclusion of the warranty and/or maintenance period.
15. Technical assistance on integration with the Customer equipment to be integrated with the alerting system and associated with fire station alerting (e.g. radio, network equipment).
16. If permits are required, the Customer will provide electronic drawings of the station. These drawings must be capable of being edited and used for the permit process. Unless otherwise listed as a Deliverable, a separate fee will be assessed for permit fees.
17. The supply or install of any conduit work, power receptacles, shunt trip circuit breakers, coils for the kitchen appliances, gas solenoid, power contactors, any wiring in excess of 24-volts, bond fees, or any other work and/or materials not specifically included or listed herein
18. Provide any other support to Westnet to ensure successful installation and integration of the alerting Systems.

#### **DEPENDENCIES AND ASSUMPTIONS:**

1. The Customer will obtain any required installation approval of the Historical Society or other agencies having jurisdiction over installing/relocating equipment in the Fire Stations. The Customer agrees to pay the permit fees if any.
2. The number of contact closures in a Control Remote will not exceed 8. Stations requiring more zones or contact closures will require an additional Control Remote. There is no physical limit to the number of Control Remotes that can be installed in a station. Westnet will not do any high-voltage wiring.
3. Alerting Equipment Tone, Voice or Programming Changes: Any changes in the wording or tones of the voice announcements or reprogramming to any units once the Customer had signed the System Configuration Form may be billable to the Customer.
4. If during the installation process, Westnet suspects or encounters asbestos, Westnet will inform the Customer. Westnet will use best efforts to utilize alternate installation methods, but will not drill any holes or disturb the asbestos in the related area. Westnet shall have no liability to the Customer, its employees or to any other persons for any asbestos related claims, including, without limitation, removal or cleanup costs, loss of use, lost profits or personal injury or property damages.
5. Westnet will use best efforts to conceal all wiring. However, due to station construction or other installation limitations (i.e. the possibility of asbestos, inaccessibility), certain cables and raceway may need to be surface-mounted or devices relocated to a more practical location. Westnet understands that the term "optimal" is subjective. Although Westnet will attempt to place the equipment in the Customer's desired locations, Westnet reserves the right to place the equipment in the safest and most beneficial location for system performance
6. Any issue affecting the installation such as corrections or repairs, discrepancies among Customer personnel in regards to the placement, mounting methods or other installation matters, must be resolved within twenty-four (24) hours while Westnet personnel is on-site. If such resolution does not occur, Westnet may bill the Customer and customer agrees to pay for any standby time until such discrepancy is resolved.





## EXCLUSIONS:

Unless specifically stated otherwise, the following items are excluded from the goods and services to be provided by Westnet:

1. Any equipment not listed in the Contract Deliverables Schedule (Exhibit C).
2. Spare/loaner equipment unless an on-site warranty is purchased.
3. Westnet does not warranty equipment provided under this Statement of Work should a party other than Westnet or Westnet's installation subcontractor or Westnet trained installer install or integrate any non-Westnet equipment into the alerting or dispatch systems. An exception to this is the CAD interface and Customer's radio system.
4. Westnet and/or any Westnet-supplied equipment will not make a recommendation as to which apparatus or personnel assigned to an emergency call. Rather, Dispatch personnel, the CAD and/or any other Customer mechanism are responsible for equipment and personnel assignment.
5. The Customer will be notified of any non-functioning Customer equipment. Westnet's proposal does not include repair or replacement of any Customer-owned systems. If a station's public address, lighting, or any other existing systems to be tied into the alerting system are not functioning properly, the Customer will need to repair those items.
6. Westnet's pricing does not include any new circuits, breakers or upgrades to the electrical system or wiring to the emergency panel or generator.
7. Aesthetic restoration of installation areas (e.g. color/texture matching), of ceilings, walls, or conduit runs, beyond what Westnet determines is commercially viable.
8. Taxes and Permit Fees: Unless specifically included in Exhibit C, the Contract Price excludes federal, state, or local sales, use, or other taxes (other than federal, state, and local taxes based on Westnet's income or net worth), all of which will be paid by Customer except as exempt by law. Increases in any tax rate as listed in Exhibit C shall be paid by Customer. The Customer agrees to pay or reimburse Westnet plus overhead for all permit fees, fees by others, and related expenses unless specifically listed and at the amount in Exhibit C.

In witness whereof, the parties hereby agree to this Statement of Work on the dates set forth below.

**WESTNET:**  
**WESTNET, INC.**

**CUSTOMER:**  
**ORANGE COUNTY FIRE AUTHORITY**

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_



**EXHIBIT A-1**

**DELIVERY VERIFICATION FORM\***

**First-In Fire Station Alerting Equipment**

The signature below serves as verification that the boxes with equipment listed for Station \_\_\_\_\_ in Exhibit C were delivered with no apparent damage.

\_\_\_\_\_  
Customer Representative

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name & Title

(For partial deliveries, the following form shall be used.)

The signature below serves as verification that the following boxes with equipment listed for Station \_\_\_\_\_ in Exhibit C were delivered with apparent damage:

1. \_\_\_\_\_

3. \_\_\_\_\_

2. \_\_\_\_\_

4. \_\_\_\_\_

\_\_\_\_\_  
Customer Representative

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name & Title

\* Print and execute one copy of this form for each station.



## **EXHIBIT A-2**

### **INSTALLATION VERIFICATION FORM\***

The signature below serves as verification that the Fire Station Alerting Equipment enumerated in Exhibit C, plus or minus the following mutually agreed upon changes, has been installed in a commercially reasonable manner and functions properly in the **System Test Mode**. Any punch-list items will be resolved prior to final System Acceptance.

☐ A check in this box means that no equipment changes were made, and that the only equipment installed at the Fire Station is that which is listed in Exhibit C.

☐ A check in this box means the following mutually agreed upon changes have been installed.

1. \_\_\_\_\_

6. \_\_\_\_\_

2. \_\_\_\_\_

7. \_\_\_\_\_

3. \_\_\_\_\_

8. \_\_\_\_\_

4. \_\_\_\_\_

9. \_\_\_\_\_

5. \_\_\_\_\_

10. \_\_\_\_\_

\_\_\_\_\_  
Customer Representative

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name & Title

**\* Print and execute one copy of this form for each station.**



## **EXHIBIT B**

### **WESTNET, INC. STANDARD LIMITED WARRANTY**

Westnet, Inc. ("Westnet") is providing its Standard Limited Warranty ("Limited Warranty") covering the First-In™ products, parts, components, software and systems purchased by Customer (collectively, the "Product"). If Westnet, or an authorized Westnet subcontractor performs the installation, such installation service will be deemed to be part of the Product for purposes of this Limited Warranty.

**Warranty Commencement Date:** When Westnet, or an authorized Westnet subcontractor, installs the Product, this Warranty shall commence upon the (1) first beneficial use of the Product by Customer, or (2) when installation is complete, whichever occurs first. In all other instances, this warranty commences upon delivery. This Limited Warranty is not extended if Westnet repairs or replaces the Product.

**Scope of Warranty:** Westnet warrants exclusively to Customer that the Product will be free from defects in material and workmanship for a period of one (1) year from the Warranty Commencement Date. Westnet will perform all warranty work at its service location only, unless Westnet agrees, in its sole discretion, to perform at Customer's location. Customer's exclusive remedy for any breach of this Limited Warranty will be either (1) the repair or replacement, at Westnet's option, of the non-conforming Product, or (2) at Westnet's sole discretion, reimburse Customer the purchase price paid by Customer for the Product, provided Customer has returned the Product to Westnet. Repairs may be made with either new or reconditioned components and will be shipped to Customer at the expense of Westnet. Any replaced Product becomes the property of Westnet.

**Limitations/Exclusions:** This Limited Warranty applies only if Westnet confirms that the alleged defect or non-conformance exists and was not caused by Customer's or any third person's misuse, negligence, improper installation or testing, or unauthorized attempts to open, repair or modify the Product, or by accident, fire, water, lightening, power cuts or outages, power or telephone line transients, viruses, other hazards, or acts of God, or by any other cause beyond the range of intended use in accordance with the Product's normal usage and Westnet's published instructions. ***This Limited Warranty does not cover the following:*** (1) Any parts and cabling used in the installation of a Product unless Westnet or an authorized Westnet subcontractor (and not Customer or a third party installation company) performs the complete installation, (2) Physical damage to the surface of the Product after its delivery to Customer, including cracks or scratches on the LCD or outside casing, (3) When the malfunction results from the use of this Product in conjunction with other products, or ancillary or peripheral equipment, and Westnet determines there is no fault with the Product itself, (4) Any defect or malfunction of the Product due to any communications software or device Customer may use with the Product, (5) Any damages to or defects in the delivered Products that are observable in a reasonable visual inspection ***unless*** a Claim is made in writing to Westnet within thirty (30) days after the date of delivery. This Limited Warranty does not cover loss or damage of any kind resulting from any delay in delivery.

EXCEPT FOR THIS EXPRESS LIMITED WARRANTY AND WESTNET'S STATUTORY WARRANTY OF GOOD TITLE, WESTNET MAKES NO WARRANTIES OR REPRESENTATIONS, EITHER EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, REGARDING THE PRODUCT COVERED HEREBY, AND EXPRESSLY DISCLAIMS THE **IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, SATISFACTORY QUALITY, CORRESPONDENCE WITH DESCRIPTION, OR (SUBJECT TO THE INFRINGEMENT PARAGRAPH SET FORTH HEREIN) NONINFRINGEMENT OF PATENTS OR OTHER PROPRIETARY RIGHTS.** NO EMPLOYEE, AGENT OR REPRESENTATIVE OF WESTNET IS AUTHORIZED TO MAKE ANY REPRESENTATION OR WARRANTY ON BEHALF OF WESTNET RELATING TO THE PRODUCTS EXCEPT TO THE EXTENT SPECIFICALLY STATED HEREIN. WESTNET NEITHER ASSUMES NOR AUTHORIZES ANY OTHER PERSON TO ASSUME FOR IT ANY OTHER LIABILITY IN CONNECTION WITH THE SALE, INSTALLATION, MAINTENANCE OR USE OF THE PRODUCTS.

**Warranty Claims:** In order to make a Claim under this Limited Warranty, Customer must first notify Westnet in writing not more than one (1) year after the Warranty Commencement Date. Notice must be sent to: **Westnet, Attention Warranty Department, 15542 Chemical Lane, Huntington Beach, California 92649** or can be faxed to **(714) 901-5610**. Inquiries regarding this Limited Warranty can also be directed by phone to **(714) 548-3500**.



Upon receipt of written notice, Westnet will first, at its option and expense, inspect the Product in its installed location. Unless otherwise waived by Westnet in writing, Customer must return the alleged non-conforming Product to Westnet's designated service center. Customer shall be responsible for all expenses associated with the transportation to/from Westnet's designated service center. Westnet shall not be liable for any damage incurred in the transportation of Product to/from Westnet's designated service center.

**LIMITATION OF LIABILITY:** IN NO EVENT SHALL WESTNET, ITS OFFICERS, DIRECTORS, EMPLOYEES, AGENTS OR SUBCONTRACTORS, BE LIABLE TO CUSTOMER OR ANY THIRD PARTY FOR ANY INCIDENTAL, SPECIAL, INDIRECT, EXEMPLARY, PUNITIVE, OR CONSEQUENTIAL DAMAGES (INCLUDING DAMAGES FOR LOST PROFITS, LOSS OF USE, LOSS OF DATA OR LOSS OF GOODWILL) COST OF CAPITOL OR COST OF COVER ARISING OUT OF OR RELATING TO CUSTOMER'S SELECTION, ORDERING, DELIVERY, PURCHASE, USE, RESALE OR DISTRIBUTION OF THE PRODUCT, EVEN IF WESTNET HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

**AGGREGATE LIABILITY:** TO THE EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL THE TOTAL AGGREGATE LIABILITY OF WESTNET, ITS OFFICERS, DIRECTORS, SHAREHOLDERS, EMPLOYEES, AGENTS, OR SUBCONTRACTORS, ARISING FROM, RELATING TO, OR CONNECTED WITH THE PRODUCT, EXCEED **THE PURCHASE PRICE OF THE PRODUCT**. IT IS INTENDED THAT THIS LIMITATION WILL APPLY TO ANY AND ALL LIABILITY OR CAUSE OF ACTION, EXCEPT FOR THAT PROVIDED FOR IN THE INFRINGEMENT PARAGRAPH SET FORTH HEREIN, HOWEVER ALLEGED OR ARISING.

**INFRINGEMENT.** Westnet agrees to defend Customer and to pay (1) any damages award issued by a court of competent jurisdiction against Customer, and (2) direct expenses, including reasonable attorneys' fees (but excluding any lost revenues, lost profits or other consequential economic damages of Customer) as a result of any action brought against Customer, if and to the extent the action is based on a valid claim that any Product purchased by Customer under this Agreement infringes another person's U.S. patent, copyright, trade secret or trademark. Westnet will not have liability for, and Customer will defend Westnet against, and pay any damages awarded against Westnet and direct expenses, including reasonable attorneys' fees (but excluding any lost revenues, lost profits or other consequential economic damages of Westnet) to the extent the claimed infringement is based on or results in any material part from (a) any use of the Product other than in accordance with Westnet's published instructions, (b) any unauthorized modification or alteration of the Product, (c) any combination or use of the Product with any other product or system or technologies not supplied by Westnet; (d) Westnet's compliance with Customer's design or specifications, or (d) any refusal to accept or use suitable modified or replacement Products provided by Westnet to avoid infringement. Westnet's obligations under this paragraph will be conditioned upon Customer promptly notifying Westnet in writing of the existence of any such claim, giving Westnet full authority to conduct the defense and settlement of the claim, at Westnet's expense and with counsel of Westnet's selection, and cooperating fully with Westnet and such counsel.

This Limited Warranty will be governed by the laws of the State of California, U.S.A., excluding their conflicts of laws principles. The United Nations Convention of Contracts for the International Sale of Goods is hereby excluded in its entirety from application to this Limited Warranty.



## **EXHIBIT C**

### **CONTRACT PRICE AND DELIVERABLES – FIRE STATION #22**

#### **OCFA FIRE STATION # 22**

(Quote ID # Q-03871-B9S9)

Product ID	Product	QTY	Price	Sub Total
MCU-SW-MON	First-In MCU Remote Monitor Switch	1.00	\$225.00	\$225.00
SDBS1	Doorbell Button	1.00	\$225.00	\$225.00
SDRM38V-FM	Dorm Remote -Flush Mount Kit also required	15.00	\$898.25	\$13,473.75
SDRMKIT-HOF	Dorm Remote Flush Mount Hoffman Kit	15.00	\$218.25	\$3,273.75
SHPA150	High Power Paging Audio Module (includes one speaker)	1.00	\$1,495.00	\$1,495.00
SHPA150-D	High Power Paging Audio Module (includes two speakers)	1.00	\$2,175.49	\$2,175.49
SPC28-HS-1K2PS	Power Module w/ Hub & Spoke Controller, UPS & Dual Power Supplies	2.00	\$3,194.38	\$6,388.76
SPC28-HS-2PS	Power Module w/ Hub & Spoke Controller & Dual Power Supplies	1.00	\$2,338.53	\$2,338.53
SSAT	Satellight (driven off Satellight Controller)	16.00	\$295.00	\$4,720.00
SSATKIT-TBD	Satellight Mounting Kit - TBD	32.00	\$48.00	\$1,536.00
SSAT-M	Satellight Controller	16.00	\$599.98	\$9,599.68
SS-DVCS	Digital Volume Controller	16.00	\$225.00	\$3,600.00
SSETS	Emergency Button	2.00	\$225.00	\$450.00
SS-OSA	Outside Speaker Audio Module (includes one speaker)	2.00	\$599.98	\$1,199.96
SSTSW	System Test Button	1.00	\$225.00	\$225.00
SVC-LIFT-FEE	Lift Service Fee	1.00	\$795.00	\$795.00
	Enclosed, Wall Mounted 12U Cabinet	1.00	\$599.95	\$599.95
	Drawing Package	1.00	\$750.00	\$750.00
Equipment Total				\$53,070.87
Install Supplies				\$3,330.00
Total Tax (7.7500000000 %)				\$4,371.07
Station Equipment Install				\$45,800.00
One Year Toll Free Technical Support				\$0.00
On Site Warranty				\$2,700.00
Project Coordination				\$3,850.00
Permitting and Bonding				\$3,825.00
Special Engineering Services				\$750.00
<b>Total Amount</b>				<b>\$117,696.94</b>



## **EXHIBIT D**

### **WESTNET PROJECT MILESTONE PAYMENT SCHEDULE FOR EQUIPMENT AND INSTALLATION**

<b>Description</b>	<b>Total Project</b>
Fire Station # 22	\$117,696.94

	<b>PROJECT MILESTONE</b>	<b>EXHIBIT</b>
1	Equipment Delivery	Exhibit A-1
2	Installation	Exhibit A-2
3	Acceptance Testing	Exhibit E
4	Due Upon Final System Acceptance	Exhibit F

	<b>Payment Schedule</b>	<b>Project Cost %</b>	<b>Invoice Amount</b>
1	Contract Design Review	15%	\$17,654.53
2	Test Procedure Signoff	5%	\$5,884.85
3	Manufacturing and Staging	20%	\$23,539.39
4	Installation	50%	\$58,848.47
5	Final System Acceptance	10%	\$11,769.70

**Total Amount: \$117,696.94**

If payment is not received within thirty (30) days from the date of invoice, a late fee of one and a half percent (1.5%) per month of the unpaid balance will be charged and immediately due.



## **EXHIBIT E**

### **ACCEPTANCE TEST PLAN**

**OBJECTIVE:** The purpose of completing this Acceptance Test Plan is to achieve "System Acceptance" by demonstrating to the Customer that the installed fire station alerting system ("System") equipment is operational and properly performs the function specified herein. Upon successful execution of this ATP, the System will have achieved "System Acceptance". Minor omissions or variances in the System that do not materially impair the operation of the System as a whole will not postpone System Acceptance, but will be corrected according to a mutually agreed upon schedule. In the event that a part of the System does not pass the ATP, the System will be re-tested when Westnet determines that a corrective action has been taken to ensure proper operation. Final System Acceptance will occur after System Acceptance and when all deliverables and other work have been completed. When Final System Acceptance occurs, the parties will promptly memorialize this final event by so indicating on the Final System Acceptance Certificate.

**SCOPE:** The scope of this ATP is limited to the System supplied by Westnet, Inc. It does not include any other equipment or systems upon which the alerting system, once in use, relies for proper activation and function (i.e. the Customer's CAD, radio, network and/or electrical systems). The failure or unavailability of these other systems during the ATP shall not affect the outcome of this ATP, nor shall it affect the System Acceptance and subsequent Final System Acceptance of the System.

**TEST SCHEDULE:** Westnet and the Customer will conduct the ATP at a mutually agreed-upon time and date once Westnet informs the Customer that the System is ready for acceptance testing.

**FIRE STATION METHODOLOGY:** The ATP will test devices that, operationally, are activated by Dispatch, as well as devices that are not activated by Dispatch, but rather the fire station crew.

1. Data / Network Activation Operation - This section tests/simulates a test of a network-based alert of the station from Dispatch. Data sequences assigned to the fire station zones shall be applied to the Ethernet port of the Master Control Unit using the Alerting Platform or a computer equipped with the First-In API. The alerting response from the alerting system shall announce the specific unit(s) associated with the alerted and audio distribution shall activate all areas associated with the zone alerted. Once the zone is activated, the pre-announcement will announce the units alerted, nature of the call, and other preannouncement information detailed in the ZIR signoff sheet. After the preannouncement is complete, the dispatch audio will be heard throughout the station speakers.

<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>

Pass  
N/A  
Fail

Notes:

2. Radio Activation Operation – This section tests a radio-activated alert of the station from Dispatch, more specifically the Radio Interface Controller (RIC)'s activation of a station's Master Control Unit (MCU). This test will utilize First-In RIC's alert signaling on the customer's radio system

- A. Test of All-Call. This test will activate the "All-Call" zone in every station. Successful performance of this test requires All-Call activation from the Alerting Platform User Application, as well as All-Call activation from the manual RIC keypad. Once the zone is activated, the pre-announcement will announce the All-Call message and the dispatch audio is heard throughout the station speakers .

<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>

Pass  
N/A  
Fail

Notes:





- B. Test of Specific Zones in a Designated Station. This test will activate a specific zone (i.e. Engine) in a Designated Station. Step 1 of this test requires the proper station to be activated both from the Alerting Platform User Application, as well as the manual RIC keypad. Step 2 of this test requires that the specific zone selected be activated. Once the zone is activated, the pre-announcement will announce unit(s) assigned to the call and the dispatch audio is heard throughout the station speakers.

<input type="checkbox"/>	Pass
<input type="checkbox"/>	N/A
<input type="checkbox"/>	Fail

Notes:

3. Turnout Timer Operation - This section tests the activation of the Turnout Timer(s). Upon activation of the Master Control Unit, the Timer(s) will begin to count up on a per-second basis. The Timer(s) will continue to count up and will automatically shut down when the Master Control Unit send the shutdown command to the station.

<input type="checkbox"/>	Pass
<input type="checkbox"/>	N/A
<input type="checkbox"/>	Fail

Notes:

4. Automatic Backup Alerting - This section tests the automatic failover from the IP system to the RIC for a radio based alert. The RIC shall automatically be activated from the First-In Alerting Platform (FiAP) as soon as the FiAP detects that the primary alert was not successful. Without any action required on the part of the dispatcher, the RIC will send the alert to the proper station and units assigned to the call.

<input type="checkbox"/>	Pass
<input type="checkbox"/>	N/A
<input type="checkbox"/>	Fail

Notes:

5. Manual Backup Alerting - Using the manual keypad of the RIC, the Customer selects the station and units to activate in the selected fire station. The station MCU activates the appropriate station and unit(s).

<input type="checkbox"/>	Pass
<input type="checkbox"/>	N/A
<input type="checkbox"/>	Fail

Notes:

Customer Representative

Date

Printed Name & Title



## **EXHIBIT F**

### **FINAL SYSTEM ACCEPTANCE CERTIFICATE**

The signature below serves as verification that the System has passed Acceptance Test Plan and that all deliverables and work have been completed.

\_\_\_\_\_  
Customer Representative

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name & Title



## **EXHIBIT G**

### **MAINTENANCE AND SUPPORT STATEMENT OF WORK**

#### **1. SCOPE OF SERVICES**

Westnet will provide comprehensive turn-key maintenance and support services for the installed First-In Fire Station Alerting System, ensuring all components are operating at peak performance according to Westnet's original manufacturing specifications. The Services to be provided under this agreement include the following:

- One year, 24/7 toll-free Technical Support and On-Site Maintenance for all equipment and software
- Repair and/or replacement of damaged units at no cost
- Spare equipment delivered the next business day (and Saturday's where available)
- Remote diagnostic analysis and uploads, software upgrades

#### **2. RESPONSE TIMES**

Response times shall be determined in accordance with the Priority Level and Descriptions set forth in the following table. The response time shall commence from the time the Customer requests service or notifies Westnet of problems with the System by contacting Westnet's Call Center ("Notification"). Issue resolution may include phone support, VPN remote access, or on-site service (for issues not resolved via phone support or remote access).

**Westnet Technical Support: (800) 807-1700**  
**Office Hours: 8:00 – 5:00 PST, Monday – Friday**

Priority Levels	Hours / Days	Description
1	24/7/365 Including Holidays  3-6 Hour Response	This priority level represents a significant issue that results in the inability to use the alerting systems. <ul style="list-style-type: none"><li>• Station reports that it is not receiving any form of an alert or there is no audio in a fire station.</li><li>• Other failures that render the fire station MCU and more than five audio transmitting devices unusable.</li></ul>
2	8:00 – 5:00 PST, Monday – Friday  2-Business- Day Response	This priority level represents a moderate issue that restricts normal use of the alerting systems. <ul style="list-style-type: none"><li>• Any non-essential Fire Station device reported inoperable.</li><li>• Reports of receiving other stations' or companies' alerts.</li><li>• Requests to increase fire station volume levels within fire department-approved parameters.</li></ul>
3	8:00 – 5:00 PST, Monday – Friday  3-Business- Day Response	This priority level represents minor or non-emergency issues that do not restrict normal use of the station alerting systems. <ul style="list-style-type: none"><li>• Requests to decrease volume levels within fire department-approved parameters</li><li>• Add additional equipment, request programming, or voice-chip changes.</li><li>• Requests for additional training.</li><li>• Other non mission-critical matters in the dispatch centers or fire stations</li></ul>



### 3. WESTNET'S RESPONSIBILITIES

Westnet shall:

- A. Provide Westnet-owned spare equipment while a System component is returned to Westnet for repair or replacement.
  - 1. Any Westnet-owned spare equipment parts provided under this Agreement are the property of Westnet. Any damage to Westnet's spare equipment parts is not covered under this Scope of Services and the Customer shall pay for the repair or replacement of the spare equipment parts.
  - 2. Westnet may service replaceable parts, by way of new or remanufactured replacement parts to Customer on an exchange basis. Upon receipt by the Customer of the replacement part, the original part becomes the property of Westnet, and shall be returned by Customer to Westnet. The Customer shall pay Westnet the full retail value of the replacement part if Westnet provides notice to the Customer to return the original part and Westnet does not receive the original part within thirty (30) days after replacement part installation.
- B. Upon request, Westnet shall provide a written quote for additional work not specifically identified in this Agreement. Such work could include, but is not limited to, additions and installation of new equipment, relocation of existing equipment, upgrades (not part of Westnet standard releases) and enhancements, and other system related goods and services. If the Customer decides to proceed with the work, a new purchase order will be issued exclusively for the work to be ordered.

### 4. CUSTOMER'S RESPONSIBILITIES

The Customer shall at all times or upon request:

- A. Make no modifications to the System without obtaining approval from Westnet in writing.
- B. Notify Westnet of any problems with the System by calling the Westnet Systems Group at 1-800-807-1700 (Westnet's call center).
- C. Provide and maintain an operating 24/7 VPN with IP access to the stations for the duration of the Agreement. The VPN shall allow Westnet to connect to all fire stations that are equipped with the First-In Fire Station Alerting (First-In) equipment. The VPN must be operating and the Customer must allow Westnet to test the VPN prior to the commencement of this Agreement.
- D. Ensure that the Westnet monitor computer in the Dispatch Center (if provided) has 24/7 access to the VPN and to all Customer fire stations. The Customer will return the Westnet monitor computer to Westnet at the conclusion of this Agreement and any additional extensions.
- E. Provide the make and model number of the fire station radio the System is connected to for the source of dispatch audio. If there are any connections to this radio other than the outside antenna and the power source, the Customer will provide a diagram showing the method of connection, connector pins used, signals obtained from the radio and signals sent to the radio by the fire station equipment.
- F. Provide the name, 24-hour telephone number and position of responsible party that can be contacted about each station's radio communication, public address, CAD, and network equipment.
- G. Provide Westnet with either code-access to the stations or an escort that is available 24/7 and within one (1) hour of notice of an on-site visit.
- H. If applicable, provide the make and model number of fire station amplifier, type of connectors used by fire alerting input, input impedance and the necessary audio level to drive station amplifier.



- I. Provide a description of station control circuits (e.g., lighting, door openers, gas shut-off) and the number of circuits to be controlled by the Control Remote.
- J. Ensure that the MCU at each station is at all times plugged into the Westnet supplied on-line fulltime UPS.
- K. Ensure that the MCU at each station is at all times plugged into the First-In Radio Isolation Unit. Westnet will exclude from this Agreement the repair of any equipment not properly connected to the Radio Isolation Unit.
- L. Ensure that the radio antenna and lightning arrestor is installed, is installed per current engineering standards and that all lightning protection equipment is connected to a 5-ohm earth ground by a #6 or larger cable not exceeding eight (8) feet in length between the 5-ohm earth ground and the protected equipment.
- M. Notify Westnet prior to making any change in any equipment connected to the fire station System.

## OCFA Sole Source Request Form

*The Purchasing Ordinance of the Orange County Fire Authority requires competitive bids and proposals for service and commodity contracts. A sole source is defined as a product or service that is available from only one known supplier as a result of unique performance capabilities, manufacturing processes, compatibility requirements or market conditions. The using department requesting a sole source shall provide written clear and convincing evidence to support a sole source determination, meaning that only one source exists to fulfill the requirements. This form is to be submitted with the purchase requisition to Purchasing with any sole source requests.*

### SECTION I - INSTRUCTIONS

1. Written justification on this form will be completed by the requesting department and submitted with the purchase requisition.
2. The request must be approved by the section manager and assistant chief prior to submitting the request to the purchasing manager.
3. All sole source forms must be submitted to the Purchasing Manager for approval. Based on the new ordinance the Fire Chief is not required to approve the sole source form. The sole source request may be submitted to Assistant Chief of Business Services by the Purchasing Manager for concurrence as required.
4. All sole source contracts exceeding \$50,000 (life of contract) require Executive Committee approval. In this case, the sole source request form must be submitted to the Executive Committee as an attachment to the staff report.
5. The approved sole source justification form will be included in the contract file.

### SECTION II – REQUEST INFORMATION

Department/Section: Support Services/Information Technology	Requested By: David Johnson	Date: 10/11/2017
Recommended Vendor: Westnet, Inc	Vendor Contact: Lana Gray	Vendor's E-mail Address: lgray@westnet-inc.com
Vendor Address: 15542 Chemical Lane, Huntington Beach, CA. 92649		Vendor's Telephone #: 714-548-3500
Type of Contract: <input checked="" type="checkbox"/> One-time <input type="checkbox"/> Multi-Year <input type="checkbox"/> Renewal <input type="checkbox"/> Amendment <input type="checkbox"/> Increase	Contract Term (Dates): 10/26/2017	Contract Amount: \$262,740
If the contract type is a Renewal, Amendment or Increase, please provide previous contract information with this request (PO, BO, previous approval date, Chief approval or EC approval, and dollar amount).		Attachments: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

### SECTION III – JUSTIFICATION

1. **Provide a detailed description of the product or service requested. Describe what it is. Attach additional sheet if necessary.**

Westnet, Inc. is the Original Equipment Manufacturer (OEM) for the Westnet digital electronic fire station alerting system. Westnet, Inc. provides the Master Control Units (MCU), controllers, lights, horns, servers, interfaces, and programming to alert OCFA Operations personnel of emergency incidents using custom messages, lights, and audible alerts.

2. **Please state why the recommended vendor is the only one capable of providing the required services and/or commodities. Provide a summary of findings (research and analysis) including any supporting documentation which validates your recommendation (e.g., attach a manufacturer's letter verifying patented design and direct sale with no distributors) and demonstrates the sole source nature of this request. Attach additional sheet if necessary.**

Westnet, Inc. is OEM and sole source of their proprietary digital electronic fire station alerting systems, programming, and professional services to install and maintain their station alerting technology. Westnet, Inc. was selected thru RFP in August 2013 as best in class to interface and upgrade OCFA's fire station alerting systems.



**SECTION III – JUSTIFICATION (continued)**

All OCFA fire stations will need to be upgraded with Westnet, Inc. digital fire station alerting systems. The previous analog fire station alerting systems installed at OCFA are obsolete and non-compatible with the OCFA's TriTech CAD system.

**3. Pricing - What efforts were made to get the best pricing (e.g., did you simply request a quote, negotiate with the vendor, did the vendor provide a discount)? Please provide the quote with your sole source request.**

Staff conducts a rigorous review of all Westnet, Inc. recommended station alerting equipment to ensure no unneeded lights or other controllers are utilized resulting in savings. Staff reached an agreement with Westnet, Inc. to train OCFA IT staff to repair Westnet, Inc. equipment which results in lower maintenance costs and improved systems performance.

**4. Will this purchase obligate the OCFA to future purchases (maintenance, licensing or continuing needs)?**

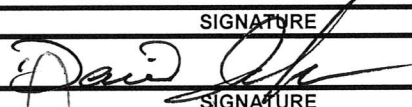
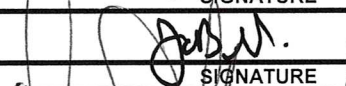
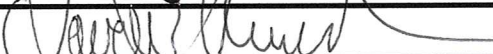
(If yes, please explain how and what the future costs will be.)

Yes, after the initial 12 - month installation warranty expires, FS20 and FS22 will be added to the annual maint. contract.



The cost per station will vary based on the initial contract amount. For example, two OCFA fire stations previously upgraded are FS56 (Rancho Mission Viejo) - \$2,328 annual support and FS57 (Aliso Viejo) - \$1,881 annual support.

The annual maint. contract for FS20 (Irvine) and FS22 (Laguna Hills) has not been determined yet, though it is expected to be higher than FS56 or FS57 given the higher installation cost for both fire stations.

**Sole Source Request Submitted by:**

REQUESTORS NAME	SIGNATURE	DATE
David Johnson		12-Oct-2017
DIVISION CHIEF/SECTION MANAGER NAME	SIGNATURE	DATE
Joel Brodowski		12-Oct-2017
ASSISTANT CHIEF NAME	SIGNATURE	DATE
Dave Anderson		12-Oct-2017

**Purchasing Manager's Comments:**

PURCHASING MANAGER'S APPROVAL	DATE
	10/13/17
ASSISTANT CHIEF BUSINESS SERVICES CONCURRENCE	DATE
	10/13/17

Executive Committee Approval Required ☒ Yes ☐ No Sole Source over \$50,000

Executive Committee Approved: ☐ Yes ☐ No Date approved \_\_\_\_\_



**Orange County Fire Authority**  
**AGENDA STAFF REPORT**

**Executive Committee Meeting**  
**October 26, 2017**

**Agenda Item No. 3E**  
**Consent Calendar**

**Award of Contracts for**  
**Apparatus Bay Door Maintenance and Repair Services**

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**Contact(s) for Further Information**

Dave Anderson, Assistant Chief Support Services Department	<a href="mailto:daveanderson@ocfa.org">daveanderson@ocfa.org</a>	714.573.6008
Patrick Bauer, Property Manager	<a href="mailto:patrickbauer@ocfa.org">patrickbauer@ocfa.org</a>	714.573.6471

**Summary**

This agenda item is submitted for the approval to award three-year blanket orders and contracts for apparatus bay door maintenance and repair services to Action Door Repair, Inc. (Action Door) and Mako Overhead Door, Inc. (Mako Door) as a result of a competitive Request for Proposal (RFP), in an annual aggregate amount not to exceed \$200,000 annually.

**Prior Board/Committee Action(s)**

Not Applicable.

**RECOMMENDED ACTION(S)**

To award three-year blanket orders and contracts for apparatus bay door maintenance and repair services, it is recommended that the Committee:

1. Approve and authorize the Purchasing Manager to sign agreements with Action Door Repair, Inc. and Mako Overhead Door, Inc. for \$100,000 each, annually, for as-needed apparatus bay door maintenance and repair services at an aggregate amount not to exceed \$200,000 annually (\$600,000 during the three-year agreement).
2. Approve and authorize the Purchasing Manager to redistribute or adjust the annual amount between the two vendors as requested by the department, so long as the aggregate amount does not exceed \$200,000 annually.

**Impact to Cities/County**

Not Applicable.

**Fiscal Impact**

Funds have been authorized under the FY 2017/18 Budget.

**Background**

Property Management is responsible for the maintenance and repair of OCFA's 22-acre headquarters, 72 fire stations, Urban Search and Rescue Warehouse & Training Facility, and Air Operations Hangar resulting in upwards of 300 automated doors to maintain and repair. The department historically utilizes various outside contractor services for maintenance and repair services to assist with workload when the workload exceeds the current full-time staff's capacity. Action Door and Mako Door were awarded contracts to provide apparatus bay door maintenance and repair services for the OCFA as a result of prior competitive solicitation processes.



Due to the number of facilities and locations that the OCFA is responsible for servicing, existing staffing levels are inadequate to keep up with the on-going requests for repairs and other services outside of normally scheduled maintenance activities including after-hours and emergency requests for service; therefore, it is necessary to have additional contractors available on an as-needed basis to prevent delays in responding to service requests.

***Request for Proposal (RFP) Process***

On July 31, 2017, RFP RO2220 was issued and sent to 30 registered vendors on Planet Bids to establish multiple annual contracts for apparatus bay door maintenance and repair services on an as-needed basis. A non-mandatory pre-proposal meeting was held on August 10, 2017, and representatives from three companies attended. Final proposals were due August 24, 2017, and three proposals were received. Additional information about the evaluation process is provided in Attachment 1.

***Recommendation for Award***

Based on the results of the RFP evaluation process, staff was originally recommending the award of contracts to all three vendors (Mako Door, McKinley Equipment Corporation, and Action Door). As a result of final negotiations, McKinley Equipment Corporation was unable to agree to the terms and conditions of OCFA's maintenance and repair agreement. Therefore, staff is recommending the award of two contracts for apparatus bay door maintenance and repair services as follows: Action Door (\$100,000), and Mako Door (\$100,000) in an annual aggregate amount not to exceed \$200,000 and to allow for the Purchasing Manager to redistribute or adjust the funding between the three contracts as requested by the department, so long as the aggregate amount of all three contracts does not exceed \$200,000 annually. Awarding multiple contracts and allowing for redistribution of funds provides the department flexibility of utilizing the vendor that offers immediate availability to perform the requested services.

**Attachment(s)** (\*On file in the Office of the Clerk and available upon request.)

1. Summary of Evaluation Process and Results for Apparatus Bay Door Maintenance and Repair
2. \*RFP RO2220
3. \*Action Door Repair, Inc. Agreement with Proposal
4. \*Mako Overhead Door, Inc. Agreement with Proposal

**RFP RO2220 – Apparatus Bay Door Maintenance and Repair****Evaluation**

An evaluation team consisting of three staff members, two from Property Management, and one from Fleet Services, evaluated the written proposals. Each proposal was evaluated based on the following weighted criteria as defined in the RFP: Method of Approach (20), Qualifications and Experience (30), Communications & Resources (10), and Pricing (40).

After an evaluation of all written proposals, all respondents were recommended contract awards.

**Scoring**

Final evaluation scores resulted in Action Door Repair Inc. as the overall number one ranked contractor, McKinley Equipment Corporation. ranked second and Mako Overhead Door Inc. ranked third overall. Evaluation scores are shown below:

	Action Door Repair Inc.			Mako Overhead Door			McKinley		
<b>OCFA Cost Proposal</b>	<b>\$176,285.65</b>			<b>\$219,025.00</b>			<b>\$175,000.00</b>		
Evaluators	1	2	3	1	2	3	1	2	3
A. Method of Approach (20)	16	18	19	18	19	18	16	16	16
B. Qualifications & Experience (30)	27	27	30	30	28.5	27	27	22.5	24
C. Communications and Resources (10)	8	8	9.5	10	9.5	9.5	9	7.5	8
C. Proposed Cost (40)	39.71	39.71	39.71	31.96	31.96	31.96	40.00	40.00	40.00
Sum of Proposal Ratings	90.71	92.71	98.21	89.96	88.96	86.46	92.00	86.00	88.00
Ranking	2	1	1	3	2	3	1	3	2
Written Sum of Ranking	4			8			6		

Pricing Breakdown	Labor	Mat/Ovc	Profit	Labor	Mat/Ovc	Profit	Labor	Mat	Total
Chain Replacement	\$496.00	\$108.00	No Response	\$720.00	\$234.00	No Response	\$519.00	\$485.00	No Response
Roller Replacement	\$496.00	\$144.00	No Response	\$630.00	\$169.00	No Response	\$519.00	\$230.00	No Response
Spring Replacement	\$1,488.00	\$685.85	No Response	\$1,440.00	\$2,080.00	No Response	\$1,180.00	\$575.00	No Response
Safety Edge Replacement	\$496.00	\$598.66	No Response	\$720.00	\$792.00	\$133.00	\$1,180.00	\$345.00	No Response
Operator Motor Replacement	\$1,240.00	\$1,682.85	No Response	\$1,080.00	\$1,723.00	No Response	\$865.00	\$1,625.00	No Response
Panel Replacement	\$992.00	\$1,162.42	No Response	\$900.00	\$1,216.00	No Response	\$1,180.00	\$750.00	No Response
Labor Rate Regular Time	\$124.00			\$120.00			\$173.00		
Labor Rate Regular Time (2-Person)				\$180.00			\$295.00		
Labor Rate Overtime	\$217.00			\$180.00			\$198.00		
Labor Rate Overtime (2-Person)				\$270.00			\$365.00		
Minimum Call-Out	\$248.00			\$200.00			\$173-\$295		
Trip Charge	\$62.00			\$0.00			\$0.00		
Percentage discount off MSRP list price (materials)		Cost + 30% 10% off MSRP			Cost + 30%			Cost +23%	



## ORANGE COUNTY FIRE AUTHORITY

### Request for Proposal Apparatus Bay Door Repair and Maintenance Services

**DATE:** July 31, 2017

**RFP Number:** RO2220

The Orange County Fire Authority (OCFA) is requesting proposals for apparatus bay door repair and maintenance services in accordance with the specifications provided herein.

Pursuant to SB854, no contractor or subcontractor may be awarded a contract for a public works project unless registered with the Department of Industrial Relations (DIR) per California Labor Code section 1725.5. This project is a public work and is subject to compliance monitoring and enforcement by the DIR.

**Proposals will be received no later than 11:00 A.M., August 24, 2017.**

**Proposals must be submitted electronically online through Planet Bids or submitted hard copy hand delivered or mailed to Orange County Fire Authority, Purchasing Department, 1 Fire Authority Road, Building C, Irvine, CA 92602 no later than 11:00 A.M. Thursday, August 24, 2017.**

#### LATE PROPOSALS WILL NOT BE ACCEPTED

A **non-mandatory** pre-proposal conference is scheduled on **Thursday, August 10, 2017 at 10:00 A.M.** at the Orange County Fire Authority Regional Operations and Training Center (RFOTC), 1 Fire Authority Road, Conference Room AW208, Building A, Irvine, CA 92602.

Any questions concerning this RFP can be submitted on-line via the Q&A module available through Planet Bids (OCFA's e-procurement system) by **August 8, 2017 at 11:00 A.M.** OCFA will publish a response to all inquiries through the e-procurement system and/or may issue an addendum as a result.

**If you elect to submit your proposal electronically through Planet Bids, no additional copies or digital media will be required (Preferred).**

If proposal is delivered to OCFA, please include one (1) original hard copy, one (1) duplicate hard copy, and one (1) electronic copy in PDF or Word (on Digital Media), of the proposal to be sent to the attention of the Assistant Purchasing Agent, within said time limit, in a sealed envelope identified on the outside with the Offeror's Business Name, Proposal Item Number, RFP RO2220, and the Due Date. Another option is to submit your proposal electronically through the Planet Bids website. There will be no public opening of proposals.

If you have any questions, please contact Rothchild Ong, Assistant Purchasing Agent, at (714) 573-6642 or via e-mail at: [rothchildong@ocfa.org](mailto:rothchildong@ocfa.org).

Regards,



Rothchild Ong  
Assistant Purchasing Agent

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## **SECTION I: PROPOSAL INFORMATION**

### **INTRODUCTION**

The Orange County Fire Authority (OCFA) is requesting proposals from contractors to provide apparatus bay door repair and maintenance services on an as-needed basis at its headquarters, fire stations, and other properties as listed in Attachment A. The OCFA desires to enter into an agreement for repair and maintenance services with contractors that can demonstrate competency and experience in providing quality service, minimizing OCFA costs, maximizing the use of available technology, providing excellent client service, and performing thorough and complete work as specified.

### **AGENCY BACKGROUND**

The Orange County Fire Authority was formed on March 1, 1995, transitioning from the Orange County Fire Department to a Joint Powers Authority (JPA) as allowed by California State Government Code 6500 et seq. The OCFA is an independent organizational entity similar to a special district. The service area includes twenty-three member cities, the unincorporated areas of Orange County, California, including State and Federal Responsibility areas.

A twenty-five member Executive Board of Directors governs the OCFA. This Board includes an elected official appointed to represent each of the twenty-three member cities and two representatives from the County Board of Supervisors. The OCFA is managed by an appointed Fire Chief who reports to the Executive Board of Directors. The Board of Directors currently meets monthly on the fourth Thursday of the month and the Board established an Executive Committee which meets monthly on the third Thursday of the month. Additional meetings are held in the Board room as needed. Board and Executive Committee meeting information can be found on the OCFA website at: [www.ocfa.org](http://www.ocfa.org).

The OCFA is the largest regional fire service organization in Orange County and one of the largest in California. Emergency response services are provided to a community of over 1.75 million residents in a 575 square mile area. The OCFA's authorized staffing level is 1,372 full-time positions. These personnel provide front-line services, including prevention, education, dispatch, emergency response and technical and administrative support.

### **ESTIMATED RFP SCHEDULE**

Proposal Posting Date	<b>July 31, 2017</b>
Online Q & A	<b>August 8, 2017; 11:00 A.M.</b>
Pre-Proposal Conference	<b>August 10, 2017; 10:00 A.M.</b>
Due date for Proposals	<b>August 24, 2017 no later than 11:00 A.M.</b>
Tentative date for interviews	<b>September, 2017</b>
Award Contract (Tentative)	<b>September, 2017</b>

### **TERM OF AGREEMENT**

The term of the agreement should reflect services and costs for a three-year period, subject to the "Time of Performance" and the "Termination" provisions of the OCFA's "Pro Forma" Maintenance Services Agreement (Exhibit 1). The contract is subject to the satisfactory negotiation of terms, including a price acceptable to both the Authority and the selected contractors.

**PRE-PROPOSAL CONFERENCE**

A non-mandatory pre-proposal meeting is scheduled on **August 10, 2017; 10:00 A.M.** at the Orange County Fire Authority Regional Operations and Training Center: 1 Fire Authority Road, Conference Room AW208, Bldg. A, Irvine, CA 92602. This informational meeting will be held to allow for questions and clarifications concerning the Authority's RFP process and subsequent contract award. Offerors should be familiar with the proposal prior to attending the pre-proposal conference. If you will be attending this pre-proposal meeting, please contact Marilee Freville via e-mail at: [marileefreville@ocfa.org](mailto:marileefreville@ocfa.org) to reserve your spot.

**REQUEST FOR CLARIFICATION**

All requests for clarifications, changes, exceptions, or deviations to the scope of services or terms and conditions set forth in this Request for Proposal must be submitted online via the PlanetBids Q&A module no later than the specified Q&A deadline. The Q&A module available through PlanetBids is to be used for all requests for, clarification, changes, exceptions, or deviations, whether to the scope of services or the contract terms and conditions. OCFA will respond to all requests by issuing an electronic answer via the online Q&A module and/or an electronic addendum. OCFA will not accept any Q&A after the time and date specified, unless it is specifically requested by the Q&A. It is the contractor's responsibility to download and respond to any addendums issued.

**DUE DATE**

Closing time and date: **August 24, 2017 no later than 11:00 a.m.** One (1) original hard copy (marked original), one (1) duplicate hard copy, and one (1) electronic copy in PDF or Word (on CD or DVD) of the proposal must be submitted in sealed envelope marked RFP – RO2220 and submitted to the following address (*unless submitted electronically through Planet Bids*):

***Delivery Address:***

Orange County Fire Authority  
Attn: Purchasing Section  
1 Fire Authority Road Bldg. C  
Irvine, CA 92602

**GENERAL INFORMATION**

The successful proposal will demonstrate the ability to meet the requirements of the solicitation. Sealed proposals will be accepted up to the date and time stated herein. Proposals must be prepared in conformance with the instructions provided.

Only those offerors with verifiable experience as it relates to the requirement of this solicitation will be considered during the evaluation process.

To be considered responsive, offerors must respond to this solicitation in accordance with the requirements, specifications, commercial terms, and provisions as described and set forth herein. Proposals must embrace a concept that the successful offeror will satisfy all of the objectives and service specifications outlined in this document.

Any offeror who wishes his/her proposal(s) to be considered is responsible for making certain that the proposal is received in the Purchasing Office or submitted electronically on Planet Bids (OCFA's e-procurement system) by the announced time. No oral, telegraphic, facsimile, or telephonic proposals or

modifications will be considered unless specified. Proposals received after the scheduled submittal deadline will be returned unopened. Proposals must bear original signatures when the proposal is not submitted electronically. Please note that there will be no public opening of proposals. Proposal information shall not be made public until the contract is awarded. At that time the executed contract will become public information. Any questions concerning this RFP can be submitted on-line via the Q&A module available through Planet Bids (OCFA's e-procurement system) before the stated Q&A deadline.

The Orange County Fire Authority reserves the right to negotiate with any offeror(s) as necessary to serve the best interest of the Authority and negotiate the final contract(s) with the most responsive, responsible offeror. OCFA reserves the right to waive, at its discretion, any irregularity or informality, which the OCFA deems correctable or otherwise not warranting rejection of the proposal.

OCFA reserves the right to reject any and all proposals and to accept any proposal or portion thereof. No obligation, either expressed or implied, exists on the part of the OCFA to make an award or to pay any costs incurred in the preparation or submission of a proposal. All costs associated with the preparation or submission of proposals covered by this RFP, are solely the responsibility of the offeror.

By submitting an offer, the offeror acknowledges understanding of the rules as defined in this RFP. Compliance with all of the terms and conditions of the agreement is mandatory for companies providing services to OCFA.

The intent of the OCFA is to award a contract to the respondent that scores the highest in the RFP evaluation process. Please provide your response to all the information requested in this RFP so that the offeror you represent can be assessed to the best advantage.

## SECTION II: SCOPE OF WORK

OCFA currently has a centralized Property Management Section responsible for the maintenance and repair of its headquarters and fire stations. The purpose of this Request for Proposals is to establish a contract for apparatus bay door repair and maintenance services on an as needed basis. The successful contractor will provide repair and maintenance services including all personnel, labor, supervision, materials, tools and equipment required to maintain and repair apparatus bay door systems of OCFA's seventy-three (73) fire stations, a 33,870 SQFT warehouse, 7 bay air operations hangar and the RFOTC. The list of Fire Stations, facilities, and their addresses are provided as Attachment A. Continual and reliable operation is essential for the 24-hour operation of our facilities. It is essential that prompt, thorough service is provided at these locations.

The intent of these specifications is to describe the repairs and maintenance requirements in general terms. The detailed specifications required will be based on the particular requirements at the time that a given job, and be judged based on those requirements. OCFA will consider value-engineering suggestions from Contractor and may accept alternates recommended if they provide equal or better functionality, durability, and cost effectiveness; however, OCFA, in its sole discretion, may require specific manufacturers and model numbers for any given job.

There are approximately 220 overhead apparatus bay/garage doors and 40 gates. The overhead doors consist of various sizes of Sectional, Roll, and Telescopic from various manufacturers as follows:

- Type 1: Consists of Section and Roll doors with associated operators, and slide gates with operators.
- Type 2: Consists of MILCOR , Telescoping doors and all associated hardware.

Fire stations 17, 46, and 56 are equipped with bi-fold doors.

The following is a partial list of items or issues that may need attention:

- Door wheels binding in tracks or guides
- Bent door tracks
- Doors out of the tracks
- Crimping or buckling of door panels
- Door spring failure
- Loss of electrical power for door hoist
- Door motor failure
- Hit and damaged doors
- Door not providing enough clearance for apparatus
- Abnormally loud doors

Additional services other than those listed may be requested by OCFA Property Management during the contract term. Any additional services added to the contract are to be provided at the same time and material prices offered in the proposal.

Services not detailed in this scope, are not to be performed unless they are requested, provided a project number and authorized by OCFA. All additional work must be documented, signed by OCFA Property Management. Additional work is to be billed at the hourly rate provided in the proposal.

All offerors providing services will have the competency, relevant experience, knowledge, and reliability which qualify the individual(s) to successfully provide the required supplies and services requested in this RFP.



## **MINIMUM QUALIFICATIONS**

- 1) Contractor must be skilled and regularly engaged in the general class or type of work called for under the contract. The successful contractor must also have no less than five (5) years of experience in providing apparatus bay door repair and maintenance services.
- 2) Contractor must possess a valid California **C-61/D-28** or other appropriate Contractor's license at the time of proposal submission, pursuant to California Public Contract Code Section 3300 and Business and Professions Code Section 7028.15. The respondent must be licensed as a contractor in accordance with the provisions of California Business and Professions Code Chapter 9, Article 5 Licensing 7065-7077. The successful contractor must maintain the license throughout the duration of this contract.
- 3) Pursuant to SB854, and Labor Code Section 1725.5 contractor must be registered with the Department of Industrial Relations (DIR).

The offeror must state specifically in the descriptive narrative or other supporting documents how the offeror meets the minimum qualifications specified above.

*Offerors must meet the minimum requirements to be considered responsive. Failure to meet these minimum requirements will cause the submitted proposal to be eliminated from further consideration in the evaluation process.*

## **SPECIFIC REQUIREMENTS – GENERAL RESPONSIBILITIES OF SUCCESSFUL CONTRACTOR**

### **Performance Requirements:**

Contractor must provide trained and experienced personnel. Supervisors must be qualified, proficient in English, trained and capable of providing adequate supervision and direction to Contractors' employees and must demonstrate verbal and written communication skills sufficient for the work required herein.

All work must be done per specifications, according to all applicable and acceptable industry standards as it relates to each trade, of the highest quality workmanship commensurate with the required work, and completed by the time required. Contractor personnel must wear uniforms, furnished by the Contractor with the Contractor's name and/or logo, and employee name at all times during the performance of the work at the RFOTC.

Contractor must provide their own telephones. The use of OCFA telephones and radios are prohibited except under emergency circumstances for medical aid, fire, or safety.

Contractor must furnish and maintain at its own expense, an adequate stock of materials/supplies, parts, all equipment and tools to perform the specified work and provide a timely service. All supplies, labor, vehicles and equipment must be compliant with the specifications, terms and provisions set forth herein and shall be subject to random, unannounced inspection by OCFA.

Any additional work performed on an hourly basis, separate from the contract will require a daily time sheet signed by OCFA Property Management Facilities Manager or designated representative.

OCFA will not provide office or storage space for the Contractor's supplies, vehicles or equipment.

**Repair Request Procedure:**

During regular working hours, the facility requesting service will contact the Property Management Section and place a service call. The request for service will be logged and staff will then contact the contractor and provide:

- Location (site name and address)
- Nature of the problem
- Name of on-site contact person
- Phone number of on-site contact person

After regular hours, weekends, and holidays, the Battalion Chief or Section Manager will give the station personnel the authorization to place a service call to the Contractor and advise OCFA Property Management that a call was placed as an emergency so the request can be logged and a number provided to the Contractor.

The contractor, under both circumstances, may call the site with the problem and obtain any additional information it deems necessary and to provide an anticipated arrival time of the service technician.

(Note: A portion of the fire stations are staffed with volunteers that have no permanent personnel on the site, while others are staffed with 24-hour permanent personnel. It is essential to coordinate the arrival of the service technician with fire personnel.)

**Service Call Procedure:**

Upon arrival at each site, the Contractor shall complete the following:

- Sign in on the station log (at all fire stations)
- Check in with the Station Captain, if available
- Evaluate the specific materials and labor required to complete the repair
- Develop an estimate of the expected costs (if possible)
- Develop potential alternatives with costs, in the case of repair vs. replacement
- Advise Property Management by telephone of the cost of repairs and other work PRIOR to proceeding with the work.
- Contractor will proceed with work after authorization is received from Property Management
- Complete all work in accordance with the estimate

Contractor must prepare service call report detailing the work performed, obtain the signature of the Station Captain on the report (if available), and leave a copy of the report at the site. That report must at least contain the following: Time of arrival, time of departure, brief summary of repair request, detailed summary of the work performed, summary of any additional work required or recommended.

Contractor must advise Property Management if any additional work is required and when the Contractor will return to perform the work.

If urgent repairs are needed, Contractor will advise Property Management, by telephone, with an estimate of repairs and other work prior to proceeding with the work.

Contractor must contact Property Mgmt. to obtain additional authorization when the repair work is expected to exceed the original estimate by more than 10%.

**Service Requirements:****A. General**

- a. Note that per the Business and Professions Code ss. 7059: “In no case shall the...[Contractor] whose classification constitutes less than a majority of the project [perform the project unless]...the performance of the work in the crafts or trades, other than in which [Contractor] is licensed, is incidental and supplemental to the performance of the work in the craft for which the [Contractor] is licensed....All work to be performed outside of [Contractor's] license specialty, except work authorized by [the aforementioned], shall be performed by a licensed subcontractor...”
- b. Perform all work in accordance with the latest editions or addenda of the following applicable codes, standards and specifications.
- c. Perform all work according to all applicable industry-standards and to the highest quality commensurate with the required work.
- d. Ensure that all work is done only by experienced and professional personnel.
- e. Provide everything necessary to complete the repairs and maintenance work including but not limited to labor, equipment, materials, consumables, etc.
- f. Ensure that all work properly and neatly fits the adjacent existing materials.
- g. Perform work according to any applicable manufacturer's specifications.
- h. Provide a 24/7 call number for emergency repair work.
- i. Respond in the time required.
- j. Remove and properly dispose of any to-be-replaced materials.
- k. Provide all documentation, altered diagrams, updated or new manuals, and the like within seven calendar days after the repairs have been affected. (as applicable)

**B. Repairs**

- a. Diagnose and recommend an appropriate solution to remedy the damage or defect according to all applicable manufacturers' specifications, Standard Specifications for Public Works Construction, and industry standard practices.
- b. Provide an estimate of the repair costs at the hourly rates and materials amounts.
- c. Make approved repairs as soon as possible, but only after department so authorizes.
- d. Verify work has been completed properly and adjacent work is not affected.

**Technical Requirements****A. General**

- a. The work required hereunder is based on the California Department of Consumer Affairs Contractors State License Board (CSLB). Any changes made by the CSLB automatically apply to the license classifications listed below.

**i. C-61 Limited Specialty Classification**

- (a) Limited specialty is a specialty contractor classification limited to a field and scope of operations of specialty contracting for which an applicant is qualified other than any of the specialty contractor classifications listed and defined in this article.
- (b) An applicant classified and licensed in the classification Limited Specialty shall confine activities as a contractor to that field or fields and scope of

operations set forth in the application and accepted by the Registrar or to that permitted by Section 831.

- (c) Upon issuance of a C-61 license, the Registrar shall endorse upon the face of the original license certificate the field and scope of operations in which the licensee has demonstrated qualifications.
- (d) A specialty contractor, other than a C-61 contractor, may perform work within the field and scope of the operations of Classification C-61, provided the work is consistent with established usage and procedure in the construction industry and is related to the specialty contractor's classification

## **ii. D-28 Doors, Gates and Activating Devices Contractor**

- (a) All doors, gates and activating devices contractor installs, modifies or repairs all types of residential, commercial or industrial doors including overhead or sliding door assemblies. This includes but is not limited to: wood and screen doors, metal-clad doors, glass sliding/stationary doors and frames, automatic revolving doors, hospital cubical doors and related installations, power activated doors, gates, movable sun shades/shutters, card activated equipment and other access control device and any low voltage electronic or manually operated door hardware/ device.

## **B. Subcontractors**

- a. The majority of the work as required herein and at the time the work is requested must be done by the awarded Contractor.
- b. The work may not be subcontracted or sublet to another contractor unless the contractor has been listed on the Subcontractor List or a substitution of that contractor has been approved by Property Management in advance of any scheduled or actual work.
- c. Subcontractor(s) must meet all insurance requirements of the prime contractor.

## **C. Specialized Equipment**

- a. Provide all equipment necessary to facilitate the work required herein at Contractor's sole expense.
- b. Provide the necessary safety equipment.
- c. Ensure that you have accurately and completely determined the actual types of equipment well in advance of the work to be performed.

## **D. Specific Work for Repairs**

- a. Repairing
  - i. Make necessary repairs to ensure that equipment, components or fixtures are operating properly and according to the manufacturer's specifications.
  - ii. Tour all designated work areas with Property Management to review and document items requiring corrective action.
  - iii. Ensure that any items used to make repairs meet or better the original manufacturer (OEM) specifications.

- iv. Coordinate the repairs and times with Property Management.

**b. Reporting**

- i. Provide verbal reports to Property Management as necessary to facilitate the work required herein.
- ii. Provide written reports, along with warranties of installed products (outside of products provided by OCFA), to Property Management with the invoice for completed work, which must contain, but not limited to the following:
  - 1. Location number/address serviced.
  - 2. Facility generated Work Order(s)
  - 3. Date and time Location was serviced.
  - 4. Types of and Quantities materials used and/or replaced.
  - 5. Potential Hazards at and around the Locations.
  - 6. Proposed alternate products that are cost-effective, energy efficient, and or have environmental advantages.
  - 7. Failure to provide the written report with the invoice will suspend any related payments by the number of days until the report is received.
  - 8. Failure to complete the required replacements will suspend any related payments by the number of days until the work is received.

**c. Replacing Materials**

- i. Replace materials only with same item as being replaced.
- ii. If alternative materials are being proposed, use the most energy-efficient, cost-effective, and replacements that have environmental advantages and that exhibit the same performance characteristics as the item being replaced. All such proposed replacements must be reviewed in advance of their replacements by Property Management prior to such replacements; then, only after approval will such replacements be permitted.
- iii. Dispose of any materials used in the course of completing scope of work properly, and in accordance to all governing agencies at contractor sole expense. This includes manifesting and chain of custody if required based on the nature of work being provided.
- I. Make all required remedies to any work deficiencies as soon as practicably possible, but in no event greater than three business days after receipt of notification from OCFA.

**Performance Hours:**

All work must be coordinated with OCFA Property Management unless otherwise specified.

The Contractor must conduct the work at all times in a manner which will not interfere with normal OCFA operations.

**Quality Control:**

All items furnished must be new, of good workmanship, in full accordance with the specifications, and free of defects. Items will be subject to inspection by the OCFA. If any product or service delivered shows evidence of shipping damage or defects, does not meet applicable specifications, or does not perform to the standards represented by the supplier, the OCFA shall reject same. Supplier will refund money which has been paid and bear all costs of removal and return of the products. Unless otherwise specified, all products provided shall have a manufacturer's warranty of at least twelve (12) months on workmanship, parts, and labor.

**Damage or repair:**

If any materials, equipment or other property contained in or constituting a part of an OCFA premise shall be damaged or destroyed by Contractor or its subcontractor(s), if any, in the course of performing services, Contractor shall at its expense promptly repair or replace the same, to the complete satisfaction of OCFA.

**Safety:**

Contractor, its employees, and agents must comply with all applicable health and safety requirements and procedures while performing services and exercise caution at all times for the protection of persons and property. Safety provisions of all applicable laws and ordinances shall be strictly observed and the Contractor and property at all sites. All fines, penalties and/or repair charges resulting from the Contractor's neglect of safety provisions shall be the sole responsibility of the Contractor.

Contractor shall provide and maintain the necessary precautions, supervision, and safeguards for the safety of all persons performing services and shall not cause or permit to exist an unlawful, hazardous, unsafe, unhealthy, or environmentally unsound condition over which Contractor has control.

SDS sheets (material safety data sheets) are to be provided on all products before they are brought on the premises. SDS shall be posted in each location the products are stored. All containers shall bear proper labels.

Contractor must outfit all equipment and materials used with any and all such safety devices and warning mechanisms as may be necessary to advise and protect the public and prevent personal injury and property damage.

Contractor shall must restrict access to the designated areas and parking spaces under the performance of the contract.

Contractor and its employees shall not enter areas of the facilities not specifically included in this specification for services.

**Warranties:**

Contractor represents, warrants, and covenants that in connection with any services performed under this specification: it is in the business of performing the Services described hereunder; it is experienced and expert in performing such services; all equipment used in the performance of services hereunder shall be suitable for such use; it understands the currently-known hazards which are presented to persons, property, and the environment in connection with the performance of such services and the transportation, storage and disposal of material; it is aware of all laws, regulations, orders, and other governmental requirements pertaining to the performance of such services; it will perform such services in full compliance with all applicable laws, regulations, orders, and other governmental requirements; it will perform such

services in compliance with all necessary and applicable permits and it has obtained or will obtain all permits necessary to perform the services; it possesses the professional and technical skills required to perform the services; no environmental enforcement actions have been brought or are likely to be brought against contractor that could have a material adverse effect on OCFA; and any agents or personnel employed by the contractor will meet the same standards as apply to contractor that could have a material adverse effect on OCFA.

**Additional Information:**

This contract is for the maintenance and repair of existing items, equipment, and structures and does not include larger projects, new work or add-ons. Splitting costs on a single facility-generated work order, projects, or work to avoid this limitation is prohibited and subject Contract to immediate termination.

OCFA will invite Contractors to provide quotes for larger projects. Contractors may provide additional discounts at the time of the quote. Contractor with the lowest total responsive quote for a given job will be awarded that job. This process will be repeated for future work.

OCFA may choose to award jobs that are expected to be less than \$5,000 to Contractor any that it chooses; such choice will be based on past pricing, timely performance, and quality of work.

The preceding dollar limitation applies only to ROUTINE requests and does not apply to EMERGENCY or URGENT requests; OCFA may choose to award EMERGENCY or URGENT jobs as is in OCFA's best interests.

The OCFA may also conduct regular performance reviews on a regular basis to evaluate the levels of service and quality provided.

Contract Coordinator: OCFA/Property Management Staff (714) 573-6470

Contract Manager: Steve Klein, OCFA Facilities Manager, (714) 573-6475, cell (714) 720-6067 and email: [steveklein@ocfa.org](mailto:steveklein@ocfa.org).

## **SECTION III: GENERAL INSTRUCTIONS TO OFFERORS**

### **ACCEPTANCE PERIOD**

Unless otherwise specified herein, proposals are firm for a period of one hundred eighty (180) days.

### **AMENDMENT OF REQUEST FOR PROPOSAL**

The offeror shall acknowledge receipt of a Request for Proposal Amendment by signing and returning the document by the specified due date and time. Amendments (addendums) may be obtained from the OCFA website at: [www.ocfa.org](http://www.ocfa.org). It is the offeror's responsibility to obtain a copy of any amendment relevant to this solicitation. Any interested offeror s without Internet access may obtain a copy of this solicitation by calling (714) 573-6640, or a copy may be picked up during regular business hours. OCFA takes no responsibility for informing recipients of changes to the original solicitation document. Failure to submit signed amendments with the proposal response may be grounds for deeming submittal non-responsive.

### **AWARD OF CONTRACT**

Notwithstanding any other provision of the Request for Proposal, OCFA reserves the right to:

1. Conduct pre-award discussion or pre-award negotiations with any or all responsive responsible proposals; or
2. Request that the offeror furnish additional information; or
3. Accept or reject any or all proposals, or portions thereof; or
4. Issue multiple awards, if it is in the best interest of the agency; or
5. Limit and/or determine the actual contract services to be included in the contract; or
6. Reissue the Request for Proposal.

The OCFA reserves the unilateral right to modify or amend this RFP in writing at any time for any reason the OCFA determines to be in its best interest. The OCFA also reserves the right to cancel or reissue the RFP at its sole discretion. OCFA reserves the right to accept or reject any or all proposals and the right to waive minor irregularities in any proposal. Waiver of one irregularity does not constitute waiver of any other irregularities.

A response to this Request for Proposal is an offer to contract with OCFA based upon the terms, conditions and scope of work contained in OCFA's Request for Proposal. Proposals do not become contracts unless and until they are executed by the OCFA. A contract has its inception in the award, eliminating a formal signing of a separate contract. All of the terms and conditions of the contract are contained in the Request for Proposal, unless any of the terms and conditions are modified by a Request for Proposal amendment, a Contract Amendment, or by mutually agreed upon terms and conditions in the Contract documents. Award will be made to the offeror submitting the most advantageous proposal after consideration of all Evaluation Criteria set forth in this solicitation. An Evaluation Committee will be established by the OCFA. The Committee will evaluate all proposals received in accordance with the Evaluation Criteria. OCFA reserves the right to establish weight factors that will be applied to the criteria depending upon order of importance. The award will be made in the best interests of OCFA after all factors have been evaluated.

### **AWARD SELECTION PROCESS**

Selection of qualified offerors will be based on the following: quality and completeness of submitted proposal; understanding of project objectives; project approach; price proposal; support and services; qualifications and experience with similar types of efforts; and references. Additional questions may be asked of offerors and demonstrations may be conducted. Offerors will be notified of any additional required



information or demonstrations after the written proposals have been evaluated. The recommendation will be made to the Executive Board of Directors, once the contract(s) are approved, the offeror(s) selected will enter into contract with the OCFA.

### **CAMPAIGN CONTRIBUTIONS DISCLOSURE**

In conformance with the statutory requirements of the State of California Government Code Section 84308, part of the Political Reform Act and Title 2, California Code of Regulations 18438 through 18438.8, regarding campaign contributions to members of appointed Boards of Directors, offeror is required to complete the Party and Participant Disclosure Forms provided in Appendix F of this RFP and submit as part of the proposal, if applicable. Offeror is required to submit only one copy of the completed form(s) as part of its proposal. This/these form(s) should be included in the original proposal. The offeror and subcontractors must complete the form entitled "Party Disclosure Form". Lobbyists or agents representing the offeror in this procurement must complete the form entitled "Participant Disclosure Form". Reporting of campaign contributions is a requirement from the proposed submittal date up and until the OCFA Board of Directors takes action.

### **CONTRACTORS LICENSING REQUIREMENTS**

Contractor shall possess a valid California **C-61/D-28** or other appropriate Contractor's license at the time of proposal submission, pursuant to California Public Contract Code Section 3300 and Business and Professions Code Section 7028.15. The successful contractor must maintain the license throughout the duration of this contract.

The contractor performing pest and/or weed control shall be licensed by the State of California to perform these services. Contractor must possess a Business License for Pest Control and must possess or employ person(s) possessing a valid California Pest Control Advisers License and a valid Qualified Applicators License in the appropriate categories. In addition, all persons performing pest control and handling pesticides shall possess a valid Qualified Applicator's Certificate in the appropriate category. All personnel applying pesticides and herbicides under this contract shall be in compliance with all state rules and regulations and shall be in possession of all required certifications and/or licenses applicable to the work being performed.

The prime contractor shall possess a valid California Contractor's license required for this project, at the time of submitting the proposal. The contractor shall be licensed as a contractor in accordance with the provisions of California Business and Professions Code Chapter 9, Article 5 Licensing 7065-7077. The OCFA may deem any contractor who fails to possess the required license to be non-responsive.

Pursuant to Section 7028.15 of the Business and Professions Code and Section 3300 of the Public Contract Code, all contractor s must possess proper licenses for performance of this contract at the time of submission. Subcontractors must possess the appropriate licenses for each specialty subcontracted. Pursuant to Section 7028.5 of the Business and Professions Code, the OCFA shall consider any submittal by a contractor not currently licensed in accordance with California law and pursuant to the requirements found in the proposal documents to be nonresponsive, and the OCFA shall reject the proposal. The OCFA shall have the right to request evidence of all valid license(s) currently held by the contractor and each of the subcontractors listed in the proposal before awarding the contract. contractors shall provide evidence of valid licenses satisfactory to the OCFA within five (5) calendar days. Please also note that, pursuant to Public Contract Code Section 20676, sellers of "mined material" must be on an approved list of sellers published pursuant to Public Resources Code Section 2717(b) in order to supply mined material for this contract.

**SB854 DEPARTMENT OF INDUSTRIAL RELATIONS REGISTRATION**

No contractor or subcontractor may be listed on an offer for a public works project submitted on or after March 1, 2015 unless registered with the Department of Industrial Relations pursuant to Labor Code Section 1725.5, with limited exceptions from this requirement only under Labor Code Section 1771.1(a). No contractor or subcontractor may be awarded a contract for public work, or engage in the performance of any public works project awarded on or after April 1, 2015 unless registered with the Department of Industrial relations pursuant to Labor Code Section 1725.5. This contract is subject to compliance monitoring and enforcement by the Department of Industrial Relations. Listed subcontractors must be registered with the Department of Industrial Relations website. Pursuant to SB854, the DIR registration number of each subcontractor must be identified and failure to identify this number could categorize your proposal as non-responsive. In addition, OCFA reports all public works contracts to the DIR within 5 days of the contract award date.

In accordance with Section 1773.2 of the California Labor Code, the contractor shall post a copy of the determination of prevailing rate of wages at each job site.

Travel and subsistence payments to each workman needed to execute the work shall be made as such travel and subsistence payments are defined in the applicable collective bargaining agreements filed in accordance with Section 1773.8 of the Labor Code.

The OCFA will not recognize any claim for additional compensation because of the payment by the contractor of any wage rate in excess of the prevailing wage rate set forth in the contract. The possibility of wage increases is one of the elements to be considered by the contractor in determining the offer, and will not under any circumstances be considered as the basis of a claim against the OCFA on the contract.

**DEBARMENT OF CONTRACTORS**

In accordance with the provisions of the Labor Code, contractors or subcontractors may not perform work on a public works project with a subcontractor who is ineligible to perform work on a public project pursuant to Section 1777.1 or Section 1777.7 of the Labor Code and Federal “Excluded Parties List System”. Any contract on a public works project entered into between a contractor and a debarred subcontractor is void as a matter of law. A debarred subcontractor may not receive any public money for performing work as a subcontractor on a public works contract. Any public money that is paid to a debarred subcontractor by the contractor for the Project shall be returned to the OCFA. The contractor shall be responsible for the payment of wages to workers of a debarred subcontractor who has been allowed to work on the Project. In order to prohibit the procurement of any goods or services ultimately funded by Federal awards from debarred, suspended or otherwise excluded parties, each Contractor will be screened at the time of proposal response to ensure the Contractor, its principal and their named subcontractors are not debarred, suspended or otherwise excluded by the United States Government in compliance with the requirements Federal Regulations (CFR) and Executive Order 12549.

In order to prohibit the procurement of any goods or services ultimately funded by Federal awards from debarred, suspended or otherwise excluded parties, each offeror will be screened at the time of RFP response to ensure respondent, its principal and their named subcontractors are not debarred, suspended or otherwise excluded by the United States Government in compliance with the requirements of 7 Code of Federal Regulations (CFR) 3016.35, 28 CFR 66.35, 29 CFR 97.35, 34 CFR 80.35, 45 CFR 92.35 and Executive Order 12549.

OCFA will verify respondent, its principal and their named subcontractors are not on the Federal debarred, suspended or otherwise excluded list of offerors located at [www.sam.gov](http://www.sam.gov).

**DESIGNATION OF SUBCONTRACTORS**

Pursuant to State law, the contractor must designate the name and location of each subcontractor who will perform work or render services for the prime contractor in an amount that exceeds one-half of one percent (.05%) of the contractor's total offered amount, as well as the portion of work each such subcontractor will perform at the time the proposal is submitted. Pursuant to Public Contract Code Section 4104, the OCFA has not implemented 3(A) which would allow contractors an additional twenty-four (24) hours (after the deadline for submission of proposals) to submit the information about each subcontractor.

**CANCELLATION OF SOLICITATION**

The OCFA may cancel this solicitation at any time.

**CERTIFICATION**

By signature on the Offer/Price Page, Certification of Submittal page, solicitation Amendment(s), or cover letter accompanying the submittal documents, offeror certifies:

- A. The submission of the offer did not involve collusion or other anti-competitive practices.
- B. The offeror shall not discriminate against any employee or applicant for employment in violation of Federal or State law.
- C. The offeror has not given, offered to give, nor intends to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, meal or service to a public servant in connection with the submitted offer.
- D. The offeror hereby certifies that the individual signing the submittal is an authorized agent for the offeror and has the authority to legally bind the offeror to the Contract.
- E. The offeror hereby certifies, its principal and their named subcontractors are not debarred, suspended or otherwise excluded by the United States Government.

**CONFIDENTIAL INFORMATION**

All responses to this RFP become the property of OCFA and will be kept confidential until such time as recommendation for award of a contract has been announced. Thereafter, proposals are subject to public inspection and disclosure under the California Public Records Act. If a respondent believes that any portion of its proposal is exempt from public disclosure, such portion may be marked "confidential." OCFA will use reasonable means to ensure that such confidential information is safeguarded but will not be held liable for inadvertent disclosure of such materials, data and information. Proposals marked "confidential" in their entirety will not be honored and OCFA will not deny public disclosure of all or any portion of proposals so marked. By submitting information with portions marked "confidential", the respondent represents it has a good faith belief that such material is exempt from disclosure under the California Public Records Act and agrees to reimburse OCFA for, and to indemnify, defend and hold harmless OCFA, its officers, fiduciaries, employees and agents from and against: (a) any and all claims, damages, losses, liabilities, suits, judgments, fines, penalties, costs and expenses including, without limitation, attorneys' fees, expenses and court costs of any nature whatsoever (collectively, "Claims") arising from or relating to OCFA's non-disclosure of any such designated portions of a proposal if disclosure is deemed required by law or court order. Additionally, OCFA may request that the contractor /respondent directly defend any action for disclosure of any information marked confidential.

**COMPLIANCE WITH LAWS**

All proposals shall comply with current federal, state, and other laws relative thereto.

## **DELIVERABLES REQUIRED OF SUCCESSFUL OFFEROR**

The successful offeror shall submit the following items to the Assistant Purchasing Agent or designee ***within ten (10) days of initiation of the contract award***:

- A. Sign and enter into a Maintenance Services Agreement (PSA) with the Orange County Fire Authority, (See *Exhibit 1 – Sample Contract*).
- B. Copy of Certificate of Insurance which shows compliance with the attached requirements and naming OCFA as an additional insured (see pages 22 – 23) for detailed insurance requirements).

## **DISCUSSIONS**

The OCFA reserves the right to conduct discussions with offerors for the purpose of eliminating minor irregularities, informalities, or apparent clerical mistakes in the proposal in order to clarify an offer and assure full understanding of, and responsiveness to, solicitation requirements.

## **DISQUALIFICATION OF OFFEROR(S)**

If there is reason to believe that collusion exists among the offerors, OCFA may refuse to consider proposals from participants in such collusion. No person, firm, or corporation under the same or different name, shall make, file, or be interested in more than one proposal for the same work unless alternate proposals are called for. A person, firm, or corporation who has submitted a sub-proposal to a offeror, or who has quoted prices on materials to an offeror, is not thereby disqualified from submitting a sub-proposal or quoting prices to other offerors. Reasonable grounds for believing that any offeror is interested in more than one Proposal for the same work will cause the rejection of all Proposals for the work in which an offeror is interested. If there is reason to believe that collusion exists among the offerors, OCFA may refuse to consider Proposals from participants in such collusion. Offerors shall submit as part of their Proposal documents the completed Non-Collusion Affidavit provided herein.

## **DISPUTES RELATING TO PROPOSAL PROCESS AND AWARD**

In the event a dispute arises concerning the proposal process prior to the award of the contract, the party wishing resolution of the dispute shall submit a request in writing to the Assistant Purchasing Agent. Offeror may appeal the recommended award or denial of award, provided the following stipulations are met:

1. Appeal must be in writing.
2. Appeal must be submitted within seven (7) calendar days of the date of notification of recommended award or denial of award.
3. An appeal of a denial of award can only be brought on the following grounds:
  - a. Failure of OCFA to follow the selection procedures and adhere to the requirements as specified in the RFP or any addenda or amendments.
  - b. A violation of conflict of interest as provided by California Government Code Section 87100 et seq.
  - c. A violation of State or Federal law.

## **EXECUTION OF CONTRACT**

The RFP, the offeror's proposal, and the resulting purchase order will become incorporated as the complete contract. The successful offeror shall execute the contract, including but not limited to signing all necessary documents and submitting all required evidences of insurance, within ten (10) days after personal delivery of the notice or within fifteen (15) days after such notice has been deposited in the United States mail. One copy of the contract will be returned to the offeror after the OCFA executes the contract(s).

In case of failure of the offeror to execute and return the contract and all required documents within the time allowed, the OCFA may, at its option, consider that the offeror has/have abandoned the contract.

### **INSPECTION OF SITE/NON-MANDATORY PRE-PROPOSAL MEETING**

Each prospective contractor is responsible for becoming familiar with the conditions of the project site to fully understand the facilities, conditions, difficulties and restrictions which may impact the services provided to the project. Attendance by a representative of each prospective contractor at the pre-proposal meeting as stated in the RFP is encouraged.

### **EXPERIENCE AND COMPETENCY**

The successful offeror shall be skilled and regularly engaged in the general class or type of work called for under the contract. The successful offeror shall also have **no less than five (5) years' experience in the magnitude and character of the work proposal**. Each offeror shall provide information about experience with the proposal. To determine the degree of responsibility to be credited to the offeror, OCFA will weigh any evidence that the offeror has performed satisfactorily other contracts of like nature, magnitude, and comparable difficulty and comparable rates of progress. In selecting the most responsive and responsible offeror, consideration will be given not only to the financial standing, but also to the general competency of the offeror for the performance of the work specified in the contract documents.

### **FAMILIARIZATION OF SCOPE OF WORK**

Before submitting a proposal, each offeror shall familiarize themselves with the scope of work, laws, regulations and other factors affecting contract performance. The offeror shall be responsible for fully understanding the requirements of the subsequent Contract and otherwise satisfy themselves as to the expense and difficulties accompanying the fulfillment of contract requirements. The submission of a proposal will constitute a representation of compliance by the offeror. There will be no subsequent financial adjustment, other than that provided by the subsequent Contract, for lack of such familiarization.

### **INDEMNIFICATION**

Offeror shall protect and indemnify the OCFA, the Board of Directors, and all of its or their officers, agents and servants against any claim or liability arising from or based on offeror's violation of any existing or future state, federal, and local laws, ordinances, regulations, orders or decrees pertaining to offeror's submittal.

Offeror agrees to protect, defend, indemnify, save and hold harmless the OCFA and its officers, officials, employees and volunteers from any and all claims, liabilities, expenses, or damages of any nature, including attorney fees, for injury to or death of any person (offeror's employees included), and for injury to any property, including consequential damages of any nature resulting there from, arising out of or in any way connected with the performance of this contract, except that the indemnity obligation of offeror shall be reduced by an amount proportional to the active negligence of the OCFA, if any.

Offeror shall comply with all of the provisions of the workers' compensation insurance laws and safety in employment laws of the State of California, including the applicable provisions of Divisions 4 and 56 of the California Labor Code and all amendments thereto and regulations promulgated pursuant thereto, and all similar state, federal, or local laws applicable; and contractor shall indemnify and hold harmless the OCFA from and against all claims, liabilities, expenses, damages, suits, actions, proceedings and judgments, or every nature and description, including attorney fees, that may be presented, brought or recovered against the OCFA for or on account of any liability under or failure to comply with any of said laws which may be

incurred by reason of any work performed under this contract by offeror or any subcontractor or others performing on behalf of offeror.

The OCFA does not, and shall not waive any rights against offeror which it may have by reason of the above hold harmless agreements, because of the acceptance by the OCFA or the deposit with the OCFA by contractor of any or all of the required insurance policies.

The hold harmless agreements by offeror shall apply to all liabilities, expenses, claims, and damages of every kind (including but not limited to attorney fees) incurred or alleged to have been incurred, by reason of the operations of offeror or any subcontractor or others performing on behalf of offeror, whether or not such insurance policies are applicable.

Offeror shall require any and all subcontractors to afford the same degree of indemnification to the OCFA and its elected and appointed boards, officers, agents, and employees that is required of offeror and shall incorporate identical indemnity provisions in all contracts between offeror and his/her subcontractors.

In the event that offeror and the OCFA are sued by a third party for damages caused or allegedly caused by negligent or other wrongful conduct of offeror, or by a dangerous condition of the OCFA's property created by offeror or existing while the property was under the control of offeror, offeror shall not be relieved of its indemnity obligation to the OCFA by any settlement with any such third party unless that settlement includes a full release and dismissal of all claims by the third party against the OCFA.

### **INDEPENDENT CONTRACTOR**

Contractor covenants that it presently has no interest, and shall not acquire any interest, direct or indirect, financial or otherwise, which would conflict in any manner or degree with the performance of the services hereunder. Contractor further covenants that, in the performance of this contract, no subcontractor or person having such an interest shall be employed. Contractor certifies that to the best of his knowledge, no one who has or will have any financial interest under this contract is an officer or employee of OCFA. It is expressly agreed by Contractor that in the performance of the services required under this contract, Contractor, and any of its subcontractors or employees, shall at times be considered independent Contractors and not agents of OCFA.

### **NON-DISCRIMINATION**

Contractor covenants that, by and for itself, its successors, and assigns, including its subcontractors and suppliers, that there shall be no discrimination against or segregation of, any person or group of persons on account of race, color, creed, religion, gender, marital status, national origin, sexual orientation, or ancestry in the performance of this contract. Contractor shall take steps to ensure that applicants for any job and employees are treated without regard to their race, color, creed, religion, gender, marital status, national origin, sexual orientation, or ancestry in full compliance with applicable federal, state, and local laws and regulations.

Contractor shall not engage in, nor permit its agents, including its subcontractors and suppliers, to engage in discrimination in employment of persons or provision of services or supplies, on the grounds of race, color, creed, religion, gender, marital status, national origin, sexual orientation, or ancestry.

Contractor, and contractor's subcontractors and suppliers, shall employ fair employment practices with regard to all employees and all applicants for employment and shall act in accordance with all applicable federal, state, and local laws and regulations relating to such fair employment practices.

In furtherance of such obligation, contractor agrees that contractor, subcontractors, and suppliers shall not discriminate in employment and/or provision of services under this contract and all employment practices shall be without regard to a person's race, color, creed, religion, gender, national origin, age, ancestry, physical handicap, medical condition, marital status, all in accordance with applicable federal, state, and local laws or regulations.

Fair employment practices shall include, but not be limited to, employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rate of pay or other form of compensation and selection for training including apprenticeship.

In the performance of the terms of the proposal documents, contractor agrees that contractor will not engage in nor permit such subcontractors as contractor may employ to engage in discrimination against any employee or applicant for employment on the basis of race, sex, color, religion, ancestry, national origin, marital status, age or as an otherwise qualified handicapped individual. This prohibition shall pertain to employment, upgrading, demotion, or transfer, recruitment advertising, layoff or termination, rates of pay and other forms of compensation, selection for training, including apprenticeship, and any other action or inaction pertaining to employment matters.

### **NON-DISCRIMINATION AFFIDAVIT**

Labor Code Section 1735 requires that no discrimination be made in the employment of persons upon public works because of race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, or sex of such persons, except as provided in Government Code Section 12940. Contractor shall declare that it does not discriminate in its employment with regard to such factors. The Non-Discrimination Affidavit (on enclosed form) shall be executed and submitted with the proposal.

### **DRUG FREE WORKPLACE**

OCFA recognizes that the maintenance of a drug-free workplace is essential to the safety and welfare of its employees. This policy establishes OCFA programs and practices that promote and support a Drug-Free Workplace Act of 1998.

### **PREVAILING WAGE**

This project is a public work in the State of California, funded in whole or in part with public funds. Therefore, the higher of the two prevailing wage rates, federal or state, will be enforced. The work is subject to the payment of not less than prevailing wages under Labor Code Section 1770 et seq. Contractor agrees to comply with all related provision of the Labor Code, including but not limited to, the provisions of Labor Code Section 1775 relating to payment of prevailing wages, Section 1777.5 relating to employment of apprentices and Section 1811-1813 relating to the payment of overtime. Failure to comply with the proper prevailing wage requirements may result in penalty of up to \$200 per day per worker. Failure to comply with apprenticeship requirements may result in penalty of \$100-\$300 for each calendar day of violation. Failure to pay proper overtime rate may result in a penalty of \$25 per day per worker. Contractors are hereby notified that the Director of Industrial Relations has ascertained the general prevailing rate of per diem wages and the rates for overtime and holiday work in the locality in which the work is to be performed for each craft, classification or type of worker needed to perform the work under the contract which will be awarded to the successful contractor.

This information is available at the Department of Industrial Relations website: <http://www.dir.ca.gov/oprl/DPreWageDetermination.htm>. Contractors are further notified that this project is subject to compliance monitoring and enforcement by the Department of Industrial Relations. Further information on Compliance Monitoring Unit requirements can be found at: <https://www.dir.ca.gov/Public-Works/PublicWorksEnforcement.html>.

**WORKERS' COMPENSATION CERTIFICATION FORM**

Each respondent shall submit the Contractor's Certificate Regarding Workers' Compensation form. Section 3700 of the State Labor Code requires that every employer shall secure the payment compensation by either being insured against liability to pay compensation with one or more insurers or by securing a certificate of consent to self-insure from the State Director of Industrial Relations.

**INQUIRIES**

Any question related to the Request for Proposal shall be directed to the Assistant Purchasing Agent, Rothchild Ong. Questions and comments regarding this solicitation must be submitted in writing, either by mail to the Assistant Purchasing Agent, Orange County Fire Authority, 1 Fire Authority Road Bldg. C, Irvine, California, 92602, faxed to (714) 368-8845 or e-mailed to: [rothchildong@ocfa.org](mailto:rothchildong@ocfa.org), no later than ten (10) days before the Submittal Deadline. The questioner's business name, address, phone and fax number, and contact person must be included with the questions or comments. Any correspondence related to a solicitation should refer to the appropriate Request for Proposal number, page and paragraph number. An envelope containing questions should be identified as such; otherwise it may not be opened until after the official proposal due date and time. Oral interpretations or clarifications will be without legal effect. Only questions answered by a formal written amendment to the Request for Proposal will be binding. Answers will be sent to all known proposal holders.

**INSURANCE**

Offeror shall not commence work under this contract until he/she has obtained all insurance required under this section and the insurance has been approved by the OCFA as to form, amount, and carrier, nor shall offeror allow any subcontractor to commence any work until all similar insurance required of the subcontractor has been obtained and approved. All insurance documents need to be provided 10 days prior to the start of work so there is enough time for review and resolution of any issues to preclude delay of the work. Either the failure of offeror to supply specified insurance policies and coverage, nor the failure of the OCFA to approve same shall alter or invalidate the provisions of this contract. The offeror agrees to:

1. Obtain insurance coverage of the type and amount required and keep such insurance coverage in force throughout the life of this contract. All policies will contain an endorsement providing that written notice of termination, cancellation or policy changes will be delivered in accordance with the policy provisions.
2. The comprehensive general liability insurance will include the OCFA as an additional insured with respect to liability arising out of the performance of this contract. Comprehensive automobile liability insurance is also required. The offeror agrees that the insurance hereunder will be primary and that any insurance carried by the OCFA will be excess and not contributing.
3. Provide and maintain minimum insurance limits as applicable.

Offeror will present to the OCFA written evidence (Certificates of Insurance and the Additional Insured Endorsement) of compliance with Items 1, 2 and 3 above. Said evidence shall be to the OCFA's Risk Management satisfaction.

**INSURANCE - WORKERS' COMPENSATION INSURANCE**

Offeror shall obtain and maintain during the life of this contract workers' compensation insurance and, if any work is sublet, offeror shall require all subcontractors to obtain workers' compensation insurance. The Workers' Compensation policy must have a limit of at least \$1,000,000 each accident/\$1,000,000 each employee for disease. A Certificate of Insurance reflecting the Workers' Compensation coverage and a Waiver of Subrogation is required.



All workers' compensation insurance policies shall provide that the insurance must notify OCFA of cancellation or changes in the policy and notice will be delivered in accordance with the policy provisions. Offeror is aware of the provision of Section 3700 of the Labor Code, which requires every employer to be insured against liability for Workman's Compensation or undertake self-insurance in accordance with the provisions of that Code, and will comply, with such provisions before commencing the performance of the work of this contract.

If your business doesn't have any employees, a letter attesting to that fact must be provided to OCFA.

### **INSURANCE - LIABILITY INSURANCE COVERAGE**

Endorsements to the policies providing the above insurance shall be obtained by offeror, adding the following three provisions:

**1. Additional Insureds (for commercial general liability only)**

"OCFA, its officers, officials, employees, and volunteers are to be covered as additional insureds with respect to the subject project and agreement."

**2. Other Insurance**

"Any other insurance maintained by the Orange County Fire Authority shall be excess and not contributing with the insurance provided by this policy."

Offeror shall obtain and maintain during the life of this contract the following insurance coverage:

1. General Liability including operations, products and completed operations with a limit of \$1,000,000 each occurrence for bodily injury, personal injury and property damage/\$2,000,000 aggregate. If commercial general liability insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the project or the general aggregate limit shall be twice the required occurrence limit. For those businesses that are self-insured, a written declaration by the principal of the business should be provided.
2. Automobile liability, including owned, hired, and non-owned vehicles with a limit of \$1,000,000 each accident; \$1,000,000 uninsured motorist.

Coverage for commercial general liability and automobile liability insurance shall be at least as broad as the following:

- Insurance Services Office (ISO) Commercial General Liability Coverage (Occurrence Form CG0001)
- Insurance Service Office (ISO) Business Auto Coverage (Form CA 0001) covering any auto.

All insurance coverage. Workers' Compensation obtained through the State Compensation Insurance Fund is acceptable.

1. Professional Liability with a limit of \$1,000,000 each occurrence/\$2,000,000 aggregate. If a offeror provides claims made professional liability insurance, offeror shall also agree in writing to purchase tail coverage in the amount required by the agreement to cover claims made within three years of the completion of offeror's services under the agreement, or maintain professional liability insurance with the same carrier in the amount required by the agreement for at least three years after completion of offeror's services under the agreement and evidence of such must be provided to OCFA. A Certificate of Insurance reflecting the Professional Liability coverage is required.
2. Coverage shall be provided by admitted insurers with an A.M. Best's Key Rating of at least A-VII.

All insurance carriers utilized by the offeror or any subcontractor under this contract shall be approved by the California Department of Insurance to transact business in the State of California. The types of services

provided under this contract may further require offeror's insurance carrier(s) to be admitted insurers in the State of California.

### **INTERPRETATION OF CONTRACT DOCUMENTS**

If any person is in doubt as to the true meaning of any part of the specifications or other contract documents, or finds discrepancies or omissions in the specifications, he/she may submit to the Orange County Fire Authority a written request for an interpretation or correction. Requests for interpretations shall be made in writing and delivered to OCFA Purchasing Section Attn: Rothchild Ong, Assistant Purchasing Agent, by mail at: 1 Fire Authority Road Bldg. C, Irvine, California, 92602, by e-mail [rothchildong@ocfa.org](mailto:rothchildong@ocfa.org), or by facsimile to (714) 368-8845 at least ten (10) days before the Submittal Deadline. The requesting party is responsible for prompt delivery of any requests. When OCFA considers interpretations necessary, interpretations will be in the form of an addendum to the contract documents, and when issued, will be sent as promptly as is practical to all parties recorded by OCFA as having received contract documents. All such addenda shall become a part of the contract. Oral and other interpretations or clarifications shall be without legal or contractual effect. It is the responsibility of each offeror to ensure the OCFA has their correct business name and address on file. Any prospective offeror who obtained a set of contract documents from anyone other than OCFA is responsible for advising OCFA that they have a set of contract documents and wish to receive subsequent Addenda.

### **KEY PERSONNEL**

It is essential that the offeror provide adequate experienced personnel, capable of and devoted to the successful accomplishment of work to be performed under this contract. The offeror must agree to assign specific individuals to the key positions.

- A. The offeror agrees that, once assigned to work under this contract, key personnel shall not be removed or replaced without written notice to OCFA.
- B. If key personnel are not available for work under this contract for a continuous period exceeding thirty calendar days, or are expected to devote substantially less effort to the work than initially anticipated, the offeror shall immediately notify OCFA, and shall, subject to the concurrence of OCFA, replace such personnel with personnel of substantially equal ability and qualifications.

### **LATE PROPOSALS**

Late proposals will be rejected and not opened.

### **NEGOTIATIONS**

Exclusive or concurrent negotiations may be conducted with responsible offeror(s) for the purpose of altering or otherwise changing the conditions, terms and price of the proposed contract unless prohibited. Offerors shall be accorded fair and equal treatment in conducting negotiations and there shall be no disclosure of any information derived from proposals submitted by competing offerors. Exclusive or concurrent negotiations shall not constitute a contract award nor shall it confer any property rights to the successful offeror. In the event the OCFA deems that negotiations are not progressing, OCFA may formally terminate these negotiations and may enter into subsequent concurrent or exclusive negotiations with the next most qualified offeror(s).

### **NOTICE OF INTENT TO AWARD**

A notification of Intent to Award will be sent to the offeror selected.

## **OBJECTIONS**

Any objections as to the structure, content or distribution of this RFP must be submitted in writing to Assistant Purchasing Agent less than five (5) working days before the RFP due date. Objections must be as specific as possible, and identify the RFP section number and title, as well as a description and rationale for the objection.

## **OFFER AND ACCEPTANCE PERIOD**

In order to allow for an adequate evaluation, OCFA requires an offer in response to this solicitation to be valid and irrevocable for one-hundred eighty (180) days after the proposal due date and time.

## **PRE-PROPOSAL CONFERENCE**

If scheduled, the date and time of a Pre-Proposal conference is indicated on the cover page of this document. Written minutes and/or notes will not be available; therefore attendance is encouraged. If an offeror is unable to attend the Pre-Proposal Conference, questions may be submitted in writing. Offerors are encouraged to submit written questions, via electronic mail or facsimile, at least five days prior to the Request for Proposal due date to the Assistant Purchasing Agent. The purpose of this conference will be to clarify the contents of this Request for Proposal in order to prevent any misunderstanding. Any doubt as to the requirements of this Request for Proposal or any apparent omission or discrepancy should be presented to OCFA at this meeting. OCFA will then determine the appropriate action necessary, if any, and may issue a written amendment to the Request for Proposal. Oral statements or instructions will not constitute an amendment to this Request for Proposal.

## **PREPARATION OF PROPOSAL**

- A. All proposals shall incorporate the forms provided in this Request for Proposal package. It is permissible to copy these forms as required. Facsimiles or electronic mail proposals shall not be considered.
- B. The Proposal form and any solicitation amendments must be signed and returned with the proposal. The forms submitted shall be signed by a person authorized to submit an offer. An authorized signature on the Proposal form, Proposal Amendment(s), or cover letter accompanying the proposal documents shall constitute an irrevocable offer to provide services specified herein. Offeror shall submit any additional requested documentation, signifying intent to be bound by the terms of the agreement.
- C. The authorized person signing the proposal shall initial erasure, interlineations or other modifications on the proposal.
- D. Periods of time, stated as a number of days, shall be in calendar days.
- E. It is the responsibility of all offeror s to examine the entire Request for Proposal package and seek clarification of any requirement that may not be clear and to check all responses for accuracy before submitting a proposal. Negligence in preparing a proposal confers no right of withdrawal after due date and time.
- F. OCFA shall not reimburse the cost of developing, presenting, submitting or providing any response to this solicitation.
- G. Offeror must list any subcontractors to be utilized in the performance of the services specified herein. For each subcontractor, details on respective qualifications must be included.

## **PROPOSAL OPENING AND RESULTS**

Please note that there will be no public opening of proposals. The list of offerors participating in the solicitation will be available when the recommendation for award(s) is made.

### **PROPOSAL/ SUBMITTAL FORMAT**

One (1) original hard copy original, one (1) duplicate hard copy, and one (1) electronic copy in PDF or Word (on Digital Media), of each proposal should be submitted as specified in the RFP. The original copy of the proposal should be clearly labeled "Original". The material should be in sequence according to the RFP. The sections of the submittal should be clearly identifiable, including all the items listed in the Proposal Requirements, the completed Offer Form, and all signed Amendments if required. Failure to include the requested information may have a negative impact on the evaluation of the offeror's proposal.

*If you elect to submit your proposal electronically through Planet Bids, no additional copies or digital media will be required (Preferred).*

### **PUBLIC RECORD**

All proposals submitted in response to this Request for Proposal shall become the property of OCFA and shall become a matter of public record available for review subsequent to the award notification.

### **WHERE TO SUBMIT PROPOSALS**

In order to be considered, the offeror must complete and submit its proposal to OCFA Purchasing Office at the location indicated, prior to or at the exact date and time indicated on the Notice of Request for Proposal page. The offeror's proposal shall be submitted in a sealed envelope. The words "SEALED PROPOSAL" with the REQUEST FOR PROPOSAL TITLE, REQUEST FOR PROPOSAL NUMBER, PROPOSAL DUE DATE AND TIME and OFFEROR'S NAME AND ADDRESS shall be written on the envelope.

### **WITHDRAWAL OF PROPOSAL**

At any time prior to the specified solicitation due date and time, a offeror may formally withdraw the proposal by a written letter, facsimile or electronic mail from the offeror or a designated representative. Telephonic or oral withdrawals shall not be considered.

## **SECTION IV: GENERAL TERMS AND CONDITIONS**

### **ASSIGNMENT OF RIGHTS OR OBLIGATIONS**

Except as noted hereunder, successful offeror may not assign, transfer or sell any rights or obligations resulting from this solicitation without first obtaining the specific written consent from the OCFA.

### **ATTORNEY FEES**

In the event a lawsuit or action is instituted in connection with any controversy arising out of this contract, the prevailing party shall be entitled to receive, in addition to its costs, such sum as the court may adjudge reasonable as to attorney's fees and costs.

### **AUTHORITY OF ORANGE COUNTY FIRE AUTHORITY**

Subject to the power and authority of the OCFA as provided by law in this contract, the OCFA shall in all cases determine the quantity, quality, and acceptability of the work, provided under this contract. The OCFA shall decide the questions that may arise relative to the fulfillment of the contract or the obligations of the offeror hereunder.

### **CANCELLATION OF THE CONTRACT**

Without cause, the OCFA may cancel this contract at any time with thirty (30) days written notice to the offeror. With cause, the OCFA may cancel this contract at any time with ten (10) days written notice to the offeror. Cancellation for cause shall be at the discretion of the OCFA and shall be, but is not limited to, failure to supply the materials, equipment or service specified within the time allowed or within the terms, conditions or provisions of this contract. The successful offeror may not cancel this contract without prior written consent of the Assistant Purchasing Agent.

### **CHANGES IN WORK**

The OCFA may, at any time work is in progress, by written order and without notice to the sureties, make alterations in the terms of work as shown in the specifications, require the performance of extra work, decrease the quantity of work, or make such other changes as the OCFA may find necessary or desirable. The offeror shall not claim forfeiture of contract by reasons of such changes by the OCFA. Changes in work and the amount of compensation to be paid to the offeror for any extra work as so ordered shall be determined in accordance with the unit prices of offeror's proposal.

### **COMPLIANCE OR DEVIATION TO SCOPE OF WORK/SERVICES**

Offeror hereby agrees that the material, equipment or service offered will meet all the requirements of the specifications in this solicitation unless deviations from them are clearly indicated in the offeror's response. Offeror may submit an attachment entitled "Exceptions to Specifications", which must be signed by offeror's authorized representative. An explanation must be made for each item in which an exception is taken, giving in detail the extent of the exception and the reason for which it is taken. Proposals failing to comply with this requirement will be considered non-responsive.

### **CONTRACT INCORPORATION**

This contract embodies the entire contract between the OCFA and the offeror. The parties shall not be bound by or be liable for any statement, representation, promise, inducement or understanding of any kind or nature not set forth herein. No changes, amendments, or modifications of any of the terms or conditions

of the contract shall be valid unless reduced to writing and signed by both parties. The complete contract shall include the entire contents of the RFP solicitation, all addenda, all of offeror's successful submittal, supplemental agreements, change orders, and any and all written agreements which alter, amend or extend the contract. Offeror's signed proposal and the OCFA's written acceptance shall constitute a binding contract.

### **FORCE MAJEURE**

If execution of this contract shall be delayed or suspended and if such failure arises out of causes beyond the control of and without fault or negligence of the offeror, the offeror shall notify the OCFA, in writing, within twenty-four (24) hours, after the delay. Such causes may include but are not limited to acts of God, war, acts of a public enemy, and acts of any governmental entity in its sovereign or contractual capacity, fires, floods, epidemics, strikes and unusually severe weather. Neither party to the agreement shall be held responsible for delay or default for causes shown above which is beyond that party's reasonable control. The OCFA may terminate the agreement upon written notice after determining such delay or default will reasonably prevent successful performance of the agreement.

### **LACK OF FUNDING**

The OCFA may cancel any additional terms of this contract without further obligation in the event that budgetary funding has been discontinued. The offeror shall receive written notification or either condition as soon as practically possible, but no later than thirty (30) days prior to termination.

### **LAWS - ADHERENCE TO ALL LOCAL, STATE, AND FEDERAL LAWS AND REQUIREMENTS**

The offeror shall adhere to all current applicable federal, state, and local laws, codes and ordinances, including, but not limited to, those promulgated by CAL-OSHA, FED-OSHA, EPA, and the California State Department of Health Services.

### **LAWS GOVERNING CONTRACT**

This contract shall be in accordance with the laws of the State of California. The parties stipulate that this contract was entered into in the County of Orange, in the State of California. The parties further stipulate that the County of Orange, California, is the only appropriate forum for any litigation resulting from a breach hereof or any questions risen here from.

### **SEVERABILITY**

If any provisions or portion of any provision, of this contract are held invalid, illegal or unenforceable, they shall be severed from the contract and the remaining provisions shall be valid and enforceable.

### **SPECIFICATIONS, CHANGES TO**

The parties shall not be bound by or be liable for any statement, representation, promise, inducement or understanding of any kind or nature not set forth herein or by written amendment. No changes, amendments, or modifications of any of the terms or conditions of the specification shall be valid unless reduced to writing and signed by both parties.

### **SUBCONTRACTING**

If any offeror(s) submits a proposal with subcontracting portions of the engagement, that fact must be clearly identified in the proposal and the name of the proposed subcontracting business must be provided.

Following the award of the actuarial services contract, no additional subcontracting will be allowed without the express prior written consent of the OCFA.

### **TERMINATION OF CONTRACT**

This Contract may be terminated at any time by mutual written consent, or by the OCFA, with or without cause, upon giving thirty (30) days written notice. The OCFA, at its convenience, by written notice, may terminate this Contract, in whole or in part. If this Contract is terminated, the OCFA shall be liable only for payment under the payment provisions of this Contract for services rendered and accepted material received by the OCFA before the effective date of termination.

The OCFA reserves the right to terminate the whole or any part of this Contract due to the failure of the offeror to carry out any term or condition of the Contract. The OCFA will issue a written ten (10) day notice of default to the offeror for acting or failing to act as specified in any of the following:

In the opinion of the OCFA, the offeror provides personnel that do not meet the requirements of the Contract;

In the opinion of the OCFA, the offeror fails to perform adequately the stipulations, conditions or services/specifications required in this Contract;

In the opinion of the OCFA, the offeror attempts to impose personnel, materials, products or workmanship of an unacceptable quality;

The offeror fails to furnish the required service and/or product within the time stipulated in the Contract;

In the opinion of the OCFA, the offeror fails to make progress in the performance of the requirements of the Contract;

The offeror gives the OCFA a positive indication that the offeror will not or cannot perform to the requirements of the Contract.

Each payment obligation of the OCFA created by this Contract is conditioned upon the availability of funds that are appropriated or allocated for the payment of such an obligation. If funds are not allocated by the OCFA and available for the continued purchase of the services and/or materials provided under this Contract, this Contract may be terminated by the OCFA at the end of the period for which funds are available.

The OCFA will endeavor to notify the offeror in the event that continued service will or may be affected by non-appropriation. No penalty shall accrue to the OCFA in the event this provision is exercised, and the OCFA shall not be obligated or liable for any future payments due or for any damages as a result of termination under this paragraph.

### **UNFORESEEN DIFFICULTIES**

All loss or damage arising out of the nature of the work to be done under the contract, or from any unforeseen obstructions or difficulties which may be encountered during the progress of the work and in the prosecution of the same, or from encumbrances on the line of work, shall be sustained by the offeror, except as may be otherwise specifically provided by the contract documents.

## SECTION V: PROPOSAL REQUIREMENTS

To achieve a uniform review process and obtain the maximum degree of comparability, it is required that the proposals be organized in the manner specified. Proposals will only be accepted from offerors that meet the minimum qualifications. All offerors are expected to provide detailed answers to the proposal requirements listed below. The answers provided will be relevant in the evaluation process of the proposal. Additional information, if provided, should be separately identified in the proposal.

Proposals (submittals) shall include, at a minimum, the following:

- 1) **Transmittal letter:** Letter should be on the offeror's letterhead. The letter should be signed by the Prime Contractor or in the case of a joint venture or other joint-prime relationship; an officer of each venture partner shall sign on behalf of the proposing offeror. The letter should explain the offeror's understanding, approach and strategy for achieving the objectives outlined in the scope of work. The letter must be signed by an individual authorized to bind the offeror.
- 2) **Offeror's detailed information:** Provide a brief profile of the offeror including background and size, professional credentials, the types of services offered, the year founded, form of organization (corporation, partnership, sole proprietorship), including number of years in business, location of office(s), number of employees, and number of clients you have currently. An organizational chart, displaying name of owners and principal parties, number and position titles of staff should also be provided. Please complete the Appendix A - Offeror's Information.
- 3) **Ability to meet General Requirements:** Based on the requirements listed on pages 6 - 16 and on the provided attachment, demonstrate how your business can meet OCFA requirements. This information will be considered during the evaluation process.
- 4) **Relevant Experience:** Offerors shall demonstrate experience in performing apparatus bay door services. Knowledge of public agency needs is desirable and should be specifically cited for consideration.
  - a. Describe prior work experience.
  - b. Describe the industries, specific issues, and government agencies (if any) your business has performed Apparatus Bay Door Repair and Maintenance Services for.
  - c. Provide a list of the municipal agencies your business has worked with during the past five years. Provide the following information for three agencies which are similar in size and scope to the project requested by this proposal:
    - i. Name, address and telephone of the agency
    - ii. Time period for the project
    - iii. Brief description of the scope of the services provided
    - iv. Person to contact for a reference
- 5) **List of References:** Describe the process and experience of five (5) other projects performed entirely by the offeror. Please complete Appendix B include the agency contact, email address and telephone number, with an explanation as to the level of effort. These agencies may be contacted as references.
- 6) **Questionnaire:** Please complete the provided Appendix C – Questionnaire.
- 7) **Offer/Cost Proposal:** The pricing should include the total price proposed to accomplish all the performance and deliverables requested by the OCFA, and offered by your company, in this RFP. See the Appendix D - Price proposal page included in the RFP document. Please provide your



Offer/Cost Proposal as Attachment B with your submittal in a separate envelope or as a the cost file thorough the online bidding system.

- 8) **Certification Page:** Provide an Appendix E – Certification of Proposal with authorized signature.
- 9) **Party Participant and Agent Disclosure Forms:** In conformance with the statutory requirements of the State of California Government Code Section 84308, part of the Political Reform Act and Title 2, California Code of Regulations 18438 through 18438.8, regarding campaign contributions to members of appointed Boards of Directors, offeror is required to complete the Party and Participant Disclosure Forms provided in Appendix F of this RFP and submit as part of the proposal, if applicable.
- 10) **Contractor's Licensing Statement:** Please complete the provided Appendix G – Contractor's Licensing Statement.
- 11) **List of Subcontractors:** Please complete the provided Appendix H – List of Subcontractors if subcontractors will be assigned to this project.
- 12) **Certification of Non-Discrimination by Contractors:** Provide an Appendix I – Certification of Non-Discrimination by Contractors with authorized signature.
- 13) **Debarment and Suspension Certification:** Provide an Appendix J – Debarment and Suspension Certification with authorized signature.
- 14) **Prevailing Wage Certification:** Provide an Appendix K – Prevailing Wage Certification with authorized signature.
- 15) **Worker's Compensation Insurance Certification:** Provide an Appendix L – Worker's Compensation Insurance Certification with authorized signature.
- 16) **W-9:** Provide an IRS W-9 Form with submittal.

## SECTION VI: EVALUATION OF PROPOSALS AND NEGOTIATIONS

Proposals must fully address the evaluation factors; contain references and data to verify qualifications and experience that address the offeror's ability to provide services and deliverables as outlined in the scope of work. All proposals will be reviewed by an evaluation committee comprised of OCFA staff for compliance with the scope of work including documented capability to perform the prescribed work in a satisfactory manner. Respondents should respond to all requirements in the order in which they are presented. Proposals, which appear to be compliant, will be evaluated in accordance with the following:

- A. *Method of Approach (maximum points 20)*** - This set of criteria assesses how well the offeror responds to and demonstrates understanding of the RFP. It assesses how well the service meets the required specifications and objectives in the solicitation including the quality and completeness of the proposal.
  - Overall responsiveness and completeness of the proposal.
  - Thoroughness of responses and demonstrated understanding of the requirements.
  - How well the proposal meets the needs of the OCFA.
  - Ability to meet general requirements
- B. *Qualifications & Experience (maximum points 30)*** - The offeror's history of performance and demonstrated ability in providing the service will be assessed in addition to the qualifications and experience of key-personnel assigned to the project team and relevant experience of the offeror.
  - Offeror's presentation of a qualified team, relevant design methodology, ability to communicate effectively and a demonstrated success in similar past projects.
  - Relative allocation of resources in terms of quality and quantity, to key tasks; time commitment to OCFA's needs.
- C. *Communications & Resources (maximum points 10)*** – The offeror's ability to communicate and provide resources to OCFA. Demonstration of offeror's resources, presence, and experience with other clients, ability to respond to requests in a timely manner.
- D. *Proposed Costs (maximum points 40)*** - The lowest price proposal will not necessarily be selected. OCFA is looking for the best value versus the lowest price. While cost is important, other criteria are also significant and the OCFA may not select the lowest cost proposal. The objective is to choose the proposal that offers the highest quality services and will achieve the project's goals and objectives within a reasonable budget.

Because this proposal is negotiable, all pricing data will remain confidential until after award is made, and there will be no public opening and reading of proposals. OCFA may request a best and final offer from the top ranking offerors for further evaluation and consideration. Overall responsiveness to the Request for Proposals is an important factor in the evaluation process.

## ADDITIONAL INFORMATION ABOUT THE EVALUATION PROCESS

### **A. *Shortlist:***

OCFA reserves the right to shortlist the offerors on all of the stated criteria. OCFA may determine that short listing is not necessary.

### **B. *Interviews/Demonstrations:***

OCFA reserves the right to conduct interviews and/or demonstrations with some or all of the offerors at any point during the evaluation process. However, OCFA may determine that interviews/demonstrations are not necessary. In the event interviews/demonstrations are conducted, information provided during the interview/demonstration process shall be taken into consideration when evaluating the stated criteria. OCFA shall not reimburse the offeror for the costs associated with the interview process. Demonstrations will be held at a time and place specified by OCFA. The offeror's key project team members will be invited to attend the interview/demonstration. The interviews will last approximately 60 minutes, with the time allocated between offeror's presentation and question and answer period. The offerors should be prepared to discuss at the interview, their specific experience providing services similar to those described in the RFP, project approach, estimated work effort, available resources, and other pertinent things that distinguish your business from others.

### ***Interview/Demonstration Rating Criteria:***

The following criteria and points will be used in evaluating and rating the short-listed offerors.

- Interview/Questions 20 points

The score achieved from the interview will be combined with the scoring for the initial evaluation, for a total. It is OCFA's intent to commence negotiations with the offeror(s) deemed most advantageous. OCFA reserves the right to re-evaluate the written proposal in light of any additional information provided in the interview.

### **C. *Additional Investigations:***

OCFA reserves the right to make such additional investigations as it deems necessary to establish the competence and financial stability of any offeror submitting a proposal.

### **D. *Prior Experience:***

Previous experiences with the proposer may be taken into consideration when evaluating qualifications and experience.

### **E. *Overall Evaluation of the Proposal Response:***

The overall completeness, accuracy and quality of the proposal may be taken into consideration when evaluating the qualifications and experience.

### **F. *Post-Proposal Discussions with Offerors:***

OCFA reserves the right to conduct post-proposal discussions with any offeror(s).

The offeror with the best ranking after negotiations will be recommended for award of the contract. When the evaluation team has completed its review of the proposals and the finalized the negotiated the best and final offer, the Purchasing Department will send a Notice of Intent to Award to the successful offeror. The award may be subject to OCFA Executive Committee approval.

## APPENDIX A - OFFEROR'S INFORMATION

Please complete and/or provide all requested information. If the proposal is submitted by a corporation, please provide an additional attachment that states the names of the officers who can sign an agreement on behalf of the corporation and whether more than one officer must sign. If the proposal is by a partnership or a joint venture, state the names and addresses of all general partners and joint venture parties. If the respondent is a sole proprietorship or another entity that does business under a fictitious name, the proposal shall be in the real name of the respondent with a designation following showing "DBA (the fictitious name)," provided however, that no fictitious name shall be used unless there is a current registration with the Orange County Recorder.

The undersigned, as respondent, declares that all documents regarding this proposal have been examined and accepted and that, if awarded, will enter into a contract with the Orange County Fire Authority.

Business Legal Name:		
Business Parent or Ownership:		
Address:		
Business Telephone No.	Business Fax No.	
Business Tax I.D. Number:	CSLB License Number:	DIR Registration Number:
Legal form of company: (partnership, corporation, joint venture)		
Length of time your business has been in business:	Length of time at current location:	
Number of employees and Number of Current Clients		

**Management person responsible for direct contact with the Orange County Fire Authority and service required for this Request for Proposal (RFP).**

Name:	Title:
Telephone No.:	E-mail:

**Person responsible for the day-to-day servicing of the account:**

Name:	Title:
Telephone No.:	E-mail:

**Please indicate if you are subject to the Party and Participant disclosure requirements. Yes No**  
**If yes, you are required to submit form/s (see Appendix F).**

**\*For additional information please see page 15 "Campaign Contribution Disclosure".**

## APPENDIX B - REFERENCES

Describe fully at least three contracts performed by your business that demonstrate your ability to provide the services included with the scope of the specifications. Attach additional pages if needed. OCFA reserves the right to contact each of the references listed for additional information regarding their experience with your company.

Customer Agency Name	
Contact Individual & Title	
E-mail/Telephone number	
Date of Project & Description of services provided including contract amount	
Customer Agency Name	
Contact Individual & Title	
E-mail/Telephone number	
Date of Project & Description of services provided including contract amount	
Customer Agency Name	
Contact Individual & Title	
E-mail/Telephone number	
Date of Project & Description of services provided including contract amount	
Customer Agency Name	
Contact Individual & Title	
E-mail/Telephone number	
Date of Project & Description of services provided including contract amount	
Customer Agency Name	
Contact Individual & Title	
E-mail/Telephone number	
Date of Project & Description of services provided including contract amount	

## APPENDIX C – PROPOSAL QUESTIONNAIRE

In addition to the written proposal that demonstrates the Respondent's understanding of the RFP, each Respondent shall also provide the following information. Social media links, brochures, advertisements, or the like will not be accepted as a direct response to the questionnaire. A qualifying proposal must address all items. Incomplete proposals may be rejected.

1. Provide information that demonstrates the competence of your business to provide the apparatus bay door repair and maintenance services as documented in the RFP. Include any manufacturer certifications and any specializations on the types of doors serviced such as bi-folds, telescoping, and roll-up doors.
2. Fire Stations and Headquarters operate as residences and commercial buildings. Describe your experience in providing services to a combination residential and commercial setting.
3. Provide information regarding your service area and describe any travel charges based on station locations as provided in Attachment A.
4. Provide information on how services are scheduled. Include your on call response time following telephone notification and explain how service calls are received and handled. Also provide a description of any automated processes involved.
5. Provide information on how the quality of services are monitored. Include any checklists or other tracking methods to insure all services requested have been completed.
6. Please describe your warranty terms for repair, parts, and service. Include your process for resolution in the case that any deficiencies are identified.
7. Please provide information on the number of personnel available to provide requested services.
8. Please provide the basis for future year contract fee adjustments should OCFA elect to exercise the contract extensions.
9. State any exceptions to or deviations from the requirements of this RFP and the sample maintenance services agreement. For each exception and/or suggested change, the respondent must include:
  - a. The suggested change in the agreement and suggested rewording of the contractual obligations
  - b. Reasons for submitting the proposed exception or change

## APPENDIX D - PRICING PAGE

**Proposal Costs** - The service charges information is relevant to a determination of whether the cost is fair and reasonable in light of the services to be provided. This section shall include the proposed costs to provide the services as described in your proposal. Any additional costs outside the scope of the agreement must be approved by the OCFA in writing before commencing services for said costs.

Refer to Attachment B to provide line item pricing. Please fill in the additional pricing sections for additional consideration. Any request for services estimated at \$5,000 or greater may require informal bidding and a one-time purchase order will be issued with department approval prior to start of work. These prices shall be used in ALL invoices. These prices shall include all mark ups and overhead.

**Please complete this section by providing Attachment B and submit with your bid in a separate envelope or through the cost file in the online bidding system.**

The OCFA reserves the right to request additional quotes and use alternate sources for completion of the work, to obtain competitive prices on any repair and replacement and to utilize information obtained under this contract relative to necessary materials and repairs as it deems appropriate.

**"PIGGYBACK" CLAUSE.** Offeror shall indicate below if he will extend the same prices, terms, and conditions of the proposal to other public agencies: Yes \_\_\_\_ No \_\_\_\_\_. Offeror's response to this question will not be considered in award of contract. When the offeror extends the prices, terms, and conditions of this proposal to other public agencies, the contract shall be between offeror and the other agencies, and the Orange County Fire Authority shall bear no responsibility or liability for the contracts.

**Term of Offer:** It is understood and agreed that this offer may not be withdrawn for a period of **one hundred eighty days** (180) from the Proposal Submittal Deadline, and at no time in case of successful offeror.

No pricing adjustment will be allowed in the first year of the contract.

## APPENDIX E - CERTIFICATION OF PROPOSAL

In responding to **RFP RO2220 – Apparatus Bay Door Repair and Maintenance Services**, the undersigned offeror(s) agrees to provide services for OCFA per the specifications. Offeror further agrees to the terms and conditions specified herein the following terms and conditions that are a part of this proposal and any resulting contract. **If there are any exceptions they must be stated in an attachment included with the offer.**

- A. The offeror hereby certifies that the individual signing the submittal is an authorized agent for the offeror and has the authority to legally bind the offeror to the Contract. Signature below verifies that the offeror has read, understands, and agrees to the conditions contained herein and on all of the attachments and agenda.
- B. The submission of the offer did not involve collusion or other anti-competitive practices.
- C. The offeror has not given, offered to give, nor intends to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, meal or service to a public servant in connection with the submitted offer.
- D. **The offeror has submitted the Party, Participant (Agent) Disclosure Form if applicable.**
- E. The offeror shall not discriminate against any employee or applicant for employment in violation of Federal or State law.
- F. The offeror complies fully with the Federal Debarment Certification regarding debarment suspension, ineligibility and voluntary exclusion.

**Independent Price Determination:** I certify that this offer is made without prior understanding, arrangement, agreement, or connection with any corporation, business or person submitting an offer for the same services, and is in all respects fair and without collusion or fraud. I certify that I have not entered into any arrangement or agreement with any Orange County Fire Authority public officer. I understand collusive bidding is a violation of State and Federal law and can result in fines, prison sentences, and civil damage awards. I agree to abide by all conditions of this offer and certify that I am authorized to sign this agreement for the offeror.

### TO THE ORANGE COUNTY FIRE AUTHORITY:

The Undersigned hereby offers and shall furnish the services in compliance with all terms, scope of work, conditions, specifications, and amendments in the Request for Proposal which is incorporated by reference as fully set forth herein. The representations herein are made under penalty of perjury.

\_\_\_\_\_  
Name of Business

\_\_\_\_\_  
Address

\_\_\_\_\_  
City

\_\_\_\_\_  
State

\_\_\_\_\_  
Zip

\_\_\_\_\_  
Signature of Person Authorized to Sign

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title



## **APPENDIX F**

### *PARTY AND PARTICIPANT DISCLOSURE FORMS*

## ORANGE COUNTY FIRE AUTHORITY PARTY DISCLOSURE

The attached Party Disclosure Form must be completed and submitted by the offeror and subcontractors with the proposal by all firms subject to the campaign contribution disclosure requirements stated on page 15 of this solicitation.

The Participant Disclosure Form must be completed by lobbyists or agents representing the offeror in this procurement.

It is anticipated that a recommendation for award of this contract will be presented to the Board of Directors of the OCFA for approval. (Please see next page for definitions of these terms.)

### IMPORTANT NOTICE

Basic Provisions of Government Code Section 84308

- A. If you are an applicant for, or the subject of, any contract award, you are prohibited from making a campaign contribution of more than \$250 to any board member or his or her alternate. This prohibition begins on the date the solicitation is initiated, and the prohibition ends three months after a final decision is rendered by the Board of Directors. In addition, no board member or alternate may solicit or accept a campaign contribution of more than \$250 from you during this period.
- B. These prohibitions also apply to your agents, and, if you are a closely held corporation, to your majority shareholder as well. These prohibitions also apply to your subcontractor(s), joint venture(s), and partner(s) in this proceeding. Also included are parent companies and subsidiary companies directed and controlled by you, and political action committees directed and controlled by you.
- C. You must file the attached disclosure form and disclose whether you or your agent(s) have in the aggregate contributed more than \$250 to any board member or his or her alternate during the 12-month period preceding the contract award.
- D. If you or your agent have in the aggregate contributed more than \$250 to any individual board member or his/or her alternate during the 12 months preceding the decision on the contract award or proceeding, that board member or alternate must disqualify himself or herself from the decision. However, disqualification is not required if the board member or alternate returns the campaign contribution within 30 days from the time the director knows, or should have known, about both the contribution and the fact that you are a party in the proceeding. The Party Disclosure Form should be completed and filed with your proposal, or with the first written document you file or submit after the proceeding commences.

A proceeding involving "a license, permit, or other entitlement for use" includes all business, professional, trade and land use licenses and permits, and all other entitlements<sup>1</sup> for use, including all entitlements for land use, all contracts<sup>2</sup> (other than competitively bid, labor or personal employment contracts), and all franchises.

- E. Your "agent" is someone who represents you in connection with a proceeding involving a license, permit or other entitlement for use. If an individual acting as an agent is also acting in his or her capacity as an employee or member of a law, architectural, engineering, consulting firm, or similar business entity, both the business entity and the individual are "agents."

- F. To determine whether a campaign contribution of more than \$250 has been made by you, campaign contributions made by you within the preceding 12 months must be aggregated with those made by your agent within the preceding 12 months or the period of the agency, whichever is shorter. Contributions made by your majority shareholder (if a closely held corporation), your subcontractor(s), your joint venture(s), and your partner(s) in this proceeding must also be included as part of the aggregation. Campaign contributions made to different directors or their alternates are not aggregated.
- G. A list of the members and alternates of the Board of Directors is attached.

This notice summarizes the major requirements of Government Code Section 84308 of the Political Reform Act and 2 Cal. Adm. Code Sections 18438-18438.8 as it relates to contract awards.

<sup>1</sup> *Entitlement for the purposes of this form refers to contract award.*

<sup>2</sup> *All Contracts for the purposes of this form refer to the contract award of this specific solicitation.*

**ORANGE COUNTY FIRE AUTHORITY**  
**PARTY DISCLOSURE FORM**

Party's Name: \_\_\_\_\_

Party's Address: \_\_\_\_\_

Party's Telephone: \_\_\_\_\_

Solicitation Title and Number: \_\_\_\_\_

Based on the party disclosure information provided, are you or your business subject to party disclosures?

No ☐ If no, check the box and sign below. Yes ☐ If yes, check the box, sign below and complete the form.

Date: \_\_\_\_\_

Signature of Party and/or Agent

***To be completed only if campaign contributions have been made in the preceding twelve (12) months. Attach additional copies if needed.***

Board Member(s) or Alternate(s) to whom you and/or your agent made campaign contributions and dates of contribution(s) in the preceding 12 months:

**Name of Member:** \_\_\_\_\_

**Name of Contributor (if other than Party):** \_\_\_\_\_

**Date(s):** \_\_\_\_\_

**Amount(s):** \_\_\_\_\_

**Name of Member:** \_\_\_\_\_

**Name of Contributor (if other than Party):** \_\_\_\_\_

**Date(s):** \_\_\_\_\_

**Amount(s):** \_\_\_\_\_

**Name of Member:** \_\_\_\_\_

**Name of Contributor (if other than Party):** \_\_\_\_\_

**Date(s):** \_\_\_\_\_

**Amount(s):** \_\_\_\_\_

**ORANGE COUNTY FIRE AUTHORITY  
PARTICIPANT (AGENT) DISCLOSURE**

The Participant Disclosure Form must be completed by lobbyists or agents representing the offeror in this procurement. (Please see next page for definitions of these terms.)

It is anticipated that a recommendation for award of this contract will be presented to the Board of Directors of the OCFA for approval.

**IMPORTANT NOTICE**

Basic Provisions of Government Code Section 84308

- A. If you are a participant in a proceeding involving any contract award, you are prohibited from making a campaign contribution of more than \$250 to any board member or his or her alternate. This prohibition begins on the date you begin to actively support or oppose an application for contract award pending before the OCFA or any of its affiliated agencies, and continues until three months after a final decision is rendered on the application or proceeding by the Board of Directors.

No board member or alternate may solicit or accept a campaign contribution of more than \$250 from you and/or your agency during this period if the board member or alternate knows or has reason to know that you are a participant.

- B. The attached disclosure form must be filed if you or your agent has contributed more than \$250 to any board member or alternate for the OCFA or any of its affiliated agencies during the 12-month period preceding the beginning of your active support or opposition (The disclosure form will assist the board members in complying with the law).

If you or your agent have made a contribution of more than \$250 to any board member or alternate during the 12 months preceding the decision in the proceeding, that board member or alternate must disqualify himself or herself from the decision. However, disqualification is not required if the member or alternate returns the campaign contribution within 30 days from the time the director knows, or should have known, about both the contribution and the fact that you are a participant in the proceeding

The Participant Disclosure Form should be completed and filed with the proposal submitted by a party, or should be completed and filed the first time that you lobby in person, testify in person before, or otherwise directly act to influence the vote of the board members of the OCFA or any of its affiliated agencies.

1. An individual or entity is a "participant" in a proceeding involving an application for a license, permit or other entitlement for use if:
  - a. The individual or entity is not an actual party to the proceeding, but does have a significant financial interest in the Authority's or one of its affiliated agencies' decisions in the proceeding.

AND

- b. The individual or entity, directly or through an agent, does any of the following:
    - (2) Communicates directly, either in person or in writing, with a board member or alternate of the OCFA or any of its affiliated agencies for the purpose of influencing the member's vote on the proposal;
    - (3) Communicates with an employee of the OCFA or any of its affiliated agencies for the purpose of influencing a member's vote on the proposal; or
    - (4) Testifies or makes an oral statement before the Board of Directors of the OCFA or any of its affiliated agencies.
2. A proceeding involving "a license, permit, or other entitlement for use" includes all business, professional, trade and land use licenses and permits, and all other entitlements for use, including all entitlements for land use; all contracts (other than competitively bid, labor, or personal employment contracts) and all franchises.
3. Your "agent" is someone who represents you in connection with a proceeding for this proposed involving a contract award. If an agent acting as an employee or member of a law, architectural, engineering, or consulting firm, or a similar business entity or corporation, both the business entity or corporation and the individual are agents.
4. To determine whether a campaign contribution of more than \$250 has been made by a participant or his or her agent, contributions made by the participant within the preceding 12 months shall be aggregated with those made by the agent within the preceding 12 months or the period of the agency, whichever is shorter. Campaign contributions made to different members or alternates are not aggregated.
5. A list of the members and alternates of the Board of Directors is attached.

This notice summarizes the major requirements of Government Code Section 84308 and 2 Cal. Adm. Code Sections 18438-18438.8.

**ORANGE COUNTY FIRE AUTHORITY**  
**PARTICIPANT DISCLOSURE FORM**

***To be completed only if campaign contributions have been made in the preceding twelve (12) months. Attach additional copies if needed.***

Prime's Business Name: \_\_\_\_\_

Party's Name: \_\_\_\_\_

Party's Address: \_\_\_\_\_  
\_\_\_\_\_

Party's Telephone: \_\_\_\_\_

Solicitation Title and Number: \_\_\_\_\_

Date: \_\_\_\_\_

Signature of Party and/or Agent \_\_\_\_\_

Board Member(s) or Alternate(s) to whom you and/or your agent made campaign contributions and dates of contribution(s) in the preceding 12 months:

**Name of Member:** \_\_\_\_\_

**Name of Contributor (if other than Party):** \_\_\_\_\_

**Date(s):** \_\_\_\_\_

**Amount(s):** \_\_\_\_\_

**Name of Member:** \_\_\_\_\_

**Name of Contributor (if other than Party):** \_\_\_\_\_

**Date(s):** \_\_\_\_\_

**Amount(s):** \_\_\_\_\_

**Name of Member:** \_\_\_\_\_

**Name of Contributor (if other than Party):** \_\_\_\_\_

**Date(s):** \_\_\_\_\_

**Amount(s):** \_\_\_\_\_

**ORANGE COUNTY FIRE AUTHORITY**  
**Board of Directors**

<b>Elizabeth Swift, Chairman</b> City of Buena Park	<b>Ed Sachs, Vice Chairman</b> City of Mission Viejo
<b>Dave Harrington, Director</b> City of Aliso Viejo	<b>Rob Johnson, Director</b> City of Cypress
<b>Joseph Muller, Director</b> City of Dana Point	<b>Melissa Fox, Director</b> City of Irvine
<b>Michele Steggell, Director</b> City of La Palma	<b>Don Sedgwick, Director</b> City of Laguna Hills
<b>Laurie Davies, Director</b> City of Laguna Niguel	<b>Noel Hatch, Director</b> City of Laguna Woods
<b>Leah Basile, Director</b> City of Lake Forest	<b>Shelley Hasselbrink, Director</b> City of Los Alamitos
<b>Gene Hernandez, Director</b> City of Yorba Linda	<b>Craig Green, Director</b> City of Placentia
<b>Carol Gamble, Director</b> City of Rancho Santa Margarita	<b>Tim Brown, Director</b> City of San Clemente
<b>Sergio Farias, Director</b> City of San Juan Capistrano	<b>Vicente Sarmiento, Director</b> City of Santa Ana
<b>Ellery Deaton, Director</b> City of Seal Beach	<b>David John Shawver, Director</b> City of Stanton
<b>Al Murray, Director</b> City of Tustin	<b>Bill Nelson, Director</b> City of Villa Park
<b>Tri Ta, Director</b> City of Westminster	<b>Lisa Bartlett, Director</b> County of Orange
<b>Todd Spitzer, Director</b> County of Orange	



**APPENDIX G****CONTRACTOR'S LICENSING STATEMENT**

The undersigned certifies that the Contractor is licensed in accordance with the laws of the State of California. The successful Contractor and subcontractors are required to hold the State of California Contractor's License(s) and DIR registration as required by SB854. Provide additional contractor's license details if applicable.

Contractor's License No. \_\_\_\_\_ Class \_\_\_\_\_ Expiration \_\_\_\_\_

Department of Industrial Relations (DIR) # \_\_\_\_\_

Name of Individual Contractor \_\_\_\_\_

Signature of Owner \_\_\_\_\_

Business Address \_\_\_\_\_

*If the contractor operates under a partnership provide the name of the firm, name, title and address below.*

Name of Firm \_\_\_\_\_

Business Address \_\_\_\_\_

Name \_\_\_\_\_ Title \_\_\_\_\_

Address \_\_\_\_\_

Name \_\_\_\_\_ Title \_\_\_\_\_

Address \_\_\_\_\_

*If the contractor operates under a corporation, provide the name and address below in addition to the signatures of the President and Secretary.*

Name of Corporation \_\_\_\_\_

Business Address \_\_\_\_\_

Corporation organized under the laws of the State of California

\_\_\_\_\_ Signature of the Corporation President

\_\_\_\_\_ Signature of the Corporation Secretary

Date \_\_\_\_\_

## APPENDIX H

### LIST OF SUBCONTRACTORS

Contractor acknowledges and agrees that under Public Contract Code section 4100, et seq., it must clearly set forth below the name and location of each subcontractor who will perform work or labor or render service to the contractor in or about the work in an amount in excess of one-half of one percent (0.5%) of contractor's total bid and the kind of work that each will perform. Furthermore, contractor acknowledges and agrees that under Public Contract Code section 4100, et seq., if contractor fails to list as to any portion of work, or if contractor lists more than one subcontractor to perform the same portion of work (i.e. contractor must indicate what portion of the work each subcontractor will perform), contractor must perform that portion itself or be subjected to penalty under applicable law.

If alternate bids are called for and contractor intends to use subcontractors different from or in addition to those subcontractors listed for work under the base bid, contractor must list subcontractors that will perform work in an amount in excess of one half of one percent (0.5%) of contractor's total bid, including alternates.

In case more than one subcontractor is named for the same kind of work, the Contractor is to state the portion of work that each subcontractor will perform. contractors or suppliers of materials only do not need to be listed. If further space is required for the list of proposed subcontractors, additional sheets showing the required information, as indicated below, shall be attached hereto and made a part of this document.

Listed below is the name of each subcontractor that will perform work, labor, or render services to the undersigned related to the work of this project. This is to include any subcontractor that will specially fabricate and install a portion of work according to detailed drawings contained in the plans and specifications in the amount greater than one half of one percent (.05%) of the contractors total bid.

<b>Subcontractor Name</b> _____	<b>Location</b> _____
<b>Portion of Work/Trade</b> _____	
<b>Bid Amount</b> _____	
<b>Contractor's License Number</b> _____	<b>DIR Number</b> _____
<b>Subcontractor Name</b> _____	<b>Location</b> _____
<b>Portion of Work/Trade</b> _____	
<b>Bid Amount</b> _____	
<b>Contractor's License Number</b> _____	<b>DIR Number</b> _____

**APPENDIX I****CERTIFICATION OF NON-DISCRIMINATION BY CONTRACTORS**

Labor Code Section 1735 requires that no discrimination be made in the employment of persons upon public works because of the race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status or sex of such persons, except as provided in Government Code Section 12940.

The business listed below certifies that it does not discriminate in its employment with regard to the factors set forth in Labor Code Section 1735; that it is in compliance with all federal, state and local directives and executive orders regarding non-discrimination in employment; and that it agrees to demonstrate positively and aggressively the principle of equal employment opportunity in employment.

We agree specifically:

1. To establish or observe employment policies which affirmatively promote opportunities for minority persons at all job levels.
2. To communicate this policy to all persons concerned, including all business employees, outside recruiting services, especially those serving minority communities, and to the minority communities at large.
3. To take affirmative steps to hire minority employees within the company.

**Business Name** \_\_\_\_\_

**Signature** \_\_\_\_\_

**Printed Name/Title of Business Representative** \_\_\_\_\_

**Date** \_\_\_\_\_

Please include any additional information available regarding equal opportunity employment programs now in effect within your company.

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**APPENDIX J****DEBARMENT AND SUSPENSION CERTIFICATION****TITLE 49, CODE OF FEDERAL REGULATIONS, PART 29**

The Contractor, under penalty of perjury, certifies that, except as noted below, he/she or any other person associated therewith in the capacity of owner, partner, director, officer, manager:

- is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any Federal agency;
- has not been suspended, debarred, voluntarily excluded or determined ineligible by any Federal agency within the past 3 years;
- does not have a proposed debarment pending; and
- has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past 3 years.

If there are any exceptions to this certification, insert the exceptions in the following space.

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Exceptions will not necessarily result in denial of award, but will be considered in determining contractor responsibility. For any exception noted above, indicate below to whom it applies, initiating agency, and dates of action.

Note: Providing false information may result in criminal prosecution or administrative sanctions.

**Business Name** \_\_\_\_\_

**Signature** \_\_\_\_\_

**Printed Name/Title of Business Representative** \_\_\_\_\_

**Date** \_\_\_\_\_

## APPENDIX K

### PREVAILING WAGE CERTIFICATION

#### RFP RO2220

#### Apparatus Bay Door Repair and Maintenance Services

I hereby certify that I will conform to the State of California Public Works Contract requirements regarding prevailing wages, benefits, on-site audits with 48-hour notice, payroll records, and apprentice and trainee employment requirements, for all Services on the above Project, including, without limitation, the State labor compliance monitoring and enforcement by the Compliance Monitoring Unit of the Department of Industrial Relations, if this Project is subject to a labor compliance.

Date \_\_\_\_\_

Legal Name of Contractor \_\_\_\_\_

Signature \_\_\_\_\_

Print Name \_\_\_\_\_

Title \_\_\_\_\_

## APPENDIX L

### WORKER'S COMPENSATION INSURANCE CERTIFICATION

#### RFP RO2220

Apparatus Bay Door Repair and Maintenance Services

Labor Code section 3700 in relevant part provides:

Every employer except the State shall secure the payment of compensation in one or more of the following ways:

- a. By being insured against liability to pay compensation in one or more insurers duly authorized to write compensation insurance in this state.
- b. By securing from the Director of Industrial Relations, a certificate of consent to self- insure, which may be given upon furnishing proof satisfactory to the Director of Industrial Relations of ability to self-insure and to pay any compensation that may become due to his employees.

I am aware of the provisions of Section 3700 of the Labor Code which requires 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 work of this contract.

Date \_\_\_\_\_

Legal Name of Contractor \_\_\_\_\_

Signature \_\_\_\_\_

Print Name \_\_\_\_\_

Title \_\_\_\_\_

(In accordance with Article 5 - commencing at section 1860, chapter 1, part 7, division 2 of the Labor Code, the above certificate must be signed and filed with the awarding body prior to performing any work under this Contract.)

## **EXHIBIT 1**

### *SAMPLE MAINTENANCE SERVICES AGREEMENT*

**ORANGE COUNTY FIRE AUTHORITY  
APPARATUS BAY DOOR MAINTENANCE AND REPAIR AGREEMENT**

THIS AGREEMENT FOR APPARATUS BAY DOOR MAINTENANCE AND REPAIR SERVICES ("Agreement") is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2017 ("Effective Date"), by and between the Orange County Fire Authority, a California Joint Powers Authority, hereinafter referred to as "OCFA", and \_\_\_\_\_, a Corporation, hereinafter referred to as "Contractor". OCFA and Contractor are sometimes hereinafter individually referred to as "Party" and are hereinafter collectively referred to as the "Parties".

**RECITALS**

A. OCFA requires the services of a qualified contractor to provide apparatus bay door maintenance and repair services at the OCFA Regional Fire Operations and Training Center (RFOTC) located at 1 Fire Authority Rd. Irvine, CA 92602, fire stations, and other properties.

B. Contractor has submitted to OCFA a proposal to provide such apparatus bay door maintenance and repair services dated \_\_\_\_\_, as modified by its Best and Final Offer, dated \_\_\_\_\_, copies of which are maintained on file with the Clerk of the Authority, and both of which are incorporated herein by this reference ("Contractor's Proposal").

C. OCFA desires to retain Contractor to provide such apparatus bay door maintenance and repair services

NOW, THEREFORE, in consideration of the promises and mutual obligations, covenants, and conditions contained herein, the Parties agree as follows:

**AGREEMENT**

**1. MAINTENANCE SERVICES**

**1.1 Scope of Services.**

In compliance with all terms and conditions of this Agreement, Contractor shall provide those apparatus bay door maintenance and repair services under a fixed-price contract as specified in the Scope of Services, attached hereto as Exhibit "A" (hereinafter, the "Services" or "Work"). Contractor warrants that all apparatus bay door maintenance and repair Services shall be performed in a skillful, competent, professional and satisfactory manner in accordance with all standards prevalent in the same discipline in the State of California. Contractor represents and warrants that it and all of its employees and subcontractors providing any Work or Services under this Agreement shall have sufficient skill and expertise to perform the Services and Work



assigned to them. All Services and Work shall be completed to the reasonable satisfaction of the OCFA.

## **1.2 Contract Documents.**

This Agreement shall consist of the following: (1) this Agreement, inclusive of Exhibit "A"; (2) OCFA Request for Proposals Number RO2220 (the "RFP"), and (3) Contractor's Proposal. Should any conflict or inconsistency exist in the Contract Documents, the conflict or inconsistency shall be resolved by applying the provisions in the highest priority document, which shall be determined in the following order of priority: (1<sup>st</sup>) this Agreement, (2<sup>nd</sup>) the RFP, and (3<sup>rd</sup>) Contractor's Proposal.

## **1.3 Compliance with Law.**

Contractor shall comply at all times during the term of this Agreement with all laws, ordinances, resolutions, statutes, rules, and regulations of OCFA and any federal, state or local governmental agency of competent jurisdiction. Contractor shall be liable for all violations of such laws, ordinances, resolutions, statutes, rules and regulations in connection with performing the Work and Services. If Contractor performs any Work or Services in violation of such laws, ordinances, resolutions, statutes, rules or regulations, Contractor shall be solely responsible for all penalties and costs arising therefrom. Contractor shall defend, indemnify, and hold OCFA, its officials, officers, employees, agents and volunteers, free and harmless from any claim or liability arising out of any failure or alleged failure to comply with such laws, ordinances, resolutions, statutes, rules or regulations.

## **1.4 Licenses and Permits.**

Prior to performing any Services or Work hereunder, Contractor shall obtain all licenses, permits, qualifications, and approvals of whatever nature that are legally required to practice its profession and perform the Work and Services required by this Agreement. Contractor represents and warrants to OCFA that Contractor shall, at its sole cost and expense, keep in effect at all times during the term of this Agreement and any extension, any license, permit, qualification, or approval that is legally required for Contractor to perform the Work and Services under this Agreement. Contractor 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 Contractor's performance of the Work and Services required by this Agreement, and shall defend, indemnify, and hold the OCFA, its officials, officers, employees, agents and volunteers, free and harmless from and against any claim or liability arising out of any failure or alleged failure to obtain such license, permits, and approvals of whatever nature that are legally required to perform the Work or Services.

## **1.5 Familiarity with Work.**

By executing this Agreement, Contractor warrants that Contractor (a) has thoroughly investigated and considered the Services to be performed, (b) has carefully considered how the Services should be performed and has carefully examined the location or locations at or with respect to where the Services or Work is to be performed, and (c) fully understands the facilities, difficulties and restrictions attending performance of the Services under this Agreement. If the Services involve work upon any site, Contractor represents and maintains that Contractor has or will investigate the site and is or will become fully acquainted with the conditions there existing, prior to the commencement of any Services hereunder. Should the Contractor discover any latent or unknown conditions that will materially affect the performance of the Services hereunder, Contractor shall immediately inform OCFA of such fact and shall not proceed with any work except at Contractor's risk until written instructions are received from the Contract Officer.

#### **1.6 Care of Work.**

Contractor shall adopt and follow reasonable procedures and methods during the term of the Agreement to prevent loss or damage to materials, papers or other components of the Work, and shall be responsible for all such damage until acceptance of the Work by OCFA, except such loss or damages as may be caused by OCFA's own negligence.

#### **1.7 Prevailing Wage.**

Contractor is aware of the requirements of California Labor Code Section 1720, et seq., and 1770, et seq., as well as California Code of Regulations, Title 8, Section 16000, et seq., ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on "public works" and "maintenance" projects. Contractor agrees to fully comply with all applicable federal and state labor laws (including, without limitation, if applicable, the Prevailing Wage Laws). It is agreed by the Parties that, in connection with the Work or Services provided pursuant to this Agreement, Contractor shall bear all risks of payment or non-payment of prevailing wages under California law, and Contractor hereby agrees to defend, indemnify, and hold the OCFA, its officials, officers, employees, agents and volunteers, free and harmless from any claim or liability arising out of any failure or alleged failure to comply with the Prevailing Wage Laws. The foregoing indemnity shall survive termination of this Agreement.

### **2. COMPENSATION**

#### **2.1 Maximum Contract Amount.**

For the Services rendered pursuant to this Agreement, Contractor shall be compensated and reimbursed, in accordance with the terms set forth in Exhibit "A," in an amount not to exceed \$ \_\_\_\_\_ (\_\_\_\_\_ Dollars). The maximum amount of

OCFA's payment obligation under this Agreement is the amount specified in this section ("Maximum Contract Amount").

## **2.2 Method of Payment.**

In any month in which Contractor wishes to receive payment, Contractor shall no later than the first working day of such month, submit to OCFA in the form approved by OCFA's Director of Finance, an invoice for services rendered prior to the date of the invoice. OCFA shall pay Contractor for all expenses stated thereon which are approved by OCFA consistent with this Agreement, within thirty (30) days of receipt of Contractor's invoice.

## **2.3 Changes.**

In the event any change or changes in the Work is requested by OCFA, the Parties shall execute a written amendment to this Agreement, setting forth with particularity all terms of such amendment, including, but not limited to, any additional fees for services. An amendment may be entered into, among other things: (a) to provide for revisions or modifications to documents or other work product or work when documents or other work product or work is required by the enactment or revision of law subsequent to the preparation of any documents, other work product or work; and/or (b) to provide for additional services not included in this Agreement or not customarily furnished in accordance with generally accepted practice in Contractor's profession.

## **2.4 Appropriations.**

This Agreement is subject to and contingent upon funds being appropriated therefore by the OCFA Board of Directors for each fiscal year covered by the Agreement. If such appropriations are not made, this Agreement shall automatically terminate without penalty to OCFA.

# **3. PERFORMANCE SCHEDULE**

## **3.1 Time of Essence.**

Time is of the essence in the performance of this Agreement. The time for completion of the Services to be performed by Contractor is an essential condition of this Agreement.

## **3.2 Schedule of Performance.**

Contractor shall prosecute regularly and diligently the work of this Agreement according to the time periods specified in Exhibit "A." When requested by Contractor, extensions of the time periods specified in Exhibit "A" may be approved in writing by the Contract Officer; however, OCFA shall not be obligated to grant such an extension.

### **3.3 Force Majeure.**

The time for performance of Services to be rendered pursuant to this Agreement may be extended because of any delays due to unforeseeable causes beyond the control and without the fault or negligence of the Contractor (financial inability excepted), including, but not restricted to, acts of God or of a public enemy, unusually severe weather, fires, earthquakes, floods, epidemics, quarantine restrictions, riots, strikes, freight embargoes, wars, and/or acts of any governmental agency, including the OCFA, if the Contractor, within ten (10) days of the commencement of such condition, notifies the Contract Officer in writing of the causes of the delay. The Contract Officer shall thereupon ascertain the facts and the extent of the delay, and extend the time for performing the Services for the period of the enforced delay when and if in the Contract Officer's judgment such delay is justified. The Contract Officer's determination shall be final and conclusive upon the Parties to this Agreement. In no event shall Contractor be entitled to recover damages against OCFA for any delay in the performance of this Agreement, however caused, Contractor's sole remedy being extension of the Agreement pursuant to this section.

### **3.4 Term.**

Unless earlier terminated in accordance with Section 8.5 of this Agreement, this Agreement shall commence upon the Effective Date, and shall continue in full force and effect for an initial one-year term ("Initial Term"). Thereafter, at the sole option of the OCFA, the Agreement may be extended for up to four additional one-year renewal terms. Following the Initial Term, and prior to any subsequent renewal term, the Contractor may increase the annual cost of Services. In no event, however, shall an increase in annual cost of Services exceed current prices plus three (3) percent per year or the percentage increase in the Consumer Price Index-Urban (CPI-U) for the immediately preceding 12-month period, whichever is lower.

## **4. COORDINATION OF WORK**

### **4.1 Representative of Contractor.**

The following principal of the Contractor is hereby designated as being the principal and representative of Contractor authorized to act in its behalf with respect to the Services to be performed under this Agreement and make all decisions in connection therewith: \_\_\_\_\_

It is expressly understood that the experience, knowledge, capability and reputation of the foregoing principal is a substantial inducement for OCFA to enter into this Agreement. Therefore, the foregoing principal shall be responsible during the term of this Agreement for directing all activities of Contractor and devoting sufficient time to personally supervise the Services performed hereunder. The foregoing principal may

not be changed by Contractor without the express written approval of the Contract Officer.

#### **4.2 Contract Officer.**

The Contract Officer shall be Steve Klein, unless otherwise designated in writing by OCFA. It shall be the Contractor's responsibility to keep the Contract Officer fully informed of the progress of the performance of the Services and Contractor shall refer any decisions that must be made by OCFA to the Contract Officer. Unless otherwise specified herein, any approval of OCFA required hereunder shall mean the approval of the Contract Officer. The Contract Officer shall have authority to sign all documents on behalf of the OCFA required hereunder to carry out the terms of this Agreement.

#### **4.3 Prohibition Against Subcontracting or Assignment.**

The experience, knowledge, capability and reputation of Contractor, its principals and employees, were a substantial inducement for OCFA to enter into this Agreement. Therefore, Contractor shall not contract with any other entity to perform in whole or in part the services required hereunder without the express written approval of OCFA. If Contractor is permitted to subcontract any part of this Agreement by OCFA, Contractor shall be responsible to OCFA for the acts and omissions of its subcontractor(s) in the same manner as it is for persons directly employed. Nothing contained in this Agreement shall create any contractual relationships between any subcontractor and OCFA. All persons engaged in the Work will be considered employees of Contractor. OCFA will deal directly with and will make all payments to Contractor. In addition, neither this Agreement nor any interest herein may be assigned, transferred, conveyed, hypothecated, or encumbered voluntarily or by operation of law, whether for the benefit of creditors or otherwise, without the prior written approval of OCFA. 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 Contractor, 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 Contractor or any surety of Contractor from any liability hereunder without the express written consent of OCFA.

#### **4.4 Independent Contractor.**

A. The legal relationship between the Parties is that of an independent contractor, and nothing herein shall be deemed to make Contractor, or any of its personnel, an OCFA employee. During the performance of this Agreement, Contractor and its officers, employees, and agents shall act in an independent capacity and shall not act as OCFA officers or employees. Contractor will determine the means, methods and details of performing the Services subject to the requirements of this Agreement. The personnel performing the Services under this Agreement on behalf of

Contractor shall at all times be under Contractor's exclusive direction and control. Neither OCFA nor any of its officials, officers, employees, agents or volunteers shall have control over the conduct of Contractor or any of its officers, employees, or agents, except as set forth in this Agreement. Contractor, its officers, employees or agents, shall not maintain a permanent office or fixed business location at OCFA's offices. OCFA shall have no voice in the selection, discharge, supervision, or control of Contractor's officers, employees, representatives or agents or in fixing their number, compensation, or hours of service. Contractor shall pay all wages, salaries, and other amounts due its employees in connection with the performance of Services under this Agreement and shall be responsible for all reports and obligations respecting them, including but not limited to social security income tax withholding, unemployment compensation, workers' compensation, and other similar matters. OCFA shall not in any way or for any purpose be deemed to be a partner of Contractor in its business or otherwise a joint venturer or a member of any joint enterprise with Contractor.

B. Contractor shall not incur or have the power to incur any debt, obligation, or liability against OCFA, or bind OCFA in any manner.

C. No OCFA benefits shall be available to Contractor, its officers, employees, or agents, in connection with the performance of any Work or Services under this Agreement. Except for professional fees paid to Contractor as provided for in this Agreement, OCFA shall not pay salaries, wages, or other compensation to Contractor for the performance of any Work or Services under this Agreement. OCFA shall not be liable for compensation or indemnification to Contractor, its officers, employees, or agents, for injury or sickness arising out of performing any Work or Services hereunder. If for any reason any court or governmental agency determines that the OCFA has financial obligations, other than pursuant to Section 2 herein, of any nature relating to salary, taxes, or benefits of Contractor's officers, employees, representatives, agents, or subconsultants or subcontractors, Contractor shall defend, indemnify, and hold harmless OCFA from and against all such financial obligations.

#### **4.5 Employee Retirement System Eligibility Indemnification.**

A. In the event that Contractor or any employee, agent, or subcontractor of Contractor providing any Work or Services under this Agreement claims or is determined by a court of competent jurisdiction to be eligible for enrollment in an employee retirement system as an employee of the OCFA, Contractor shall indemnify, defend, and hold harmless OCFA against: (1) all such claim(s) and determination(s); (2) for the payment of any employee and/or employer contributions for employee retirement system benefits on behalf of Contractor or its employees, agents or subcontractors; and (3) the payment of any penalties and interest on such contributions which would otherwise be the responsibility of the OCFA.

B. Notwithstanding any other agency, state or federal policy, rule, regulation, law or ordinance to the contrary, Contractor and any of its employees,

agents, and subcontractors providing any Work or Services under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any claims to, any compensation, benefit, or any incident of employment by OCFA, including but not limited to eligibility to enroll in PERS as an employee of OCFA and entitlement to any contribution to be paid by OCFA for employer contribution and/or employee contributions for PERS benefits.

## **5. INSURANCE**

### **5.1 Compliance with Insurance Requirements.**

Contractor shall obtain, maintain, and keep in full force and effect during the term of this Agreement, at its sole cost and expense, and in a form and content satisfactory to OCFA, all insurance required under this section. Contractor shall not commence any Work or Services under this Agreement unless and until it has provided evidence satisfactory to OCFA that it has secured all insurance required under this section. In addition, Contractor shall not allow any subconsultant or subcontractor to commence any Work or Services until it has provided evidence satisfactory to OCFA that the subconsultant or subcontractor has secured all insurance required under this section. If Contractor's existing insurance policies do not meet the insurance requirements set forth herein, Contractor agrees to amend, supplement or endorse the policies to do so.

### **5.2 Types of Insurance Required.**

As a condition precedent to the effectiveness of this Agreement, and without limiting the indemnity provisions set forth in this Agreement, Contractor shall obtain and maintain in full force and effect during the term of this Agreement, including any extension thereof, the following policies of insurance:

A. Commercial General Liability Insurance. Contractor shall obtain and maintain, in full force and effect throughout the term of this Agreement, a policy of Commercial General Liability Insurance written on an occurrence basis with limits of at least one million dollars (\$1,000,000.00) per occurrence, two million dollars (\$2,000,000.00) in the general aggregate, and one million dollars (\$1,000,000.00) for products and completed operations. Defense costs shall be paid in addition to the limits. The policy shall contain no endorsements or provisions limiting coverage for (1) contractual liability; (2) cross liability exclusion for claims or suits by one insured against another; or (3) contain any other exclusion contrary to the Agreement.

B. Automobile Liability Insurance. Contractor shall obtain and maintain, in full force and effect throughout the term of this Agreement, a policy of Automobile Liability Insurance written on a per occurrence basis with limits of at least one million dollars (\$1,000,000.00) combined limit for each occurrence covering bodily injury and property damage. The policy shall specifically include coverage for owned, non-owned, leased, and hired automobiles.

C. Workers' Compensation Insurance. Contractor shall obtain and maintain, in full force and effect throughout the term of this Agreement, a policy of Workers' Compensation Insurance in at least the minimum statutory amounts, and in compliance with all other statutory requirements, as required by the State of California. Contractor agrees to waive and obtain endorsements from its workers' compensation insurer waiving all subrogation rights under its workers' compensation insurance policy against the OCFA, its officials, officers, employees, agents and volunteers, and to require each of its subconsultants and subcontractors, if any, to do likewise under their workers' compensation insurance policies. Contractor shall obtain and maintain, in full force and effect throughout the term of this Agreement, a policy of Employer's Liability Insurance written on a per occurrence basis with limits of at least one million dollars (\$1,000,000.00) per accident for bodily injury or disease.

### **5.3 Acceptability of Insurers.**

Insurance required by this section shall be issued by a licensed company authorized to transact business in the state by the Department of Insurance for the State of California with a current rating of A:VII or better (if an admitted carrier), or a current rating of A:X or better (if offered by a non-admitted insurer) listed on the State of California List of Eligible Surplus Lines Insurers (LESLI), by the latest edition of A.M. Best's Key Rating Guide, except that the OCFA will accept workers' compensation insurance from the State Compensation Fund. In the event the OCFA determines that the Work or Services to be performed under this Agreement creates an increased or decreased risk of loss to the OCFA, the Contractor agrees that the minimum limits of the insurance policies may be changed accordingly upon receipt of written notice from the OCFA. Contractor shall immediately substitute any insurer whose A.M. Best rating drops below the levels specified herein.

### **5.4 Insurance Endorsements.**

Required insurance policies shall not be in compliance if they include any limiting provision or endorsement that has not been submitted to the OCFA for written approval. Required insurance policies shall contain the following provisions, or Contractor shall provide endorsements on forms approved by the OCFA to add the following provisions to the insurance policies:

A. The policy or policies of insurance required by this section for Commercial General Liability and Automobile Liability Insurance shall be endorsed to provide the following:

(i) Additional Insured: The OCFA, its officials, officers, employees, agents and volunteers, shall be additional insureds with regard to liability and defense of suits or claims arising out of the performance of the Agreement; and



(ii) Additional Insured Endorsements: Additional insured endorsements shall not (1) be restricted to “ongoing operations”, (2) exclude “contractual liability”, (3) restrict coverage to “sole” liability of Contractor, or (4) contain any other exclusions contrary to the Agreement; and, the coverage shall contain no special limitations on the scope of protection afforded to additional insureds.

(iii) Notice: The policy or policies of insurance required by this section for Commercial General Liability and Automobile Liability Insurance shall be endorsed to state that coverage shall not be suspended, voided, cancelled, or modified, or reduced in coverage or in limits, except after thirty (30) days’ prior written notice by First Class U.S. Mail, postage-prepaid, has been provided to the OCFA. Notwithstanding the foregoing, if coverage is to be suspended, voided, or cancelled because of Consultant’s failure to pay the insurance premium, the notice provided to OCFA shall be by ten (10) days’ prior written notice.

B. For all policies of Commercial General Liability Insurance, Contractor shall provide endorsements for ongoing operations and completed operations to effectuate this requirement.

#### **5.5 Deductibles and Self-Insured Retentions.**

Any deductible or self-insured retention must be approved in writing by the OCFA in advance and shall protect the OCFA, its officials, officers, employees, agents and volunteers, in the same manner and to the same extent as they would have been protected had the policy or policies not contained a deductible or self-insured retention.

#### **5.6 Primary and Non-Contributing Insurance.**

All policies of Commercial General Liability Insurance and Automobile Liability Insurance shall be primary and any other insurance, deductible, or self-insurance maintained by the OCFA, its officials, officers, employees, agents or volunteers, shall not contribute with this primary insurance. Policies shall contain or be endorsed to contain such provisions.

#### **5.7 Waiver of Subrogation.**

All policies of Commercial General Liability and Automobile Liability Insurance shall contain or be endorsed to waive subrogation against the OCFA, its officials, officers, employees, agents and volunteers, or shall specifically allow Contractor or others providing insurance evidence in compliance with the requirements set forth in this section to waive their right to recovery prior to a loss. Contractor hereby agrees to waive its own right of recovery against the OCFA, its officials, officers, employees, agents and volunteers, and Contractor hereby agrees to require similar written express waivers and insurance clauses from each of its subconsultants or subcontractors.

## **5.8 Evidence of Coverage.**

Concurrently with the execution of this Agreement, Contractor shall deliver certificates of insurance together with original endorsements affecting each of the insurance policies required by this section. Required insurance policies shall not be in compliance if they include any limiting provision or endorsement that has not been submitted to the OCFA for written approval. The certificates of insurance and original endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf. At least fifteen (15) days prior to the expiration of any such policy, evidence of insurance showing that such insurance coverage has been renewed or extended shall be filed with the OCFA. If such coverage is cancelled or reduced and not replaced immediately so as to avoid a lapse in the required coverage, Contractor shall, within ten (10) days after receipt of written notice of such cancellation or reduction of coverage, file with the OCFA evidence of insurance showing that the required insurance has been reinstated or has been provided through another insurance company or companies. Contractor shall promptly furnish, at OCFA's request, copies of actual policies including all declaration pages, endorsements, exclusions and any other policy documents OCFA requires to verify coverage.

## **5.9 Requirements Not Limiting.**

Requirement of specific coverage or minimum 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. Nothing in this section shall be construed as limiting in any way the indemnification provision contained in this Agreement, or the extent to which Contractor may be held responsible for payments of damages to persons or property.

## **5.10 Enforcement of Agreement (Non-Estoppel).**

Contractor acknowledges and agrees that actual or alleged failure on the part of the OCFA to inform Contractor of any non-compliance with any of the insurance requirements set forth in this section imposes no additional obligation on the OCFA nor does it waive any rights hereunder.

## **5.11 Insurance for Subconsultants.**

Contractor shall include all subconsultants or subcontractors engaged in any Work or Services for Contractor relating to this Agreement as additional insureds under the Contractor's insurance policies, or Contractor shall be responsible for causing its subconsultants or subcontractors to procure and maintain the appropriate insurance in compliance with the terms of the insurance requirements set forth in this section, including adding the OCFA, its officials, officers, employees, agents and volunteers, as additional insureds to their respective policies. All policies of Commercial General Liability Insurance provided by Contractor's subconsultants or subcontractors performing any Work or Services related to this Agreement shall be endorsed to name

the OCFA, its officials, officers, employees, agents and volunteers, as additional insureds. Contractor shall not allow any subconsultant or subcontractor to commence any Work or Services relating to this Agreement unless and until it has received satisfactory evidence of their compliance with all insurance requirements under this Agreement, to the extent applicable. Contractor agrees to provide satisfactory evidence of compliance with this subsection upon request of the OCFA.

#### **5.12 Other Insurance Requirements.**

The following terms and conditions shall apply to the insurance policies required of Contractor pursuant to this Agreement:

A. Contractor shall provide immediate written notice to OCFA if (1) any of the insurance policies required herein are terminated, cancelled or suspended, (2) the limits of any of the insurance coverages required herein are reduced, or (3) the deductible or self-insured retention is increased.

B. All insurance coverage and limits provided by Contractor and available or applicable to this Agreement are intended to apply to each insured, including additional insureds, against whom a claim is made or suit is brought to the full extent of the policies. Nothing contained in this Agreement or any other agreement relating to the OCFA or its operations shall limit the application of such insurance coverage.

C. None of the insurance coverages required herein will be in compliance with the requirements of this section if they include any limiting endorsement which substantially impairs the coverages set forth herein (e.g., elimination of contractual liability or reduction of discovery period), unless the endorsement has first been submitted to the OCFA and approved in writing.

D. Certificates of insurance will not be accepted in lieu of required endorsements, and submittal of certificates without required endorsements may delay commencement of the Work. It is Contractor's obligation to ensure timely compliance with all insurance submittal requirements as provided herein.

E. Contractor agrees to ensure that subconsultants and subcontractors, if any, and any other parties involved with the Work under this Agreement who are brought onto or involved in the Work by Contractor, provide the same minimum insurance coverage required of Contractor. Contractor 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. Contractor agrees that upon request, all agreements with subcontractors and others engaged in the Work will be submitted to the OCFA for review.

F. Contractor agrees to provide immediate written notice to OCFA of any claim, demand or loss against Contractor arising out of the Work or

Services performed under this Agreement and for any other claim, demand or loss which may reduce the insurance available to pay claims, demands or losses arising out of this Agreement.

## **6. INDEMNIFICATION**

To the fullest extent permitted by law, Contractor shall defend (at Contractor's sole cost and expense with legal counsel reasonably acceptable to OCFA), indemnify and hold the OCFA, its officials, officers, employees, agents and volunteers, free and harmless from any and all claims, demands, orders, causes of action, costs, expenses, liabilities, losses, penalties, judgments, arbitration awards, settlements, damages or injuries of any kind, in law or in equity, including but not limited to property or persons, including wrongful death, (collectively "Claims") in any manner arising out of, pertaining to, related to, or incident to any alleged acts, errors or omissions, or willful misconduct of Contractor, its officers, directors, employees, subcontractors, Contractors or agents, in connection with Contractor's performance under this Agreement, including without limitation the payment of all consequential damages, expert witness fees and attorneys' fees and other related costs and expenses. Notwithstanding the foregoing, to the extent that the Work or Services performed by Contractor are subject to Civil Code Section 2782.8, the above indemnity shall be limited, to the extent required by Civil Code Section 2782.8, to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Contractor. Under no circumstances shall the insurance requirements and limits set forth in this Agreement be construed to limit Contractor's indemnification obligation or other liability hereunder. Notwithstanding the foregoing, such obligation to defend, hold harmless and indemnify the OCFA, its officials, officers, employees, agents and volunteers, shall not apply to the extent that such Claims are caused in part by the sole negligence or willful misconduct of the OCFA.

## **7. RECORDS AND REPORTS**

### **7.1 Reports.**

Contractor shall periodically prepare and submit to the Contract Officer such reports concerning the performance of the Services required by this Agreement as the Contract Officer shall require.

### **7.2 Records.**

Contractor shall keep complete, accurate, and detailed accounts of all time, costs, expenses, and expenditures pertaining in any way to this Agreement. Contractor shall keep such books and records as shall be necessary to properly perform the Services required by this Agreement and enable the Contract Officer to evaluate the performance of such Services. The Contract Officer shall have full and free access to such books and records at all reasonable times, including the right to inspect, copy, audit and make records and transcripts from such records. Contractor shall maintain

such books and records in accordance with generally accepted accounting principles and shall clearly identify and retain the same for a period of three (3) years from the date of final payment by OCFA hereunder.

### **7.3 Ownership of Documents.**

Except for any documents required by the rules of conduct governing Contractor's profession to be owned by Contractor, all drawings, specifications, reports, records, documents and other materials prepared by Contractor, its employees, subconsultants, subcontractors and agents in the performance of this Agreement shall be the property of OCFA and shall be delivered to OCFA upon request of the Contract Officer or upon the termination of this Agreement, and Contractor shall have no claim for further employment or additional compensation as a result of the exercise by OCFA of its full rights or ownership of the documents and materials hereunder. Contractor may retain copies of such documents for its own use. Contractor shall have an unrestricted right to use the concepts embodied therein. Contractor shall ensure that all of its subconsultants and subcontractors shall provide for assignment to OCFA of any documents or materials prepared by them, and in the event Contractor fails to secure such assignment, Contractor shall indemnify OCFA for all damages resulting therefrom.

### **7.4 Release of Documents.**

All drawings, specifications, reports, records, documents and other materials prepared by Contractor, its employees, subconsultants, subcontractors and agents in the performance of Services under this Agreement shall not be released publicly without the prior written approval of the Contract Officer.

## **8. ENFORCEMENT OF AGREEMENT**

### **8.1 California Law.**

This Agreement shall be construed and interpreted 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 Orange, State of California, or any other appropriate court in such county, and Contractor covenants and agrees to submit to the personal jurisdiction of such court in the event of such action.

### **8.2 Waiver.**

No delay or omission in the exercise of any right or remedy of a non-defaulting Party on any default shall impair such right or remedy or be construed as a waiver. No consent or approval of OCFA shall be deemed to waiver or render unnecessary OCFA's consent to or approval of any subsequent act of Contractor. 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.

### **8.3 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.

### **8.4 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 injunctive relief, a declaratory judgment, or any other remedy consistent with the purposes of this Agreement.

### **8.5 Termination Prior to Expiration of Term.**

OCFA reserves the right to terminate this Agreement at any time, with or without cause, upon thirty (30) days' written notice to Contractor, except that where termination is due to the fault of the Contractor and constitutes an immediate danger to health, safety and general welfare, the period of notice shall be such shorter time as may be appropriate. Upon receipt of the notice of termination, Contractor shall immediately cease all Services hereunder except such as may be specifically approved by the Contract Officer. Contractor shall be entitled to compensation for all services rendered prior to receipt of the notice of termination and for any services authorized by the Contract Officer thereafter.

Contractor may terminate this Agreement, with or without cause, upon thirty (30) days' written notice to OCFA.

### **8.6 Termination for Default of Contractor.**

A. Contractor's failure to comply with any provision of this Agreement shall constitute a default.

B. If the Contract Officer, determines that Contractor is in default in the performance of any of the terms or conditions of this Agreement, he/she shall notify Contractor in writing of such default. Contractor shall have ten (10) days, or such longer period as OCFA may designate, to cure the default by rendering satisfactory performance. In the event Contractor fails to cure its default within such period of time, OCFA shall have the right, notwithstanding any other provision of this Agreement, to terminate this Agreement without further notice and without prejudice of any remedy to which OCFA may be entitled at law, in equity, or under this Agreement. Contractor shall be liable for any and all reasonable costs incurred by OCFA as a result of such default. Compliance with the provisions of this section shall not constitute a

waiver of any OCFA right to take legal action in the event that the dispute is not cured, provided that nothing herein shall limit OCFA's right to terminate this Agreement without cause pursuant to Section 8.5.

C. If termination is due to the failure of the Contractor to fulfill its obligations under this Agreement, OCFA may, after compliance with the provisions of Section 8.6(B), take over the work and prosecute the same to completion by contract or otherwise, and the Contractor shall be liable to the extent that the total cost for completion of the Services required hereunder exceeds the Maximum Contract Amount (provided that the OCFA shall use reasonable efforts to mitigate such damages), and OCFA may withhold any payments to the Contractor for the purpose of set-off or partial payment of the amounts owed the OCFA as previously stated. The withholding or failure to withhold payments to Contractor shall not limit Contractor's liability for completion of the Services as provided herein.

#### **8.7 Attorneys' Fees.**

In the event any dispute between the Parties with respect to this Agreement results in litigation or any non-judicial proceeding, the prevailing Party shall be entitled, in addition to such other relief as may be granted, to recover from the non-prevailing Party all reasonable costs and expenses, including but not limited to reasonable attorneys' fees, expert witness fees, court costs and all fees, costs, and expenses incurred in any appeal or in collection of any judgment entered in such proceeding. To the extent authorized by law, in the event of a dismissal by the plaintiff or petitioner of the litigation or non-judicial proceeding within thirty (30) days of the date set for trial or hearing, the other Party shall be deemed to be the prevailing Party in such litigation or proceeding.

### **9. OCFA OFFICERS AND EMPLOYEES; NON-DISCRIMINATION**

#### **9.1 Non-Liability of OCFA Officers and Employees.**

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

#### **9.2 Covenant Against Discrimination.**

Contractor covenants that, by and for itself, its heirs, executors, assigns, and all persons claiming under or through them, that there shall be no discrimination or segregation in the performance of or in connection with this Agreement regarding any person or group of persons on account of race, disability, medical condition, color, creed, religion, sex, sexual orientation, marital status, age, national origin, or ancestry. Contractor shall take affirmative action to insure that applicants and employees are

treated without regard to their race, disability, medical condition, color, creed, religion, sex, sexual orientation, marital status, national origin, or ancestry.

## **10. MISCELLANEOUS PROVISIONS**

### **10.1 Notice.**

Any notice, demand, request, 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 pre-paid, first-class mail to the address set forth below. Either Party may change its address by notifying the other Party of the change of address in writing. Notice shall be deemed communicated forty-eight (48) hours from the time of mailing if mailed as provided in this Section.

To OCFA:

Orange County Fire Authority  
Attention: Steve Klein  
1 Fire Authority Road  
Irvine, CA 92602

To Contractor:

### **10.2 Entire Agreement.**

This Agreement constitutes the entire agreement between the Parties and supersedes all prior negotiations, arrangements, agreements, representations, and understandings, if any, made by or among the Parties with respect to the subject matter hereof. No amendments or other modifications of this Agreement shall be binding unless executed in writing by both Parties hereto, or their respective successors, assigns, or grantees.

### **10.3 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 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 shall be interpreted to carry out the intent of the Parties hereunder.



#### **10.4 Successors in Interest.**

This Agreement shall be binding upon and inure to the benefit of the Parties' successors and assignees.

#### **10.5 Third Party Beneficiary.**

Nothing contained in this Agreement is intended to confer, nor shall this Agreement be construed as conferring, any rights, including, without limitation, any rights as a third-party beneficiary or otherwise, upon any entity or person not a party hereto.

#### **10.6 Recitals.**

The above-referenced Recitals are hereby incorporated into the Agreement as though fully set forth herein and each Party acknowledges and agrees that such Party is bound, for purposes of this Agreement, by the same.

#### **10.7 Survival.**

Any responsibility of Contractor for warranties, insurance, indemnity, record-keeping or compliance with laws with respect to this Agreement shall not be invalidated due to the expiration or termination of this Agreement.

#### **10.8 Corporate Authority.**

Each of the undersigned represents and warrants that (i) the Party for which he/she is executing this Agreement is duly authorized and existing, (ii) he/she is duly authorized to execute and deliver this Agreement on behalf of the Party for which he/she is signing, (iii) by so executing this Agreement, the Party for which he/she is signing is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which the Party for which he/she is signing is bound.

IN WITNESS WHEREOF, the Parties have executed and entered into this Agreement as of the date first written above.

**“OCFA”**

**ORANGE COUNTY FIRE AUTHORITY**

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Debbie Casper, Purchasing Manager

**“CONTRACTOR”**

Date: \_\_\_\_\_

By: \_\_\_\_\_

## EXHIBIT A

DRAFT

## **ORANGE COUNTY FIRE AUTHORITY APPARATUS BAY DOOR MAINTENANCE AND REPAIR AGREEMENT**

THIS AGREEMENT FOR APPARATUS BAY DOOR MAINTENANCE AND REPAIR SERVICES ("Agreement") is made and entered into this \_\_\_\_\_ day of October, 2017 ("Effective Date"), by and between the Orange County Fire Authority, a California Joint Powers Authority, hereinafter referred to as "OCFA", and Action Door Repair Inc., a California Corporation, hereinafter referred to as "Contractor". OCFA and Contractor are sometimes hereinafter individually referred to as "Party" and are hereinafter collectively referred to as the "Parties".

### **RECITALS**

A. OCFA requires the services of a qualified contractor to provide apparatus bay door maintenance and repair services at the OCFA Regional Fire Operations and Training Center, OCFA fire stations, and other OCFA properties.

B. Contractor has submitted to OCFA a proposal to provide such apparatus bay door maintenance and repair services dated August 22, 2017, a copy of which is maintained on file with the Clerk of the Authority and is incorporated herein by this reference ("Contractor's Proposal").

C. OCFA desires to retain Contractor to provide such apparatus bay door maintenance and repair services

NOW, THEREFORE, in consideration of the promises and mutual obligations, covenants, and conditions contained herein, the Parties agree as follows:

### **AGREEMENT**

#### **1. MAINTENANCE SERVICES**

##### **1.1 Scope of Services.**

In compliance with all terms and conditions of this Agreement, Contractor shall provide those apparatus bay door maintenance and repair services under a fixed-price contract as specified in the Scope of Services, attached hereto as Exhibit "A" (hereinafter, the "Services" or "Work"). Contractor warrants that all apparatus bay door maintenance and repair Services shall be performed in a skillful, competent, professional and satisfactory manner in accordance with all standards prevalent in the same discipline in the State of California. Contractor represents and warrants that it and all of its employees and subcontractors providing any Work or Services under this Agreement shall have sufficient skill and expertise to perform the Services and Work assigned to them. All Services and Work shall be completed to the reasonable satisfaction of the OCFA.

## **1.2 Contract Documents.**

This Agreement shall consist of the following: (1) this Agreement, inclusive of Exhibit "A"; (2) OCFA Request for Proposals Number RO2220 (the "RFP"), and (3) Contractor's Proposal. Should any conflict or inconsistency exist in the Contract Documents, the conflict or inconsistency shall be resolved by applying the provisions in the highest priority document, which shall be determined in the following order of priority: (1<sup>st</sup>) this Agreement, (2<sup>nd</sup>) the RFP, and (3<sup>rd</sup>) Contractor's Proposal.

## **1.3 Compliance with Law.**

Contractor shall comply at all times during the term of this Agreement with all laws, ordinances, resolutions, statutes, rules, and regulations of OCFA and any federal, state or local governmental agency of competent jurisdiction. Contractor shall be liable for all violations of such laws, ordinances, resolutions, statutes, rules and regulations in connection with performing the Work and Services. If Contractor performs any Work or Services in violation of such laws, ordinances, resolutions, statutes, rules or regulations, Contractor shall be solely responsible for all penalties and costs arising therefrom. Contractor shall defend, indemnify, and hold OCFA, its officials, officers, employees, agents and volunteers, free and harmless from any claim or liability arising out of any failure or alleged failure to comply with such laws, ordinances, resolutions, statutes, rules or regulations.

## **1.4 Licenses and Permits.**

Prior to performing any Services or Work hereunder, Contractor shall obtain all licenses, permits, qualifications, and approvals of whatever nature that are legally required to practice its profession and perform the Work and Services required by this Agreement. Contractor represents and warrants to OCFA that Contractor shall, at its sole cost and expense, keep in effect at all times during the term of this Agreement and any extension, any license, permit, qualification, or approval that is legally required for Contractor to perform the Work and Services under this Agreement. Contractor 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 Contractor's performance of the Work and Services required by this Agreement, and shall defend, indemnify, and hold the OCFA, its officials, officers, employees, agents and volunteers, free and harmless from and against any claim or liability arising out of any failure or alleged failure to obtain such license, permits, and approvals of whatever nature that are legally required to perform the Work or Services.

## **1.5 Familiarity with Work.**

By executing this Agreement, Contractor warrants that Contractor (a) has thoroughly investigated and considered the Services to be performed, (b) has carefully considered how the Services should be performed and has carefully examined the location or locations at or with respect to where the Services or Work is to be

performed, and (c) fully understands the facilities, difficulties and restrictions attending performance of the Services under this Agreement. If the Services involve work upon any site, Contractor represents and maintains that Contractor has or will investigate the site and is or will become fully acquainted with the conditions there existing, prior to the commencement of any Services hereunder. Should the Contractor discover any latent or unknown conditions that will materially affect the performance of the Services hereunder, Contractor shall immediately inform OCFA of such fact and shall not proceed with any work except at Contractor's risk until written instructions are received from the Contract Officer.

#### **1.6 Care of Work.**

Contractor shall adopt and follow reasonable procedures and methods during the term of the Agreement to prevent loss or damage to materials, papers or other components of the Work, and shall be responsible for all such damage until acceptance of the Work by OCFA, except such loss or damages as may be caused by OCFA's own negligence.

#### **1.7 Prevailing Wage.**

Contractor is aware of the requirements of California Labor Code Section 1720, et seq., and 1770, et seq., as well as California Code of Regulations, Title 8, Section 16000, et seq., ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on "public works" and "maintenance" projects. Contractor agrees to fully comply with all applicable federal and state labor laws (including, without limitation, if applicable, the Prevailing Wage Laws). It is agreed by the Parties that, in connection with the Work or Services provided pursuant to this Agreement, Contractor shall bear all risks of payment or non-payment of prevailing wages under California law, and Contractor hereby agrees to defend, indemnify, and hold the OCFA, its officials, officers, employees, agents and volunteers, free and harmless from any claim or liability arising out of any failure or alleged failure to comply with the Prevailing Wage Laws. The foregoing indemnity shall survive termination of this Agreement.

### **2. COMPENSATION**

#### **2.1 Maximum Contract Amount.**

For the Services rendered pursuant to this Agreement, Contractor shall be compensated and reimbursed, in accordance with the terms set forth in Exhibit "A," in an amount not to exceed \$100,000 (One Hundred Thousand Dollars). The maximum amount of OCFA's payment obligation under this Agreement is the amount specified in this section ("Maximum Contract Amount").

## **2.2 Method of Payment.**

In any month in which Contractor wishes to receive payment, Contractor shall no later than the first working day of such month, submit to OCFA in the form approved by OCFA's Director of Finance, an invoice for services rendered prior to the date of the invoice. OCFA shall pay Contractor for all expenses stated thereon which are approved by OCFA consistent with this Agreement, within thirty (30) days of receipt of Contractor's invoice.

## **2.3 Changes.**

In the event any change or changes in the Work is requested by OCFA, the Parties shall execute a written amendment to this Agreement, setting forth with particularity all terms of such amendment, including, but not limited to, any additional fees for services. An amendment may be entered into, among other things: (a) to provide for revisions or modifications to documents or other work product or work when documents or other work product or work is required by the enactment or revision of law subsequent to the preparation of any documents, other work product or work; and/or (b) to provide for additional services not included in this Agreement or not customarily furnished in accordance with generally accepted practice in Contractor's profession.

## **2.4 Appropriations.**

This Agreement is subject to and contingent upon funds being appropriated therefore by the OCFA Board of Directors for each fiscal year covered by the Agreement. If such appropriations are not made, this Agreement shall automatically terminate without penalty to OCFA.

# **3. PERFORMANCE SCHEDULE**

## **3.1 Time of Essence.**

Time is of the essence in the performance of this Agreement. The time for completion of the Services to be performed by Contractor is an essential condition of this Agreement.

## **3.2 Schedule of Performance.**

Contractor shall prosecute regularly and diligently the work of this Agreement according to the time periods specified in Exhibit "A." When requested by Contractor, extensions of the time periods specified in Exhibit "A" may be approved in writing by the Contract Officer; however, OCFA shall not be obligated to grant such an extension.

### **3.3 Force Majeure.**

The time for performance of Services to be rendered pursuant to this Agreement may be extended because of any delays due to unforeseeable causes beyond the control and without the fault or negligence of the Contractor (financial inability excepted), including, but not restricted to, acts of God or of a public enemy, unusually severe weather, fires, earthquakes, floods, epidemics, quarantine restrictions, riots, strikes, freight embargoes, wars, and/or acts of any governmental agency, including the OCFA, if the Contractor, within ten (10) days of the commencement of such condition, notifies the Contract Officer in writing of the causes of the delay. The Contract Officer shall thereupon ascertain the facts and the extent of the delay, and extend the time for performing the Services for the period of the enforced delay when and if in the Contract Officer's judgment such delay is justified. The Contract Officer's determination shall be final and conclusive upon the Parties to this Agreement. In no event shall Contractor be entitled to recover damages against OCFA for any delay in the performance of this Agreement, however caused, Contractor's sole remedy being extension of the Agreement pursuant to this section.

### **3.4 Term.**

Unless earlier terminated in accordance with Section 8.5 of this Agreement, this Agreement shall commence upon the Effective Date, and shall continue in full force and effect for an initial one-year term ("Initial Term"). Thereafter, at the sole option of the OCFA, the Agreement may be extended for up to two additional one-year renewal terms. Following the Initial Term, and prior to any subsequent renewal term, the Contractor may increase the annual cost of Services. In no event, however, shall an increase in annual cost of Services exceed current prices plus three (3) percent per year or the percentage increase in the Consumer Price Index-Urban (CPI-U) for the immediately preceding 12-month period, whichever is lower.

## **4. COORDINATION OF WORK**

### **4.1 Representative of Contractor.**

The following principal of the Contractor is hereby designated as being the principal and representative of Contractor authorized to act in its behalf with respect to the Services to be performed under this Agreement and make all decisions in connection therewith: Joseph "J.R." De Jaifre, Vice President

It is expressly understood that the experience, knowledge, capability and reputation of the foregoing principal is a substantial inducement for OCFA to enter into this Agreement. Therefore, the foregoing principal shall be responsible during the term of this Agreement for directing all activities of Contractor and devoting sufficient time to personally supervise the Services performed hereunder. The foregoing principal may not be changed by Contractor without the express written approval of the Contract Officer.



#### **4.2 Contract Officer.**

The Contract Officer shall be Steve Klein, unless otherwise designated in writing by OCFA. It shall be the Contractor's responsibility to keep the Contract Officer fully informed of the progress of the performance of the Services and Contractor shall refer any decisions that must be made by OCFA to the Contract Officer. Unless otherwise specified herein, any approval of OCFA required hereunder shall mean the approval of the Contract Officer. The Contract Officer shall have authority to sign all documents on behalf of the OCFA required hereunder to carry out the terms of this Agreement.

#### **4.3 Prohibition Against Subcontracting or Assignment.**

The experience, knowledge, capability and reputation of Contractor, its principals and employees, were a substantial inducement for OCFA to enter into this Agreement. Therefore, Contractor shall not contract with any other entity to perform in whole or in part the services required hereunder without the express written approval of OCFA. If Contractor is permitted to subcontract any part of this Agreement by OCFA, Contractor shall be responsible to OCFA for the acts and omissions of its subcontractor(s) in the same manner as it is for persons directly employed. Nothing contained in this Agreement shall create any contractual relationships between any subcontractor and OCFA. All persons engaged in the Work will be considered employees of Contractor. OCFA will deal directly with and will make all payments to Contractor. In addition, neither this Agreement nor any interest herein may be assigned, transferred, conveyed, hypothecated, or encumbered voluntarily or by operation of law, whether for the benefit of creditors or otherwise, without the prior written approval of OCFA. 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 Contractor, 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 Contractor or any surety of Contractor from any liability hereunder without the express written consent of OCFA.

#### **4.4 Independent Contractor.**

A. The legal relationship between the Parties is that of an independent contractor, and nothing herein shall be deemed to make Contractor, or any of its personnel, an OCFA employee. During the performance of this Agreement, Contractor and its officers, employees, and agents shall act in an independent capacity and shall not act as OCFA officers or employees. Contractor will determine the means, methods and details of performing the Services subject to the requirements of this Agreement. The personnel performing the Services under this Agreement on behalf of Contractor shall at all times be under Contractor's exclusive direction and control. Neither OCFA nor any of its officials, officers, employees, agents or volunteers shall

have control over the conduct of Contractor or any of its officers, employees, or agents, except as set forth in this Agreement. Contractor, its officers, employees or agents, shall not maintain a permanent office or fixed business location at OCFA's offices. OCFA shall have no voice in the selection, discharge, supervision, or control of Contractor's officers, employees, representatives or agents or in fixing their number, compensation, or hours of service. Contractor shall pay all wages, salaries, and other amounts due its employees in connection with the performance of Services under this Agreement and shall be responsible for all reports and obligations respecting them, including but not limited to social security income tax withholding, unemployment compensation, workers' compensation, and other similar matters. OCFA shall not in any way or for any purpose be deemed to be a partner of Contractor in its business or otherwise a joint venturer or a member of any joint enterprise with Contractor.

B. Contractor shall not incur or have the power to incur any debt, obligation, or liability against OCFA, or bind OCFA in any manner.

C. No OCFA benefits shall be available to Contractor, its officers, employees, or agents, in connection with the performance of any Work or Services under this Agreement. Except for professional fees paid to Contractor as provided for in this Agreement, OCFA shall not pay salaries, wages, or other compensation to Contractor for the performance of any Work or Services under this Agreement. OCFA shall not be liable for compensation or indemnification to Contractor, its officers, employees, or agents, for injury or sickness arising out of performing any Work or Services hereunder. If for any reason any court or governmental agency determines that the OCFA has financial obligations, other than pursuant to Section 2 herein, of any nature relating to salary, taxes, or benefits of Contractor's officers, employees, representatives, agents, or subconsultants or subcontractors, Contractor shall defend, indemnify, and hold harmless OCFA from and against all such financial obligations.

#### **4.5 Employee Retirement System Eligibility Indemnification.**

A. In the event that Contractor or any employee, agent, or subcontractor of Contractor providing any Work or Services under this Agreement claims or is determined by a court of competent jurisdiction to be eligible for enrollment in an employee retirement system as an employee of the OCFA, Contractor shall indemnify, defend, and hold harmless OCFA against: (1) all such claim(s) and determination(s); (2) for the payment of any employee and/or employer contributions for employee retirement system benefits on behalf of Contractor or its employees, agents or subcontractors; and (3) the payment of any penalties and interest on such contributions which would otherwise be the responsibility of the OCFA.

B. Notwithstanding any other agency, state or federal policy, rule, regulation, law or ordinance to the contrary, Contractor and any of its employees, agents, and subcontractors providing any Work or Services under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any claims to, any

compensation, benefit, or any incident of employment by OCFA, including but not limited to eligibility to enroll in PERS as an employee of OCFA and entitlement to any contribution to be paid by OCFA for employer contribution and/or employee contributions for PERS benefits.

## **5. INSURANCE**

### **5.1 Compliance with Insurance Requirements.**

Contractor shall obtain, maintain, and keep in full force and effect during the term of this Agreement, at its sole cost and expense, and in a form and content satisfactory to OCFA, all insurance required under this section. Contractor shall not commence any Work or Services under this Agreement unless and until it has provided evidence satisfactory to OCFA that it has secured all insurance required under this section. In addition, Contractor shall not allow any subconsultant or subcontractor to commence any Work or Services until it has provided evidence satisfactory to OCFA that the subconsultant or subcontractor has secured all insurance required under this section. If Contractor's existing insurance policies do not meet the insurance requirements set forth herein, Contractor agrees to amend, supplement or endorse the policies to do so.

### **5.2 Types of Insurance Required.**

As a condition precedent to the effectiveness of this Agreement, and without limiting the indemnity provisions set forth in this Agreement, Contractor shall obtain and maintain in full force and effect during the term of this Agreement, including any extension thereof, the following policies of insurance:

A. Commercial General Liability Insurance. Contractor shall obtain and maintain, in full force and effect throughout the term of this Agreement, a policy of Commercial General Liability Insurance written on an occurrence basis with limits of at least one million dollars (\$1,000,000.00) per occurrence, two million dollars (\$2,000,000.00) in the general aggregate, and one million dollars (\$1,000,000.00) for products and completed operations. Defense costs shall be paid in addition to the limits. The policy shall contain no endorsements or provisions limiting coverage for (1) contractual liability; (2) cross liability exclusion for claims or suits by one insured against another; or (3) contain any other exclusion contrary to the Agreement.

B. Automobile Liability Insurance. Contractor shall obtain and maintain, in full force and effect throughout the term of this Agreement, a policy of Automobile Liability Insurance written on a per occurrence basis with limits of at least one million dollars (\$1,000,000.00) combined limit for each occurrence covering bodily injury and property damage. The policy shall specifically include coverage for owned, non-owned, leased, and hired automobiles.

C. Workers' Compensation Insurance. Contractor shall obtain and maintain, in full force and effect throughout the term of this Agreement, a policy of Workers' Compensation Insurance in at least the minimum statutory amounts, and in compliance with all other statutory requirements, as required by the State of California. Contractor agrees to waive and obtain endorsements from its workers' compensation insurer waiving all subrogation rights under its workers' compensation insurance policy against the OCFA, its officials, officers, employees, agents and volunteers, and to require each of its subconsultants and subcontractors, if any, to do likewise under their workers' compensation insurance policies. Contractor shall obtain and maintain, in full force and effect throughout the term of this Agreement, a policy of Employer's Liability Insurance written on a per occurrence basis with limits of at least one million dollars (\$1,000,000.00) per accident for bodily injury or disease.

### **5.3 Acceptability of Insurers.**

Insurance required by this section shall be issued by a licensed company authorized to transact business in the state by the Department of Insurance for the State of California with a current rating of A:VII or better (if an admitted carrier), or a current rating of A:X or better (if offered by a non-admitted insurer) listed on the State of California List of Eligible Surplus Lines Insurers (LESLI), by the latest edition of A.M. Best's Key Rating Guide, except that the OCFA will accept workers' compensation insurance from the State Compensation Fund. In the event the OCFA determines that the Work or Services to be performed under this Agreement creates an increased or decreased risk of loss to the OCFA, the Contractor agrees that the minimum limits of the insurance policies may be changed accordingly upon receipt of written notice from the OCFA. Contractor shall immediately substitute any insurer whose A.M. Best rating drops below the levels specified herein.

### **5.4 Insurance Endorsements.**

Required insurance policies shall not be in compliance if they include any limiting provision or endorsement that has not been submitted to the OCFA for written approval. Required insurance policies shall contain the following provisions, or Contractor shall provide endorsements on forms approved by the OCFA to add the following provisions to the insurance policies:

A. The policy or policies of insurance required by this section for Commercial General Liability and Automobile Liability Insurance shall be endorsed to provide the following:

(i) Additional Insured: The OCFA, its officials, officers, employees, agents and volunteers, shall be additional insureds with regard to liability and defense of suits or claims arising out of the performance of the Agreement; and

(ii) Additional Insured Endorsements: Additional insured endorsements shall not (1) be restricted to "ongoing operations", (2) exclude

“contractual liability”, (3) restrict coverage to “sole” liability of Contractor, or (4) contain any other exclusions contrary to the Agreement; and, the coverage shall contain no special limitations on the scope of protection afforded to additional insureds.

(iii) Notice: The policy or policies of insurance required by this section for Commercial General Liability and Automobile Liability Insurance shall be endorsed to state that coverage shall not be suspended, voided, cancelled, or modified, or reduced in coverage or in limits, except after thirty (30) days’ prior written notice by First Class U.S. Mail, postage-prepaid, has been provided to the OCFA. Notwithstanding the foregoing, if coverage is to be suspended, voided, or cancelled because of Consultant’s failure to pay the insurance premium, the notice provided to OCFA shall be by ten (10) days’ prior written notice.

B. For all policies of Commercial General Liability Insurance, Contractor shall provide endorsements for ongoing operations and completed operations to effectuate this requirement.

#### **5.5 Deductibles and Self-Insured Retentions.**

Any deductible or self-insured retention must be approved in writing by the OCFA in advance and shall protect the OCFA, its officials, officers, employees, agents and volunteers, in the same manner and to the same extent as they would have been protected had the policy or policies not contained a deductible or self-insured retention.

#### **5.6 Primary and Non-Contributing Insurance.**

All policies of Commercial General Liability Insurance and Automobile Liability Insurance shall be primary and any other insurance, deductible, or self-insurance maintained by the OCFA, its officials, officers, employees, agents or volunteers, shall not contribute with this primary insurance. Policies shall contain or be endorsed to contain such provisions.

#### **5.7 Waiver of Subrogation.**

All policies of Commercial General Liability and Automobile Liability Insurance shall contain or be endorsed to waive subrogation against the OCFA, its officials, officers, employees, agents and volunteers, or shall specifically allow Contractor or others providing insurance evidence in compliance with the requirements set forth in this section to waive their right to recovery prior to a loss. Contractor hereby agrees to waive its own right of recovery against the OCFA, its officials, officers, employees, agents and volunteers, and Contractor hereby agrees to require similar written express waivers and insurance clauses from each of its subconsultants or subcontractors.

## **5.8 Evidence of Coverage.**

Concurrently with the execution of this Agreement, Contractor shall deliver certificates of insurance together with original endorsements affecting each of the insurance policies required by this section. Required insurance policies shall not be in compliance if they include any limiting provision or endorsement that has not been submitted to the OCFA for written approval. The certificates of insurance and original endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf. At least fifteen (15) days prior to the expiration of any such policy, evidence of insurance showing that such insurance coverage has been renewed or extended shall be filed with the OCFA. If such coverage is cancelled or reduced and not replaced immediately so as to avoid a lapse in the required coverage, Contractor shall, within ten (10) days after receipt of written notice of such cancellation or reduction of coverage, file with the OCFA evidence of insurance showing that the required insurance has been reinstated or has been provided through another insurance company or companies. Contractor shall promptly furnish, at OCFA's request, copies of actual policies including all declaration pages, endorsements, exclusions and any other policy documents OCFA requires to verify coverage.

## **5.9 Requirements Not Limiting.**

Requirement of specific coverage or minimum 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. Nothing in this section shall be construed as limiting in any way the indemnification provision contained in this Agreement, or the extent to which Contractor may be held responsible for payments of damages to persons or property.

## **5.10 Enforcement of Agreement (Non-Estoppel).**

Contractor acknowledges and agrees that actual or alleged failure on the part of the OCFA to inform Contractor of any non-compliance with any of the insurance requirements set forth in this section imposes no additional obligation on the OCFA nor does it waive any rights hereunder.

## **5.11 Insurance for Subconsultants.**

Contractor shall include all subconsultants or subcontractors engaged in any Work or Services for Contractor relating to this Agreement as additional insureds under the Contractor's insurance policies, or Contractor shall be responsible for causing its subconsultants or subcontractors to procure and maintain the appropriate insurance in compliance with the terms of the insurance requirements set forth in this section, including adding the OCFA, its officials, officers, employees, agents and volunteers, as additional insureds to their respective policies. All policies of Commercial General Liability Insurance provided by Contractor's subconsultants or subcontractors performing any Work or Services related to this Agreement shall be endorsed to name

the OCFA, its officials, officers, employees, agents and volunteers, as additional insureds. Contractor shall not allow any subconsultant or subcontractor to commence any Work or Services relating to this Agreement unless and until it has received satisfactory evidence of their compliance with all insurance requirements under this Agreement, to the extent applicable. Contractor agrees to provide satisfactory evidence of compliance with this subsection upon request of the OCFA.

#### **5.12 Other Insurance Requirements.**

The following terms and conditions shall apply to the insurance policies required of Contractor pursuant to this Agreement:

A. Contractor shall provide immediate written notice to OCFA if (1) any of the insurance policies required herein are terminated, cancelled or suspended, (2) the limits of any of the insurance coverages required herein are reduced, or (3) the deductible or self-insured retention is increased.

B. All insurance coverage and limits provided by Contractor and available or applicable to this Agreement are intended to apply to each insured, including additional insureds, against whom a claim is made or suit is brought to the full extent of the policies. Nothing contained in this Agreement or any other agreement relating to the OCFA or its operations shall limit the application of such insurance coverage.

C. None of the insurance coverages required herein will be in compliance with the requirements of this section if they include any limiting endorsement which substantially impairs the coverages set forth herein (e.g., elimination of contractual liability or reduction of discovery period), unless the endorsement has first been submitted to the OCFA and approved in writing.

D. Certificates of insurance will not be accepted in lieu of required endorsements, and submittal of certificates without required endorsements may delay commencement of the Work. It is Contractor's obligation to ensure timely compliance with all insurance submittal requirements as provided herein.

E. Contractor agrees to ensure that subconsultants and subcontractors, if any, and any other parties involved with the Work under this Agreement who are brought onto or involved in the Work by Contractor, provide the same minimum insurance coverage required of Contractor. Contractor 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. Contractor agrees that upon request, all agreements with subcontractors and others engaged in the Work will be submitted to the OCFA for review.

F. Contractor agrees to provide immediate written notice to OCFA of any claim, demand or loss against Contractor arising out of the Work or

Services performed under this Agreement and for any other claim, demand or loss which may reduce the insurance available to pay claims, demands or losses arising out of this Agreement.

## **6. INDEMNIFICATION**

To the fullest extent permitted by law, Contractor shall defend (at Contractor's sole cost and expense with legal counsel reasonably acceptable to OCFA), indemnify and hold the OCFA, its officials, officers, employees, agents and volunteers, free and harmless from any and all claims, demands, orders, causes of action, costs, expenses, liabilities, losses, penalties, judgments, arbitration awards, settlements, damages or injuries of any kind, in law or in equity, including but not limited to property or persons, including wrongful death, (collectively "Claims") in any manner arising out of, pertaining to, related to, or incident to any alleged acts, errors or omissions, or willful misconduct of Contractor, its officers, directors, employees, subcontractors, Contractors or agents, in connection with Contractor's performance under this Agreement, including without limitation the payment of all consequential damages, expert witness fees and attorneys' fees and other related costs and expenses. Notwithstanding the foregoing, to the extent that the Work or Services performed by Contractor are subject to Civil Code Section 2782.8, the above indemnity shall be limited, to the extent required by Civil Code Section 2782.8, to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Contractor. Under no circumstances shall the insurance requirements and limits set forth in this Agreement be construed to limit Contractor's indemnification obligation or other liability hereunder. Notwithstanding the foregoing, such obligation to defend, hold harmless and indemnify the OCFA, its officials, officers, employees, agents and volunteers, shall not apply to the extent that such Claims are caused in part by the sole negligence or willful misconduct of the OCFA.

## **7. RECORDS AND REPORTS**

### **7.1 Reports.**

Contractor shall periodically prepare and submit to the Contract Officer such reports concerning the performance of the Services required by this Agreement as the Contract Officer shall require.

### **7.2 Records.**

Contractor shall keep complete, accurate, and detailed accounts of all time, costs, expenses, and expenditures pertaining in any way to this Agreement. Contractor shall keep such books and records as shall be necessary to properly perform the Services required by this Agreement and enable the Contract Officer to evaluate the performance of such Services. The Contract Officer shall have full and free access to such books and records at all reasonable times, including the right to inspect, copy, audit and make records and transcripts from such records. Contractor shall maintain



such books and records in accordance with generally accepted accounting principles and shall clearly identify and retain the same for a period of three (3) years from the date of final payment by OCFA hereunder.

### **7.3 Ownership of Documents.**

Except for any documents required by the rules of conduct governing Contractor's profession to be owned by Contractor, all drawings, specifications, reports, records, documents and other materials prepared by Contractor, its employees, subconsultants, subcontractors and agents in the performance of this Agreement shall be the property of OCFA and shall be delivered to OCFA upon request of the Contract Officer or upon the termination of this Agreement, and Contractor shall have no claim for further employment or additional compensation as a result of the exercise by OCFA of its full rights or ownership of the documents and materials hereunder. Contractor may retain copies of such documents for its own use. Contractor shall have an unrestricted right to use the concepts embodied therein. Contractor shall ensure that all of its subconsultants and subcontractors shall provide for assignment to OCFA of any documents or materials prepared by them, and in the event Contractor fails to secure such assignment, Contractor shall indemnify OCFA for all damages resulting therefrom.

### **7.4 Release of Documents.**

All drawings, specifications, reports, records, documents and other materials prepared by Contractor, its employees, subconsultants, subcontractors and agents in the performance of Services under this Agreement shall not be released publicly without the prior written approval of the Contract Officer.

## **8. ENFORCEMENT OF AGREEMENT**

### **8.1 California Law.**

This Agreement shall be construed and interpreted 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 Orange, State of California, or any other appropriate court in such county, and Contractor covenants and agrees to submit to the personal jurisdiction of such court in the event of such action.

### **8.2 Waiver.**

No delay or omission in the exercise of any right or remedy of a non-defaulting Party on any default shall impair such right or remedy or be construed as a waiver. No consent or approval of OCFA shall be deemed to waiver or render unnecessary OCFA's consent to or approval of any subsequent act of Contractor. 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.

### **8.3 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.

### **8.4 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 injunctive relief, a declaratory judgment, or any other remedy consistent with the purposes of this Agreement.

### **8.5 Termination Prior to Expiration of Term.**

OCFA reserves the right to terminate this Agreement at any time, with or without cause, upon thirty (30) days' written notice to Contractor, except that where termination is due to the fault of the Contractor and constitutes an immediate danger to health, safety and general welfare, the period of notice shall be such shorter time as may be appropriate. Upon receipt of the notice of termination, Contractor shall immediately cease all Services hereunder except such as may be specifically approved by the Contract Officer. Contractor shall be entitled to compensation for all services rendered prior to receipt of the notice of termination and for any services authorized by the Contract Officer thereafter.

Contractor may terminate this Agreement, with or without cause, upon thirty (30) days' written notice to OCFA.

### **8.6 Termination for Default of Contractor.**

A. Contractor's failure to comply with any provision of this Agreement shall constitute a default.

B. If the Contract Officer, determines that Contractor is in default in the performance of any of the terms or conditions of this Agreement, he/she shall notify Contractor in writing of such default. Contractor shall have ten (10) days, or such longer period as OCFA may designate, to cure the default by rendering satisfactory performance. In the event Contractor fails to cure its default within such period of time, OCFA shall have the right, notwithstanding any other provision of this Agreement, to terminate this Agreement without further notice and without prejudice of any remedy to which OCFA may be entitled at law, in equity, or under this Agreement. Contractor shall be liable for any and all reasonable costs incurred by OCFA as a result of such default. Compliance with the provisions of this section shall not constitute a

waiver of any OCFA right to take legal action in the event that the dispute is not cured, provided that nothing herein shall limit OCFA's right to terminate this Agreement without cause pursuant to Section 8.5.

C. If termination is due to the failure of the Contractor to fulfill its obligations under this Agreement, OCFA may, after compliance with the provisions of Section 8.6(B), take over the work and prosecute the same to completion by contract or otherwise, and the Contractor shall be liable to the extent that the total cost for completion of the Services required hereunder exceeds the Maximum Contract Amount (provided that the OCFA shall use reasonable efforts to mitigate such damages), and OCFA may withhold any payments to the Contractor for the purpose of set-off or partial payment of the amounts owed the OCFA as previously stated. The withholding or failure to withhold payments to Contractor shall not limit Contractor's liability for completion of the Services as provided herein.

#### **8.7 Attorneys' Fees.**

In the event any dispute between the Parties with respect to this Agreement results in litigation or any non-judicial proceeding, the prevailing Party shall be entitled, in addition to such other relief as may be granted, to recover from the non-prevailing Party all reasonable costs and expenses, including but not limited to reasonable attorneys' fees, expert witness fees, court costs and all fees, costs, and expenses incurred in any appeal or in collection of any judgment entered in such proceeding. To the extent authorized by law, in the event of a dismissal by the plaintiff or petitioner of the litigation or non-judicial proceeding within thirty (30) days of the date set for trial or hearing, the other Party shall be deemed to be the prevailing Party in such litigation or proceeding.

### **9. OCFA OFFICERS AND EMPLOYEES; NON-DISCRIMINATION**

#### **9.1 Non-Liability of OCFA Officers and Employees.**

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

#### **9.2 Covenant Against Discrimination.**

Contractor covenants that, by and for itself, its heirs, executors, assigns, and all persons claiming under or through them, that there shall be no discrimination or segregation in the performance of or in connection with this Agreement regarding any person or group of persons on account of race, disability, medical condition, color, creed, religion, sex, sexual orientation, marital status, age, national origin, or ancestry. Contractor shall take affirmative action to insure that applicants and employees are

treated without regard to their race, disability, medical condition, color, creed, religion, sex, sexual orientation, marital status, national origin, or ancestry.

## **10. MISCELLANEOUS PROVISIONS**

### **10.1 Notice.**

Any notice, demand, request, 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 pre-paid, first-class mail to the address set forth below. Either Party may change its address by notifying the other Party of the change of address in writing. Notice shall be deemed communicated forty-eight (48) hours from the time of mailing if mailed as provided in this Section.

To OCFA:	Orange County Fire Authority Attention: Steve Klein 1 Fire Authority Road Irvine, CA 92602
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To Contractor:	Action Door Repair Inc. Attention: Christian Morrow 11362 Westminster Ave. Unit H Garden Grove, CA 92843
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### **10.2 Entire Agreement.**

This Agreement constitutes the entire agreement between the Parties and supersedes all prior negotiations, arrangements, agreements, representations, and understandings, if any, made by or among the Parties with respect to the subject matter hereof. No amendments or other modifications of this Agreement shall be binding unless executed in writing by both Parties hereto, or their respective successors, assigns, or grantees.

### **10.3 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 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 shall be interpreted to carry out the intent of the Parties hereunder.

#### **10.4 Successors in Interest.**

This Agreement shall be binding upon and inure to the benefit of the Parties' successors and assignees.

#### **10.5 Third Party Beneficiary.**

Nothing contained in this Agreement is intended to confer, nor shall this Agreement be construed as conferring, any rights, including, without limitation, any rights as a third-party beneficiary or otherwise, upon any entity or person not a party hereto.

#### **10.6 Recitals.**

The above-referenced Recitals are hereby incorporated into the Agreement as though fully set forth herein and each Party acknowledges and agrees that such Party is bound, for purposes of this Agreement, by the same.

#### **10.7 Survival.**

Any responsibility of Contractor for warranties, insurance, indemnity, record-keeping or compliance with laws with respect to this Agreement shall not be invalidated due to the expiration or termination of this Agreement.

#### **10.8 Corporate Authority.**

Each of the undersigned represents and warrants that (i) the Party for which he/she is executing this Agreement is duly authorized and existing, (ii) he/she is duly authorized to execute and deliver this Agreement on behalf of the Party for which he/she is signing, (iii) by so executing this Agreement, the Party for which he/she is signing is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which the Party for which he/she is signing is bound.

IN WITNESS WHEREOF, the Parties have executed and entered into this Agreement as of the date first written above.

"OCFA"

ORANGE COUNTY FIRE AUTHORITY

Date: \_\_\_\_\_

By: \_\_\_\_\_

Debbie Casper  
Purchasing Manager

APPROVED AS TO FORM.

ATTEST:

By:    
DAVID E. KENDIG  
GENERAL COUNSEL


Sherry A.F. Wentz  
Clerk of the Board

Date: 10-19-17

"CONTRACTOR"

ACTION DOOR REPAIR INC. <sup>Corporation</sup>

Date: 10/12/2017

By:    
Joseph "J.R." De Jaifre  
Vice President

## EXHIBIT A

## SCOPE OF WORK

OCFA currently has a centralized Property Management Section responsible for the maintenance and repair of its headquarters and fire stations. The purpose of this Request for Proposals is to establish a contract for apparatus bay door repair and maintenance services on an as needed basis. The successful contractor will provide repair and maintenance services including all personnel, labor, supervision, materials, tools and equipment required to maintain and repair apparatus bay door systems of OCFA's seventy-three (73) fire stations, a 33,870 SQFT warehouse, 7 bay air operations hangar and the RFOTC. The list of Fire Stations, facilities, and their addresses are provided as Attachment A. Continual and reliable operation is essential for the 24-hour operation of our facilities. It is essential that prompt, thorough service is provided at these locations.

The intent of these specifications is to describe the repairs and maintenance requirements in general terms. The detailed specifications required will be based on the particular requirements at the time that a given job, and be judged based on those requirements. OCFA will consider value-engineering suggestions from Contractor and may accept alternates recommended if they provide equal or better functionality, durability, and cost effectiveness; however, OCFA, in its sole discretion, may require specific manufacturers and model numbers for any given job.

There are approximately 220 overhead apparatus bay/garage doors and 40 gates. The overhead doors consist of various sizes of Sectional, Roll, and Telescopic from various manufacturers as follows:

- Type 1: Consists of Section and Roll doors with associated operators, and slide gates with operators.
- Type 2: Consists of MILCOR , Telescoping doors and all associated hardware.

Fire stations 17, 46, and 56 are equipped with bi-fold doors.

The following is a partial list of items or issues that may need attention:

- Door wheels binding in tracks or guides
- Bent door tracks
- Doors out of the tracks
- Crimping or buckling of door panels
- Door spring failure
- Loss of electrical power for door hoist
- Door motor failure
- Hit and damaged doors
- Door not providing enough clearance for apparatus
- Abnormally loud doors

Additional services other than those listed may be requested by OCFA Property Management during the contract term. Any additional services added to the contract are to be provided at the same time and material prices offered in the proposal.

Services not detailed in this scope, are not to be performed unless they are requested, provided a project number and authorized by OCFA. All additional work must be documented, signed by OCFA Property Management. Additional work is to be billed at the hourly rate provided in the proposal.

All offerors providing services will have the competency, relevant experience, knowledge, and reliability which qualify the individual(s) to successfully provide the required supplies and services requested in this RFP.



## **MINIMUM QUALIFICATIONS**

- 1) Contractor must be skilled and regularly engaged in the general class or type of work called for under the contract. The successful contractor must also have no less than five (5) years of experience in providing apparatus bay door repair and maintenance services.
- 2) Contractor must possess a valid California **C-61/D-28** or other appropriate Contractor's license at the time of proposal submission, pursuant to California Public Contract Code Section 3300 and Business and Professions Code Section 7028.15. The respondent must be licensed as a contractor in accordance with the provisions of California Business and Professions Code Chapter 9, Article 5 Licensing 7065-7077. The successful contractor must maintain the license throughout the duration of this contract.
- 3) Pursuant to SB854, and Labor Code Section 1725.5 contractor must be registered with the Department of Industrial Relations (DIR).

The offeror must state specifically in the descriptive narrative or other supporting documents how the offeror meets the minimum qualifications specified above.

*Offerors must meet the minimum requirements to be considered responsive. Failure to meet these minimum requirements will cause the submitted proposal to be eliminated from further consideration in the evaluation process.*

## **SPECIFIC REQUIREMENTS – GENERAL RESPONSIBILITIES OF SUCCESSFUL CONTRACTOR**

### **Performance Requirements:**

Contractor must provide trained and experienced personnel. Supervisors must be qualified, proficient in English, trained and capable of providing adequate supervision and direction to Contractors' employees and must demonstrate verbal and written communication skills sufficient for the work required herein.

All work must be done per specifications, according to all applicable and acceptable industry standards as it relates to each trade, of the highest quality workmanship commensurate with the required work, and completed by the time required. Contractor personnel must wear uniforms, furnished by the Contractor with the Contractor's name and/or logo, and employee name at all times during the performance of the work at the RFOTC.

Contractor must provide their own telephones. The use of OCFA telephones and radios are prohibited except under emergency circumstances for medical aid, fire, or safety.

Contractor must furnish and maintain at its own expense, an adequate stock of materials/supplies, parts, all equipment and tools to perform the specified work and provide a timely service. All supplies, labor, vehicles and equipment must be compliant with the specifications, terms and provisions set forth herein and shall be subject to random, unannounced inspection by OCFA.

Any additional work performed on an hourly basis, separate from the contract will require a daily time sheet signed by OCFA Property Management Facilities Manager or designated representative.

OCFA will not provide office or storage space for the Contractor's supplies, vehicles or equipment.

**Repair Request Procedure:**

During regular working hours, the facility requesting service will contact the Property Management Section and place a service call. The request for service will be logged and staff will then contact the contractor and provide:

- Location (site name and address)
- Nature of the problem
- Name of on-site contact person
- Phone number of on-site contact person

After regular hours, weekends, and holidays, the Battalion Chief or Section Manager will give the station personnel the authorization to place a service call to the Contractor and advise OCFA Property Management that a call was placed as an emergency so the request can be logged and a number provided to the Contractor.

The contractor, under both circumstances, may call the site with the problem and obtain any additional information it deems necessary and to provide an anticipated arrival time of the service technician.

(Note: A portion of the fire stations are staffed with volunteers that have no permanent personnel on the site, while others are staffed with 24-hour permanent personnel. It is essential to coordinate the arrival of the service technician with fire personnel.)

**Service Call Procedure:**

Upon arrival at each site, the Contractor shall complete the following:

- Sign in on the station log (at all fire stations)
- Check in with the Station Captain, if available
- Evaluate the specific materials and labor required to complete the repair
- Develop an estimate of the expected costs (if possible)
- Develop potential alternatives with costs, in the case of repair vs. replacement
- Advise Property Management by telephone of the cost of repairs and other work PRIOR to proceeding with the work.
- Contractor will proceed with work after authorization is received from Property Management
- Complete all work in accordance with the estimate

Contractor must prepare service call report detailing the work performed, obtain the signature of the Station Captain on the report (if available), and leave a copy of the report at the site. That report must at least contain the following: Time of arrival, time of departure, brief summary of repair request, detailed summary of the work performed, summary of any additional work required or recommended.

Contractor must advise Property Management if any additional work is required and when the Contractor will return to perform the work.

If urgent repairs are needed, Contractor will advise Property Management, by telephone, with an estimate of repairs and other work prior to proceeding with the work.

Contractor must contact Property Mgmt. to obtain additional authorization when the repair work is expected to exceed the original estimate by more than 10%.

## **Service Requirements:**

### **A. General**

- a. Note that per the Business and Professions Code ss. 7059: "In no case shall the...[Contractor] whose classification constitutes less than a majority of the project [perform the project unless]...the performance of the work in the crafts or trades, other than in which [Contractor] is licensed, is incidental and supplemental to the performance of the work in the craft for which the [Contractor] is licensed....All work to be performed outside of [Contractor's] license specialty, except work authorized by [the aforementioned], shall be performed by a licensed subcontractor..."
- b. Perform all work in accordance with the latest editions or addenda of the following applicable codes, standards and specifications.
- c. Perform all work according to all applicable industry-standards and to the highest quality commensurate with the required work.
- d. Ensure that all work is done only by experienced and professional personnel.
- e. Provide everything necessary to complete the repairs and maintenance work including but not limited to labor, equipment, materials, consumables, etc.
- f. Ensure that all work properly and neatly fits the adjacent existing materials.
- g. Perform work according to any applicable manufacturer's specifications.
- h. Provide a 24/7 call number for emergency repair work.
- i. Respond in the time required.
- j. Remove and properly dispose of any to-be-replaced materials.
- k. Provide all documentation, altered diagrams, updated or new manuals, and the like within seven calendar days after the repairs have been affected. (as applicable)

### **B. Repairs**

- a. Diagnose and recommend an appropriate solution to remedy the damage or defect according to all applicable manufacturers' specifications, Standard Specifications for Public Works Construction, and industry standard practices.
- b. Provide an estimate of the repair costs at the hourly rates and materials amounts.
- c. Make approved repairs as soon as possible, but only after department so authorizes.
- d. Verify work has been completed properly and adjacent work is not affected.

## **Technical Requirements**

### **A. General**

- a. The work required hereunder is based on the California Department of Consumer Affairs Contractors State License Board (CSLB). Any changes made by the CSLB automatically apply to the license classifications listed below.

#### **i. C-61 Limited Specialty Classification**

- (a) Limited specialty is a specialty contractor classification limited to a field and scope of operations of specialty contracting for which an applicant is qualified other than any of the specialty contractor classifications listed and defined in this article.
- (b) An applicant classified and licensed in the classification Limited Specialty shall confine activities as a contractor to that field or fields and scope of operations set forth in the application and accepted by the Registrar or to that permitted by Section 831.

- (c) Upon issuance of a C-61 license, the Registrar shall endorse upon the face of the original license certificate the field and scope of operations in which the licensee has demonstrated qualifications.
- (d) A specialty contractor, other than a C-61 contractor, may perform work within the field and scope of the operations of Classification C-61, provided the work is consistent with established usage and procedure in the construction industry and is related to the specialty contractor's classification

**ii. D-28 Doors, Gates and Activating Devices Contractor**

- (a) All doors, gates and activating devices contractor installs, modifies or repairs all types of residential, commercial or industrial doors including overhead or sliding door assemblies. This includes but is not limited to: wood and screen doors, metal-clad doors, glass sliding/stationary doors and frames, automatic revolving doors, hospital cubical doors and related installations, power activated doors, gates, movable sun shades/shutters, card activated equipment and other access control device and any low voltage electronic or manually operated door hardware/ device.

**B. Subcontractors**

- a. The majority of the work as required herein and at the time the work is requested must be done by the awarded Contractor.
- b. The work may not be subcontracted or sublet to another contractor unless the contractor has been listed on the Subcontractor List or a substitution of that contractor has been approved by Property Management in advance of any scheduled or actual work.
- c. Subcontractor(s) must meet all insurance requirements of the prime contractor.

**C. Specialized Equipment**

- a. Provide all equipment necessary to facilitate the work required herein at Contractor's sole expense.
- b. Provide the necessary safety equipment.
- c. Ensure that you have accurately and completely determined the actual types of equipment well in advance of the work to be performed.

**D. Specific Work for Repairs**

- a. Repairing
  - i. Make necessary repairs to ensure that equipment, components or fixtures are operating properly and according to the manufacturer's specifications.
  - ii. Tour all designated work areas with Property Management to review and document items requiring corrective action.
  - iii. Ensure that any items used to make repairs meet or better the original manufacturer (OEM) specifications.
  - iv. Coordinate the repairs and times with Property Management.

**b. Reporting**

- i. Provide verbal reports to Property Management as necessary to facilitate the work required herein.
- ii. Provide written reports, along with warranties of installed products (outside of products provided by OCFA), to Property Management with the invoice for completed work, which must contain, but not limited to the following:
  1. Location number/address serviced.
  2. Facility generated Work Order(s)
  3. Date and time Location was serviced.
  4. Types of and Quantities materials used and/or replaced.
  5. Potential Hazards at and around the Locations.
  6. Proposed alternate products that are cost-effective, energy efficient, and or have environmental advantages.
  7. Failure to provide the written report with the invoice will suspend any related payments by the number of days until the report is received.
  8. Failure to complete the required replacements will suspend any related payments by the number of days until the work is received.

**c. Replacing Materials**

- i. Replace materials only with same item as being replaced.
  - ii. If alternative materials are being proposed, use the most energy-efficient, cost-effective, and replacements that have environmental advantages and that exhibit the same performance characteristics as the item being replaced. All such proposed replacements must be reviewed in advance of their replacements by Property Management prior to such replacements; then, only after approval will such replacements be permitted.
  - iii. Dispose of any materials used in the course of completing scope of work properly, and in accordance to all governing agencies at contractor sole expense. This includes manifesting and chain of custody if required based on the nature of work being provided.
- I. Make all required remedies to any work deficiencies as soon as practicably possible, but in no event greater than three business days after receipt of notification from OCFA.

**Performance Hours:**

All work must be coordinated with OCFA Property Management unless otherwise specified.

The Contractor must conduct the work at all times in a manner which will not interfere with normal OCFA operations.

**Quality Control:**

All items furnished must be new, of good workmanship, in full accordance with the specifications, and free of defects. Items will be subject to inspection by the OCFA. If any product or service delivered shows evidence of shipping damage or defects, does not meet applicable specifications, or does not perform to the standards represented by the supplier, the OCFA shall reject same. Supplier will refund money which has been paid and bear all costs of removal and return of the products. Unless otherwise specified, all products provided shall have a manufacturer's warranty of at least twelve (12) months on workmanship, parts, and labor.

**Damage or repair:**

If any materials, equipment or other property contained in or constituting a part of an OCFA premise shall be damaged or destroyed by Contractor or its subcontractor(s), if any, in the course of performing services, Contractor shall at its expense promptly repair or replace the same, to the complete satisfaction of OCFA.

**Safety:**

Contractor, its employees, and agents must comply with all applicable health and safety requirements and procedures while performing services and exercise caution at all times for the protection of persons and property. Safety provisions of all applicable laws and ordinances shall be strictly observed and the Contractor and property at all sites. All fines, penalties and/or repair charges resulting from the Contractor's neglect of safety provisions shall be the sole responsibility of the Contractor.

Contractor shall provide and maintain the necessary precautions, supervision, and safeguards for the safety of all persons performing services and shall not cause or permit to exist an unlawful, hazardous, unsafe, unhealthy, or environmentally unsound condition over which Contractor has control.

SDS sheets (material safety data sheets) are to be provided on all products before they are brought on the premises. SDS shall be posted in each location the products are stored. All containers shall bear proper labels.

Contractor must outfit all equipment and materials used with any and all such safety devices and warning mechanisms as may be necessary to advise and protect the public and prevent personal injury and property damage.

Contractor shall must restrict access to the designated areas and parking spaces under the performance of the contract.

Contractor and its employees shall not enter areas of the facilities not specifically included in this specification for services.

**Warranties:**

Contractor represents, warrants, and covenants that in connection with any services performed under this specification: it is in the business of performing the Services described hereunder; it is experienced and expert in performing such services; all equipment used in the performance of services hereunder shall be suitable for such use; it understands the currently-known hazards which are presented to persons, property, and the environment in connection with the performance of such services and the transportation, storage and disposal of material; it is aware of all laws, regulations, orders, and other governmental requirements pertaining to the performance of such services; it will perform such services in full compliance with all applicable laws, regulations, orders, and other governmental requirements; it will perform such services in compliance with all necessary and applicable permits and it has obtained or will obtain all

permits necessary to perform the services; it possesses the professional and technical skills required to perform the services; no environmental enforcement actions have been brought or are likely to be brought against contractor that could have a material adverse effect on OCFA; and any agents or personnel employed by the contractor will meet the same standards as apply to contractor that could have a material adverse effect on OCFA.

**Additional Information:**

This contract is for the maintenance and repair of existing items, equipment, and structures and does not include larger projects, new work or add-ons. Splitting costs on a single facility-generated work order, projects, or work to avoid this limitation is prohibited and subject Contract to immediate termination.

OCFA will invite Contractors to provide quotes for larger projects. Contractors may provide additional discounts at the time of the quote. Contractor with the lowest total responsive quote for a given job will be awarded that job. This process will be repeated for future work.

OCFA may choose to award jobs that are expected to be less than \$5,000 to Contractor any that it chooses; such choice will be based on past pricing, timely performance, and quality of work.

The preceding dollar limitation applies only to ROUTINE requests and does not apply to EMERGENCY or URGENT requests; OCFA may choose to award EMERGENCY or URGENT jobs as is in OCFA's best interests.

The OCFA may also conduct regular performance reviews on a regular basis to evaluate the levels of service and quality provided.

Contract Coordinator: OCFA/Property Management Staff (714) 573-6470

Contract Manager: Steve Klein, OCFA Facilities Manager, (714) 573-6475, cell (714) 720-6067 and email: [steveklein@ocfa.org](mailto:steveklein@ocfa.org).



ORANGE COUNTY DIVISION  
11362-H WESTMINSTER AVE  
GARDEN GROVE, CA. 92843  
(714) 530-2613 FAX (714) 638-4327  
[WWW.ACTIONDOORREPAIR.COM](http://WWW.ACTIONDOORREPAIR.COM)

August 22, 2017

TO: Orange County Fire Authority

ATTN: Rothchild Ong  
1 Fire Authority Road  
Irvine, Ca 92602

RE: RFP Number: RO2220  
Apparatus Bay Door Repair and Maintenance Services  
**Section 1 - Transmittal Letter**

FROM: Action Door Repair Corporation  
11362 Westminster Ave. Unit. H  
Garden Grove, Ca 92843  
Telephone: 714-530-2613  
Fax: 714-638-4327  
Email: [Christian@ActionDoorRepair.com](mailto:Christian@ActionDoorRepair.com)

**Presentation**

1- We received Addendum # 1: RFP RO2220

2- Contact Person:  
Action Door Repair Corporation  
Christian Morrow - Division Manager  
11362 Westminster Ave. Unit. H  
Garden Grove, Ca 92843  
Telephone: 714-530-2613  
Fax: 714-638-4327  
Email: [Christian@ActionDoorRepair.com](mailto:Christian@ActionDoorRepair.com)

3- Our bid shall remain valid for a period of not less than 120 days, no longer than 180 days, from the date of submittal. Extension on request.

**Exceptions/ Deviations/ Clarifications**

- 1- Forklift and scissor lift rental, when required, will be invoiced/charged at our cost plus 30 percent mark up.
- 2- Classification 1: Our hourly rate for labor is for 1- Technician
- 3- Trip Charge: Trip Charge cost is for 1- Technician

**Additional or Incidental Costs**

- 1- Forklift and scissor lift rental, as needed, additional charge, our cost plus thirty (30) percent.

---

HUNTINGTON PARK "CORPORATE" OFFICE  
5420 MALABAR STREET  
HUNTINGTON PARK, CA. 90255





ORANGE COUNTY DIVISION  
11362-H WESTMINSTER AVE  
GARDEN GROVE, CA. 92843  
(714) 530-2613 FAX (714) 638-4327  
WWW.ACTIONDOORREPAIR.COM

**Action Door Repair Locations:**

- Garden Grove
- Huntington Park

**Attached please find the following documents you requested:**

- Copy of Contractors License
- Proposal Documents
- Appendix A - Offeror's Information
- Appendix B - References
- Appendix C - Proposal Questionnaire
- Appendix D - Pricing Page
- Appendix E - Certification of Proposal
- Appendix F
- Appendix G
- Appendix H
- Appendix I
- Appendix J
- Appendix K
- Appendix L

**In addition to the above documents we have enclosed the following items:**

- DIR Registration
- The Cookson Company letters as a qualified distributor and Silver award, best of the best
- State of California DGS, Small Business Certification

I would like to take this opportunity to thank you for the opportunity to furnish our bid package to the Orange County Fire Authority. We will look forward to hearing from you. If you have any questions please contact Christian Morrow.

Sincerely,

JR De Jaifre  
Vice President

---

HUNTINGTON PARK "CORPORATE" OFFICE  
5420 MALABAR STREET  
HUNTINGTON PARK, CA. 90255



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(RFP) #RO2220 - "Apparatus Bay Door Repair and Maintenance Services"

## Section 2 – Offeror's Information

### Company Information:

Action Door Repair was established in 1977 and incorporated in 1981 as a California "C" Corporation. Our professional credentials include:

- Licensed Contractor CSLB #435497 C61/D28: Doors, Gates and Activating Devices
- State of California Certified Small Business #20793
- Registered Public Works Contractor DIR#1000013415
- 40 years of experience as a leader in the Door Service and Repair Industry

### Corporate Office

Action Door Repair Corporation  
5420 Malabar Street  
Huntington Park, CA 90255  
(323)583-1026 Office  
(323)583-2733 Fax  
J.R. De Jaifre  
[JR@ActionDoorRepair.com](mailto:JR@ActionDoorRepair.com)

### Orange County Division

Action Door Repair Corporation  
11362 – H Westminster Ave.  
Garden Grove, CA 92843  
(714)530-2613 Office  
(714)638-4327 Fax  
Christian Morrow - [Christian@ActionDoorRepair.com](mailto:Christian@ActionDoorRepair.com)  
Susan Fesler – [Susan@ActionDoorRepair.com](mailto:Susan@ActionDoorRepair.com)

### Organizational Structure:

#### Corporate Officers:

Joe De Jaifre – President/CEO  
Anne De Jaifre – CFO/Secretary  
J.R. De Jaifre – Vice President  
Total Officers = 4

#### Leadership:

Christian Morrow – Division Manager  
Susan Fesler – Office Manager  
Carmen Mariscal – Service Team Lead  
Total Leadership = 3

Administrative, Sales and Service Team = 7 Employees

Service Technicians = 19 Employees

### Current Clients:

Our current list of clients numbers in the thousands and includes government (City, County, State and Federal), Retail, Healthcare, Commercial and Industrial Clients. Some of the most relevant current clients include:

- Orange County Fire Authority
- Orange County Transit Authority
- Orange County Superior Courts
- Orange County Public Works
- Anaheim Convention Center
- Large Retail accounts including Ralphs, Albertsons, Vons, Walmart, Sam's Club, etc.
- Large Healthcare facilities including South Coast Global, Chapman Global, Saddleback Hospital, LAC+USC Medical Center, MLK Hospital, Beverly Hospital, etc.
- Los Angeles County Fire Department
- Los Angeles County Internal Services
- Los Angeles County Public Works
- Northrop Grumman Aerospace
- Los Angeles Unified School District



(RFP) #RO2220 - "Apparatus Bay Door Repair and Maintenance Services"

### **Section 3 – Ability to Meet General Requirements**

Action Door Repair Corporation has been a leader in the door service and installation industry for 40 years. We are experts in the repair, maintenance and replacement of the products outlined in the scope of work for this solicitation.

Our ability to meet the requirements can be broken down into several components including Administration, Performance, Products and Communication.

#### **Administration:**

Action Door Repair has been under current ownership for the past 38 years and have positioned our company to be among the best in the business. Our Vice President has more than 17 years of industry experience and the Division Manager has over 15 years of industry experience and 27 years of sales/service experience. We have successfully administered numerous service contracts including the OCFA service contract for more than 15 years.

#### **Performance:**

Our technicians are highly trained and properly equipped to handle the diversity of service requests associated with this solicitation. As an incumbent bidder, we have intricate knowledge of the products, services and requirements to maintain the OCFA's 73 active facilities. In our more than 15 years of servicing the OCFA we have benchmarked many of the requirements that are contained within this bid request.

#### **Products:**

We are a distributor for a variety of high quality products from various manufacturers throughout the industry. Our robust product offering allows us to provide the OCFA with the best product for the application. The size of our company and the volume of product we buy from our vendors allows us to pass along better pricing and expedited delivery; an essential component to keeping fire stations operating properly. We are a "Gold" level distributor for the Cookson/Cornell product line.

#### **Commitment:**

Our team is committed to providing our clients with the highest level of service and value in the industry. Our resume of existing clients and referrals speaks to the reputation we have established. Everyone within our organization is fully committed to providing each of our clients with the best service in the industry.



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(RFP) #RO2220 - "Apparatus Bay Door Repair and Maintenance Services"

## Section 4 – Relevant Experience

### **Orange County Fire Authority**

Time Period: More than 15 Years

Description of Work Experience: Provide routine and emergency service and repair of rolling steel doors, sectional doors, operators, safety devices, automated gates and related equipment. Common service requests include spring replacement, adjustment of door/operator components and replacement of damaged equipment and safety devices.

### **Orange County Superior Courts**

Time Period: 2013 - Current

Description of Work Experience: Provide routine and emergency service and repair of rolling steel doors, rolling grilles, automated gates, hollow metal doors/hardware, glass aluminum doors/hardware and automatic pedestrian doors. Common service requests include repair of automated gates for the judge parking areas, adjustment of swing doors in public areas and repair of sally port (inmate transportation areas) grilles and doors.

### **Orange County Transit Authority**

Time Period: More than 7 years

Description of Work Experience: Provide routine and emergency service and repair of sectional doors, rolling steel doors, operators and related devices at multiple facilities. Common service requests include repair of doors that are not working, doors that have been hit by vehicles and replacement of damaged equipment.

### **Los Angeles Unified School District**

Time Period: 2013 – Current

Description of Work Experience: Provide routine and emergency service, repair and replacement of rolling steel doors, rolling grilles, fire doors, automated gates and related equipment throughout the districts more than 900 locations. Common service requests include repair of parking grilles, replacement of damaged equipment and repair of automated gates.

### **Orange County Public Works**

Time Period: 2011 – Current

Description of Work Experience: Provide routine and emergency service and repair of rolling steel doors, rolling grilles, automated gates, hollow metal doors/hardware, glass aluminum doors/hardware and automatic pedestrian doors. Common service requests include repair of automated gates, rolling steel doors, overhead doors and pedestrian entrances.



**APPENDIX A - OFFEROR'S INFORMATION**

Please complete and/or provide all requested information. If the proposal is submitted by a corporation, please provide an additional attachment that states the names of the officers who can sign an agreement on behalf of the corporation and whether more than one officer must sign. If the proposal is by a partnership or a joint venture, state the names and addresses of all general partners and joint venture parties. If the respondent is a sole proprietorship or another entity that does business under a fictitious name, the proposal shall be in the real name of the respondent with a designation following showing "DBA (the fictitious name)," provided however, that no fictitious name shall be used unless there is a current registration with the Orange County Recorder.

The undersigned, as respondent, declares that all documents regarding this proposal have been examined and accepted and that, if awarded, will enter into a contract with the Orange County Fire Authority.

Business Legal Name: <b>ACTION DOOR REPAIR CORPORATION</b>		
Business Parent or Ownership:		
Address: <b>11362 WESTMINSTER AVE. UNIT H</b>		
Business Telephone No. <b>714.530.2613</b>	Business Fax No. <b>714.638.4327</b>	
Business Tax I.D. Number: <b>95-3737162</b>	CSLB License Number: <b>435497</b>	DIR Registration Number: <b>1000013415</b>
Legal form of company: (partnership, corporation, joint venture) <b>CORPORATION</b>		
Length of time your business has been in business: <b>39 YEARS</b>	Length of time at current location: <b>30 YEARS</b>	
Number of employees and Number of Current Clients <b>34 EMPLOYEES</b>		

**Management person responsible for direct contact with the Orange County Fire Authority and service required for this Request for Proposal (RFP).**

Name: <b>CHRISTIAN MORROW</b>	Title: <b>DIVISION MANAGER</b>
Telephone No.: <b>714.530.2613</b>	E-mail: <b>CHRISTIAN@ACTIONDOORREPAIR.COM</b>

**Person responsible for the day-to-day servicing of the account:**

Name: <b>SUSAN FESLER</b>	Title: <b>OFFICE MANAGER</b>
Telephone No.: <b>714.530.2613</b>	E-mail: <b>SUSAN@ACTIONDOORREPAIR.COM</b>

**Please indicate if you are subject to the Party and Participant disclosure requirements. Yes No**  
**If yes, you are required to submit form/s (see Appendix F).**

**\*For additional information please see page 15 "Campaign Contribution Disclosure".**



## APPENDIX B - REFERENCES

Describe fully at least three contracts performed by your business that demonstrate your ability to provide the services included with the scope of the specifications. Attach additional pages if needed. OCFA reserves the right to contact each of the references listed for additional information regarding their experience with your company.

Customer Agency Name	OCFA
Contact Individual & Title	STEVE KLEIN
E-mail/Telephone number	STEVEKLEIN@OCFA.ORG / 714.573.6475
Date of Project & Description of services provided including contract amount	WE HAVE THE EXISTING OCFA CONTRACT
Customer Agency Name	SUPERIOR COURT OF ORANGE COUNTY
Contact Individual & Title	FRANK PEREL - CONTRACTS ADMINISTRATOR
E-mail/Telephone number	F3PEREL@OCCOURTS.ORG / 657.622.6884
Date of Project & Description of services provided including contract amount	CONTRACT: 8/2013 - 8/2018 ALL TYPES OF AUTOMATIC DOORS, SWING AND ROLLING DOORS AND GATES. 150K
Customer Agency Name	O.C. TRANSPORTATION AUTHORITY
Contact Individual & Title	SUSAN ROSENKRANZ - CONTRACT ADMINISTRATOR
E-mail/Telephone number	SROSENKRANZ@OCTA.NET / 714.560-5610
Date of Project & Description of services provided including contract amount	CONTRACT: 7/2015 - 6/2018 SERVICE AND REPAIR OF ALL TYPES OF ROLLING DOORS AND HARDWARE 75K
Customer Agency Name	O.C. PUBLIC WORKS
Contact Individual & Title	MICHAEL MACIAS / MICHAEL.MACIAS@OCPW.OCgov.COM
E-mail/Telephone number	CONTRACT ADMIN / 714.667.9628
Date of Project & Description of services provided including contract amount	CONTRACT: 7/2016 - 7/2021 ALL TYPES OF DOORS AND GATES. AUTOMATIC, ROLLING AND SWING
Customer Agency Name	CITY OF ANAHEIM
Contact Individual & Title	SUSANNE MONTBOMERY / PURCHASING
E-mail/Telephone number	SMONTBOMERY@ANAHEIM.NET / 714.765.5110
Date of Project & Description of services provided including contract amount	CONTRACT: 2013-2018 ALL TYPES OF DOORS. ROLLING, SWINGING, FIRE DOORS AND AUTOMATIC GATES.





ORANGE COUNTY DIVISION  
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GARDEN GROVE, CA. 92843  
(714) 530-2613 FAX (714) 638-4327  
[WWW.ACTIONDOORREPAIR.COM](http://WWW.ACTIONDOORREPAIR.COM)

August 22, 2017

Re: (RFP) RO2220

Apparatus Bay Door Repair and Maintenance Services

**Appendix C - Proposal Questionnaire**

1. Action Door Repair has the existing Apparatus Bay Door and service contract for the OCFA. We have had this contract for 15+ years and have been able to give excellent customer service. Our team is highly trained in repairing, servicing and installing all types of Apparatus Doors and Gates. We have been a Cookson Door distributor for almost 10 years, as well as others. We have door suppliers here locally in California, which gives us a short lead time to get your doors back up and running in a timely manner.  
We have many contracts in Orange County for instance, O.C. Superior Courts, O.C. Public Works, O.C. Transportation Authority, City of Anaheim and the Anaheim Convention Center.
2. We have been in business for 40 years and have serviced all types of businesses. For instance, we work with Hospitals, Government facilities and numerous cities in Southern CA.
3. Our office that handles the OCFA is centrally located in Orange County. The trip charge covers travel, to all of the 73 Fire Stations. The closest service vehicle will be dispatched to each station, as we have satellite tracking devices on each of our vehicles.
4. When we receive a service call from the OCFA, our office manager will generate a service order with a job number and dispatch a crew to the location. Our crew will input the address into their GPS unit and drive to the Fire Station
5. All of our service vehicles are tracked by GPS units. This allows us to dispatch the closest crew and to also give accurate time on site for billing. After the work is completed, our crew will fill out a repair work order and give it to the captain to review and sign. This paperwork is turned in to our office for review of the work completed.
6. Most manufactures will warranty there parts, for 1 year from the installation date. We are a distributor for Cookson Rolling Doors and they have a 2-year manufacture warranty. We have a 60 day labor warranty. If we receive a warranty call from the OCFA, a crew will be dispatched to identify the problem.
7. Action Door Repair has anywhere from 30-34 employees to assist our customers. The Garden Grove office would handle the incoming calls from the OCFA. Christian Morrow is the Division manager of this office and has over 27 years of customer service. He has been assisting the OCFA with excellent service for 13+ years.
8. 2% / year based on anticipated increases in the prevailing wage rate, as defined by the DIR.

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HUNTINGTON PARK "CORPORATE" OFFICE  
5420 MALABAR STREET  
HUNTINGTON PARK, CA. 90255



ORANGE COUNTY DIVISION  
11362-H WESTMINSTER AVE  
GARDEN GROVE, CA. 92843  
(714) 530-2613 FAX (714) 638-4327  
WWW.ACTIONDOORREPAIR.COM

9.     A. We can provide 30 days notice, as our carrier will not ENDORSE that to the policy
- B. Our Insurance carrier is not able to provide the 10 day notice of cancellation for nonpayment. There would not be enough time for the OCFA to give us and for us to issue.
- C. We have no way to guarantee will have renewal 15 days in advance. – we see this in most contracts and hasn't been an issue, as long as we have by renewal date.
- D. Labor Rates provided for this solicitation is based on using the Group 1 Laborer Classification "Determination Number" (SC-23-102-2-2017-1). If this solicitation is registered with the DIR using a different Labor Classification, the provided rates may change.

Thank you,

Action Door Repair Corporation



## APPENDIX E - CERTIFICATION OF PROPOSAL

In responding to **RFP RO2220 – Apparatus Bay Door Repair and Maintenance Services**, the undersigned offeror(s) agrees to provide services for OCFA per the specifications. Offeror further agrees to the terms and conditions specified herein the following terms and conditions that are a part of this proposal and any resulting contract. **If there are any exceptions they must be stated in an attachment included with the offer.**

- A. The offeror hereby certifies that the individual signing the submittal is an authorized agent for the offeror and has the authority to legally bind the offeror to the Contract. Signature below verifies that the offeror has read, understands, and agrees to the conditions contained herein and on all of the attachments and agenda.
- B. The submission of the offer did not involve collusion or other anti-competitive practices.
- C. The offeror has not given, offered to give, nor intends to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, meal or service to a public servant in connection with the submitted offer.
- D. **The offeror has submitted the Party, Participant (Agent) Disclosure Form if applicable.**
- E. The offeror shall not discriminate against any employee or applicant for employment in violation of Federal or State law.
- F. The offeror complies fully with the Federal Debarment Certification regarding debarment suspension, ineligibility and voluntary exclusion.

**Independent Price Determination:** I certify that this offer is made without prior understanding, arrangement, agreement, or connection with any corporation, business or person submitting an offer for the same services, and is in all respects fair and without collusion or fraud. I certify that I have not entered into any arrangement or agreement with any Orange County Fire Authority public officer. I understand collusive bidding is a violation of State and Federal law and can result in fines, prison sentences, and civil damage awards. I agree to abide by all conditions of this offer and certify that I am authorized to sign this agreement for the offeror.

### TO THE ORANGE COUNTY FIRE AUTHORITY:

The Undersigned hereby offers and shall furnish the services in compliance with all terms, scope of work, conditions, specifications, and amendments in the Request for Proposal which is incorporated by reference as fully set forth herein. The representations herein are made under penalty of perjury.

ACTION DOOR REPAIR CORPORATION

Name of Business

11362 WESTMINSTER AVE. UNIT H

Address

GARDEN GROVE

CA.

92843

City

State

Zip



Signature of Person Authorized to Sign

Date

8/23/2017

JR De Jaire

V.P.

Printed Name

Title

**ORANGE COUNTY FIRE AUTHORITY  
PARTY DISCLOSURE FORM**Party's Name: N/A

Party's Address: \_\_\_\_\_

Party's Telephone: \_\_\_\_\_

Solicitation Title and Number: \_\_\_\_\_

Based on the party disclosure information provided, are you or your business subject to party disclosures?

No ☒ If no, check the box and sign below. Yes ☐ If yes, check the box, sign below and complete the form.Date: 8-22-17Signature of Party and/or Agent ***To be completed only if campaign contributions have been made in the preceding twelve (12) months. Attach additional copies if needed.***

Board Member(s) or Alternate(s) to whom you and/or your agent made campaign contributions and dates of contribution(s) in the preceding 12 months:

Name of Member: \_\_\_\_\_

Name of Contributor (if other than Party): \_\_\_\_\_

Date(s): \_\_\_\_\_

Amount(s): \_\_\_\_\_

Name of Member: \_\_\_\_\_

Name of Contributor (if other than Party): \_\_\_\_\_

Date(s): \_\_\_\_\_

Amount(s): \_\_\_\_\_

Name of Member: \_\_\_\_\_

Name of Contributor (if other than Party): \_\_\_\_\_

Date(s): \_\_\_\_\_

Amount(s): \_\_\_\_\_



## APPENDIX G

## CONTRACTOR'S LICENSING STATEMENT

The undersigned certifies that the Contractor is licensed in accordance with the laws of the State of California. The successful Contractor and subcontractors are required to hold the State of California Contractor's License(s) and DIR registration as required by SB854. Provide additional contractor's license details if applicable.

Contractor's License No. 435497 Class C-61/0-28 Expiration 02/28/2019

Department of Industrial Relations (DIR) # 1000013415

Name of Individual Contractor ACTION DOOR REPAIR CORPORATION

Signature of Owner \_\_\_\_\_

Business Address 11362 WESTMINSTER AVE. UNIT H. GARDEN GROVE 92648

If the contractor operates under a partnership provide the name of the firm, name, title and address below.

Name of Firm N/A

Business Address \_\_\_\_\_

Name \_\_\_\_\_ Title \_\_\_\_\_

Address \_\_\_\_\_

Name \_\_\_\_\_ Title \_\_\_\_\_

Address \_\_\_\_\_

If the contractor operates under a corporation, provide the name and address below in addition to the signatures of the President and Secretary.

Name of Corporation ACTION DOOR REPAIR CORPORATION

Business Address 11362 WESTMINSTER AVE. UNIT H. GARDEN GROVE, CA 92648

Corporation organized under the laws of the State of California

Joe De Jure Signature of the Corporation President

Anna M. De Jure Signature of the Corporation Secretary

Date 8/23/2017

**APPENDIX H****LIST OF SUBCONTRACTORS**

Contractor acknowledges and agrees that under Public Contract Code section 4100, et seq., it must clearly set forth below the name and location of each subcontractor who will perform work or labor or render service to the contractor in or about the work in an amount in excess of one-half of one percent (0.5%) of contractor's total bid and the kind of work that each will perform. Furthermore, contractor acknowledges and agrees that under Public Contract Code section 4100, et seq., if contractor fails to list as to any portion of work, or if contractor lists more than one subcontractor to perform the same portion of work (i.e. contractor must indicate what portion of the work each subcontractor will perform), contractor must perform that portion itself or be subjected to penalty under applicable law.

If alternate bids are called for and contractor intends to use subcontractors different from or in addition to those subcontractors listed for work under the base bid, contractor must list subcontractors that will perform work in an amount in excess of one half of one percent (0.5%) of contractor's total bid, including alternates.

In case more than one subcontractor is named for the same kind of work, the Contractor is to state the portion of work that each subcontractor will perform. contractors or suppliers of materials only do not need to be listed. If further space is required for the list of proposed subcontractors, additional sheets showing the required information, as indicated below, shall be attached hereto and made a part of this document.

Listed below is the name of each subcontractor that will perform work, labor, or render services to the undersigned related to the work of this project. This is to include any subcontractor that will specially fabricate and install a portion of work according to detailed drawings contained in the plans and specifications in the amount greater than one half of one percent (.05%) of the contractors total bid.

Subcontractor Name	<u>N/A</u>	Location	
Portion of Work/Trade			
Bid Amount			
Contractor's License Number		DIR Number	
Subcontractor Name		Location	
Portion of Work/Trade			
Bid Amount			
Contractor's License Number		DIR Number	

## APPENDIX I

## CERTIFICATION OF NON-DISCRIMINATION BY CONTRACTORS

Labor Code Section 1735 requires that no discrimination be made in the employment of persons upon public works because of the race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status or sex of such persons, except as provided in Government Code Section 12940.

The business listed below certifies that it does not discriminate in its employment with regard to the factors set forth in Labor Code Section 1735; that it is in compliance with all federal, state and local directives and executive orders regarding non-discrimination in employment; and that it agrees to demonstrate positively and aggressively the principle of equal employment opportunity in employment.

We agree specifically:

1. To establish or observe employment policies which affirmatively promote opportunities for minority persons at all job levels.
2. To communicate this policy to all persons concerned, including all business employees, outside recruiting services, especially those serving minority communities, and to the minority communities at large.
3. To take affirmative steps to hire minority employees within the company.

Business Name ACTION DOOR REPAIR CORPORATION

Signature 

Printed Name/Title of Business Representative CHRISTIAN MORROW / DIVISION MGR

Date 8/22/2017

Please include any additional information available regarding equal opportunity employment programs now in effect within your company.

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## APPENDIX J

## DEBARMENT AND SUSPENSION CERTIFICATION

## TITLE 49, CODE OF FEDERAL REGULATIONS, PART 29

The Contractor, under penalty of perjury, certifies that, except as noted below, he/she or any other person associated therewith in the capacity of owner, partner, director, officer, manager:

- is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any Federal agency;
- has not been suspended, debarred, voluntarily excluded or determined ineligible by any Federal agency within the past 3 years;
- does not have a proposed debarment pending; and
- has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past 3 years.

If there are any exceptions to this certification, insert the exceptions in the following space.

N/A

Exceptions will not necessarily result in denial of award, but will be considered in determining contractor responsibility. For any exception noted above, indicate below to whom it applies, initiating agency, and dates of action.

Note: Providing false information may result in criminal prosecution or administrative sanctions.

Business Name ACTION DOOR REPAIR CORPORATION

Signature 

Printed Name/Title of Business Representative CHRISTIAN MORROW / DIVISION MGR

Date 8/22/2017

## APPENDIX K

## PREVAILING WAGE CERTIFICATION


RFP RO2220

Apparatus Bay Door Repair and Maintenance Services

I hereby certify that I will conform to the State of California Public Works Contract requirements regarding prevailing wages, benefits, on-site audits with 48-hour notice, payroll records, and apprentice and trainee employment requirements, for all Services on the above Project, including, without limitation, the State labor compliance monitoring and enforcement by the Compliance Monitoring Unit of the Department of Industrial Relations, if this Project is subject to a labor compliance.

Date 8/22/2017

Legal Name of Contractor ACTION DOOR REPAIR CORPORATION

Signature 

Print Name CHRISTIAN MORROW

Title DIVISION MANAGER

## APPENDIX L

## WORKER'S COMPENSATION INSURANCE CERTIFICATION

RFP RO2220

Apparatus Bay Door Repair and Maintenance Services

Labor Code section 3700 in relevant part provides:


Every employer except the State shall secure the payment of compensation in one or more of the following ways:

- a. By being insured against liability to pay compensation in one or more insurers duly authorized to write compensation insurance in this state.
- b. By securing from the Director of Industrial Relations, a certificate of consent to self-insure, which may be given upon furnishing proof satisfactory to the Director of Industrial Relations of ability to self-insure and to pay any compensation that may become due to his employees.

I am aware of the provisions of Section 3700 of the Labor Code which requires 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 work of this contract.

Date 8/22/2017

Legal Name of Contractor ACTION DOOR REPAIR CORPORATION

Signature 

Print Name CHRISTIAN MORROW

Title DIVISION MANAGER

(In accordance with Article 5 - commencing at section 1860, chapter 1, part 7, division 2 of the Labor Code, the above certificate must be signed and filed with the awarding body prior to performing any work under this Contract.)



## Request for Taxpayer Identification Number and Certification

Give Form to the  
requester. Do not  
send to the IRS.

Print or type  
See Specific Instructions on page 2.

1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.

**Action Door Repair Corporation**

2 Business name/disregarded entity name, if different from above

3 Check appropriate box for federal tax classification; check only **one** of the following seven boxes:

- ☐ Individual/sole proprietor or single-member LLC  
☒ C Corporation ☐ S Corporation ☐ Partnership ☐ Trust/estate  
☐ Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) ▶  
**Note.** For a single-member LLC that is disregarded, do not check LLC; check the appropriate box in the line above for the tax classification of the single-member owner.  
☐ Other (see instructions) ▶

4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):

Exempt payee code (if any) \_\_\_\_\_  
Exemption from FATCA reporting code (if any) \_\_\_\_\_  
*(Applies to accounts maintained outside the U.S.)*

5 Address (number, street, and apt. or suite no.)

**11632 Westminster Ave. Unit H**

6 City, state, and ZIP code

**Garden Grove, CA. 92843**

Requester's name and address (optional)

7 List account number(s) here (optional)

### Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

**Note.** If the account is in more than one name, see the instructions for line 1 and the chart on page 4 for guidelines on whose number to enter.

**Social security number**

\_\_\_\_ - \_\_\_\_ - \_\_\_\_

or

**Employer identification number**

9 5 - 3 7 3 7 1 6 2

### Part II Certification

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
- I am a U.S. citizen or other U.S. person (defined below); and
- The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

**Certification instructions.** You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 3.

**Sign Here** Signature of U.S. person ▶

Date ▶ **8-22-2017**

### General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

**Future developments.** Information about developments affecting Form W-9 (such as legislation enacted after we release it) is at [www.irs.gov/fw9](http://www.irs.gov/fw9).

### Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following:

- Form 1099-INT (interest earned or paid)
- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)

- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

*If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding? on page 2.*

By signing the filled-out form, you:

- Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
- Certify that you are not subject to backup withholding, or
- Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S.-trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income, and
- Certify that FATCA code(s) entered on this form (if any) indicating that you are exempt from the FATCA reporting, is correct. See *What is FATCA reporting?* on page 2 for further information.



CONTRACTORS  
STATE LICENSE BOARD  
ACTIVE LICENSE



License Number **435497**

Entity **CORP**

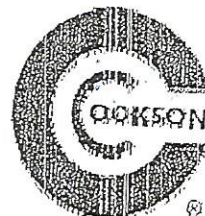
Business Name **ACTION DOOR REPAIR  
CORPORATION**

License Category: **C61/D08 C61/D28 C61/D52**



Expiration Date **02/28/2019**

[www.cslb.ca.gov](http://www.cslb.ca.gov)



THE  
COOKSON  
COMPANY,  
INC.

August 26, 2013

To Whom It May Concern:

Let it be known that Action Door Repair Corp. of Huntington Park, CA, is an authorized and qualified distributor of closure products manufactured by The Cookson Company, Inc.

As such, Action Door Repair Corp. is authorized and qualified to install, maintain, and perform all code and NFPA 80 required testing and resetting services for all Cookson products.

Please call me directly, at (800) 294-4358 ext. 4579, with any questions or comments.

Sincerely,

Sean Smith  
Vice President Sales  
The Cookson Company, Inc.

AN ISO 9001:2008 REGISTERED COMPANY

Phoenix Office: P.O. Box 23880, Phoenix, Arizona 85063-3880 • (602) 272-4244 • Fax (866) 448-6798 • [www.cooksondoor.com](http://www.cooksondoor.com)  
Rolling Doors • Fire Doors • Grilles • Counter Doors • Side Coiling Partitions



# Supplier Profile

## State of California Certification



Certification ID : 20793

Legal Business Name

ACTION DOOR REPAIR CORP

Doing Business As (DBA) Name1:

ACTION DOOR REPAIR CORP

Doing Business As (DBA) Name2:

Office Phone Number

323/583-1026

Business Fax Number

323/587-2826

Business Web Address

<http://www.actiondoorrepair.com>  
(<http://www.actiondoorrepair.com>)

Address

5420 MALABAR ST  
HUNTINGTON PARK  
CA 90255

Email:

[jr@actiondoorrepair.com](mailto:jr@actiondoorrepair.com)  
(<mailto:jr@actiondoorrepair.com>)

Total No. of Employees

32

Business Types:

Construction

Notification Preference

Email

Service Areas

Alameda , Alpine , Amador , Butte , Calaveras , Colusa , Contra Costa , Del Norte , El Dorado , Fresno , Glenn , Humboldt , Imperial , Inyo , Kern , Kings , Lake , Lassen , Los Angeles , Madera , Marin , Mariposa , Mendocino , Merced , Modoc , Mono , Monterey , Napa , Nevada , Orange , Placer , Plumas , Riverside , Sacramento , San Benito , San Bernardino , San Diego , San Joaquin , San Luis Obispo , San Mateo , Santa Barbara , Santa Clara , Santa Cruz , Shasta , Sierra , Siskiyou , Solano , Sonoma , Stanislaus , Sutter , Tehama , Trinity , Tulare , Tuolumne , Ventura , Yolo , Yuba

[View Keywords](#)

[View Classifications](#)

Active Certifications

?

Certification Type	Status	From	To
SB(Micro)	Approved	09/14/2012	09/30/2017

Certification History

?

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ATTACHMENT B - PRICING SHEET  
RO2220 - Apparatus Bay Door Maintenance and Repair Services

Item	Description	Quantity	Unit Cost	Extended Cost
1	<p>Replace damaged chain, both sprockets and reset limits on an overhead roll up door.</p> <p>Labor rate information:</p> <p>Classification 1: <u>1-TECH</u> \$ <u>124</u> /HR x Number of Hours <u>2</u></p> <p>Classification 2: <u>1-TECH</u> \$ <u>124</u> /HR x Number of Hours <u>2</u></p> <p>Materials cost \$ _____</p> <p>Overhead cost \$ _____</p> <p>Profit \$ _____</p> <p><i>MATERIALS e LIST -10% = \$108</i></p>	20	\$604	\$0.00 \$12,080
2	<p>Replace 8-3" damaged roll up rollers and install 18' of new 3" track</p> <p>Labor rate information:</p> <p>Classification 1: <u>1-TECH</u> \$ <u>124</u> /HR x Number of Hours <u>2</u></p> <p>Classification 2: <u>1-TECH</u> \$ <u>124</u> /HR x Number of Hours <u>2</u></p> <p>Materials cost \$ _____</p> <p>Overhead cost \$ _____</p> <p>Profit \$ _____</p> <p><i>MATERIALS e LIST -10% = \$144.00</i></p>	30	\$640	\$0.00 \$19,200
3	<p>Replace 1 set of 100,000 cycle roll up door springs. Springs approx 20' from the ground.</p> <p>Labor rate information:</p> <p>Classification 1: <u>1-TECH</u> \$ <u>124</u> /HR x Number of Hours <u>6</u></p> <p>Classification 2: <u>1-TECH</u> \$ <u>124</u> /HR x Number of Hours <u>6</u></p> <p>Materials cost \$ _____</p> <p>Overhead cost \$ _____</p> <p>Profit \$ _____</p> <p><i>MATERIALS e LIST -10% = 342.</i></p> <p><i>SCISSORLIFT RENTAL COST x 30% = \$343.85</i></p>	40	\$2,173.85	\$0.00 \$86,954

ATTACHMENT B - PRICING SHEET  
RO2220 - Apparatus Bay Door Maintenance and Repair Services

4	<p>Install new Millers safety edge on 26' wide roll up door with new take up reel.</p> <p>Labor rate information:</p> <p>Classification 1: <u>1-TECH</u></p> <p>\$ <u>124</u> /HR x Number of Hours <u>2</u></p> <p>Classification 2: <u>1-TECH</u></p> <p>\$ <u>124</u> /HR x Number of Hours <u>2</u></p> <p>Materials cost \$ _____</p> <p>Overhead cost \$ _____</p> <p>Profit \$ _____</p> <p><i>MATERIAL E LIST</i>  <math>\rightarrow -10\% = \\$598.66</math></p>	20	\$1,094.66	\$0.00	\$21,893.20
5	<p>Replace 1 HP operator motor on a sectional roll up door. Operator is approx 18' from the ground.</p> <p>Labor rate information:</p> <p>Classification 1: <u>1-TECH</u></p> <p>\$ <u>124</u> /HR x Number of Hours <u>5</u></p> <p>Classification 2: <u>1-TECH</u></p> <p>\$ <u>124</u> /HR x Number of Hours <u>5</u></p> <p>Materials cost \$ _____</p> <p>Overhead cost \$ _____</p> <p>Profit \$ _____</p> <p><i>MATERIALS E LIST</i>  <math>\rightarrow -10\% = 1,339</math></p> <p><i>SCISSORLIFT RENTAL COST x 30% = \$343.85</i></p>	5	\$2,922.85	\$0.00	\$14,614.25
6	<p>Replace the bottom panel on a 20' wide sectional roll up door along with new hinges, rollers, Millers edge and reset limits. Panel is 20'X24" high.</p> <p>Labor rate information:</p> <p>Classification 1: <u>1-TECH</u></p> <p>\$ <u>124</u> /HR x Number of Hours <u>4</u></p> <p>Classification 2: <u>1-TECH</u></p> <p>\$ <u>124</u> /HR x Number of Hours <u>4</u></p> <p>Materials cost \$ _____</p> <p>Overhead cost \$ _____</p> <p>Profit \$ _____</p> <p><i>MATERIALS E LIST</i>  <math>\rightarrow -10\% = 1,162.42</math></p> <p><i>SCISSORLIFT REQUIRED IF IT IS THE TOP PANEL</i></p>	10	\$2,154.42	\$0.00	\$21,544.20

TOTAL ANNUAL AMOUNT

\$0.00

*\$176,285.65*



**ATTACHMENT B - PRICING SHEET**  
**RO2220 - Apparatus Bay Door Maintenance and Repair Services**

Please fill in the additional pricing sections for additional consideration. Any request for services estimated at \$5,000 or greater may require informal bidding and a one-time purchase order will be issued with department approval prior to start of work. The OCFA reserves the right to use alternate sources for completion of the work, to obtain competitive prices on any repair and replacement and to utilize information obtained under this contract relative to necessary materials and repairs as it deems appropriate.

Additional Rate Information	
Description	Rate
Labor per hour - Prevailing Wages Standard Rate: Mon through Fri, 7:00 a.m. to 5:00 p.m.	
Classification: <u>1- TECHNICIAN</u>	\$ <u>124</u> /Hour
Classification:	\$ _____ /Hour
Classification:	\$ _____ /Hour
Labor per hour - Prevailing Wages Overtime Rate:	
Classification: <u>1- TECHNICIAN</u>	\$ <u>217</u> /Hour
Classification:	\$ _____ /Hour
Classification:	\$ _____ /Hour
Minimum Call Out charge (if applicable)	<u>\$248</u>
Trip Charge (if applicable) <u>PER TECH</u>	<u>\$62</u>

Additional Rate Information	
Description	Rate
Percentage discount off MSRP list price (materials)	<u>10</u> %

IF MSRP IS NOT AVAILABLE

COST X 30%



**ORANGE COUNTY FIRE AUTHORITY  
APPARATUS BAY DOOR MAINTENANCE AND REPAIR AGREEMENT**

THIS AGREEMENT FOR APPARATUS BAY DOOR MAINTENANCE AND REPAIR SERVICES ("Agreement") is made and entered into this \_\_\_\_\_ day of October, 2017 ("Effective Date"), by and between the Orange County Fire Authority, a California Joint Powers Authority, hereinafter referred to as "OCFA", and Mako Overhead Door Inc., a California Corporation, hereinafter referred to as "Contractor". OCFA and Contractor are sometimes hereinafter individually referred to as "Party" and are hereinafter collectively referred to as the "Parties".

**RECITALS**

A. OCFA requires the services of a qualified contractor to provide apparatus bay door maintenance and repair services at the OCFA Regional Fire Operations and Training Center (RFOTC) located at 1 Fire Authority Rd. Irvine, CA 92602, fire stations, and other properties.

B. Contractor has submitted to OCFA a proposal to provide such apparatus bay door maintenance and repair services dated August 23, 2017, a copy of which is maintained on file with the Clerk of the Authority, and is incorporated herein by this reference ("Contractor's Proposal").

C. OCFA desires to retain Contractor to provide such apparatus bay door maintenance and repair services

NOW, THEREFORE, in consideration of the promises and mutual obligations, covenants, and conditions contained herein, the Parties agree as follows:

**AGREEMENT**

**1. MAINTENANCE SERVICES**

**1.1 Scope of Services.**

In compliance with all terms and conditions of this Agreement, Contractor shall provide those apparatus bay door maintenance and repair services under a fixed-price contract as specified in the Scope of Services, attached hereto as Exhibit "A" (hereinafter, the "Services" or "Work"). Contractor warrants that all apparatus bay door maintenance and repair Services shall be performed in a skillful, competent, professional and satisfactory manner in accordance with all standards prevalent in the same discipline in the State of California. Contractor represents and warrants that it and all of its employees and subcontractors providing any Work or Services under this Agreement shall have sufficient skill and expertise to perform the Services and Work assigned to them. All Services and Work shall be completed to the reasonable satisfaction of the OCFA.

## **1.2 Contract Documents.**

This Agreement shall consist of the following: (1) this Agreement, inclusive of Exhibit "A"; (2) OCFA Request for Proposals Number RO2220 (the "RFP"), and (3) Contractor's Proposal. Should any conflict or inconsistency exist in the Contract Documents, the conflict or inconsistency shall be resolved by applying the provisions in the highest priority document, which shall be determined in the following order of priority: (1<sup>st</sup>) this Agreement, (2<sup>nd</sup>) the RFP, and (3<sup>rd</sup>) Contractor's Proposal.

## **1.3 Compliance with Law.**

Contractor shall comply at all times during the term of this Agreement with all laws, ordinances, resolutions, statutes, rules, and regulations of OCFA and any federal, state or local governmental agency of competent jurisdiction. Contractor shall be liable for all violations of such laws, ordinances, resolutions, statutes, rules and regulations in connection with performing the Work and Services. If Contractor performs any Work or Services in violation of such laws, ordinances, resolutions, statutes, rules or regulations, Contractor shall be solely responsible for all penalties and costs arising therefrom. Contractor shall defend, indemnify, and hold OCFA, its officials, officers, employees, agents and volunteers, free and harmless from any claim or liability arising out of any failure or alleged failure to comply with such laws, ordinances, resolutions, statutes, rules or regulations.

## **1.4 Licenses and Permits.**

Prior to performing any Services or Work hereunder, Contractor shall obtain all licenses, permits, qualifications, and approvals of whatever nature that are legally required to practice its profession and perform the Work and Services required by this Agreement. Contractor represents and warrants to OCFA that Contractor shall, at its sole cost and expense, keep in effect at all times during the term of this Agreement and any extension, any license, permit, qualification, or approval that is legally required for Contractor to perform the Work and Services under this Agreement. Contractor 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 Contractor's performance of the Work and Services required by this Agreement, and shall defend, indemnify, and hold the OCFA, its officials, officers, employees, agents and volunteers, free and harmless from and against any claim or liability arising out of any failure or alleged failure to obtain such license, permits, and approvals of whatever nature that are legally required to perform the Work or Services.

## **1.5 Familiarity with Work.**

By executing this Agreement, Contractor warrants that Contractor (a) has thoroughly investigated and considered the Services to be performed, (b) has carefully considered how the Services should be performed and has carefully examined the

location or locations at or with respect to where the Services or Work is to be performed, and (c) fully understands the facilities, difficulties and restrictions attending performance of the Services under this Agreement. If the Services involve work upon any site, Contractor represents and maintains that Contractor has or will investigate the site and is or will become fully acquainted with the conditions there existing, prior to the commencement of any Services hereunder. Should the Contractor discover any latent or unknown conditions that will materially affect the performance of the Services hereunder, Contractor shall immediately inform OCFA of such fact and shall not proceed with any work except at Contractor's risk until written instructions are received from the Contract Officer.

#### **1.6 Care of Work.**

Contractor shall adopt and follow reasonable procedures and methods during the term of the Agreement to prevent loss or damage to materials, papers or other components of the Work, and shall be responsible for all such damage until acceptance of the Work by OCFA, except such loss or damages as may be caused by OCFA's own negligence.

#### **1.7 Prevailing Wage.**

Contractor is aware of the requirements of California Labor Code Section 1720, et seq., and 1770, et seq., as well as California Code of Regulations, Title 8, Section 16000, et seq., ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on "public works" and "maintenance" projects. Contractor agrees to fully comply with all applicable federal and state labor laws (including, without limitation, if applicable, the Prevailing Wage Laws). It is agreed by the Parties that, in connection with the Work or Services provided pursuant to this Agreement, Contractor shall bear all risks of payment or non-payment of prevailing wages under California law, and Contractor hereby agrees to defend, indemnify, and hold the OCFA, its officials, officers, employees, agents and volunteers, free and harmless from any claim or liability arising out of any failure or alleged failure to comply with the Prevailing Wage Laws. The foregoing indemnity shall survive termination of this Agreement.

### **2. COMPENSATION**

#### **2.1 Maximum Contract Amount.**

For the Services rendered pursuant to this Agreement, Contractor shall be compensated and reimbursed, in accordance with the terms set forth in Exhibit "A," in an amount not to exceed \$100,000 (One Hundred Thousand Dollars). The maximum amount of OCFA's payment obligation under this Agreement is the amount specified in this section ("Maximum Contract Amount").

## **2.2 Method of Payment.**

In any month in which Contractor wishes to receive payment, Contractor shall no later than the first working day of such month, submit to OCFA in the form approved by OCFA's Director of Finance, an invoice for services rendered prior to the date of the invoice. OCFA shall pay Contractor for all expenses stated thereon which are approved by OCFA consistent with this Agreement, within thirty (30) days of receipt of Contractor's invoice.

## **2.3 Changes.**

In the event any change or changes in the Work is requested by OCFA, the Parties shall execute a written amendment to this Agreement, setting forth with particularity all terms of such amendment, including, but not limited to, any additional fees for services. An amendment may be entered into, among other things: (a) to provide for revisions or modifications to documents or other work product or work when documents or other work product or work is required by the enactment or revision of law subsequent to the preparation of any documents, other work product or work; and/or (b) to provide for additional services not included in this Agreement or not customarily furnished in accordance with generally accepted practice in Contractor's profession.

## **2.4 Appropriations.**

This Agreement is subject to and contingent upon funds being appropriated therefore by the OCFA Board of Directors for each fiscal year covered by the Agreement. If such appropriations are not made, this Agreement shall automatically terminate without penalty to OCFA.

# **3. PERFORMANCE SCHEDULE**

## **3.1 Time of Essence.**

Time is of the essence in the performance of this Agreement. The time for completion of the Services to be performed by Contractor is an essential condition of this Agreement.

## **3.2 Schedule of Performance.**

Contractor shall prosecute regularly and diligently the work of this Agreement according to the time periods specified in Exhibit "A." When requested by Contractor, extensions of the time periods specified in Exhibit "A" may be approved in writing by the Contract Officer; however, OCFA shall not be obligated to grant such an extension.

### **3.3 Force Majeure.**

The time for performance of Services to be rendered pursuant to this Agreement may be extended because of any delays due to unforeseeable causes beyond the control and without the fault or negligence of the Contractor (financial inability excepted), including, but not restricted to, acts of God or of a public enemy, unusually severe weather, fires, earthquakes, floods, epidemics, quarantine restrictions, riots, strikes, freight embargoes, wars, and/or acts of any governmental agency, including the OCFA, if the Contractor, within ten (10) days of the commencement of such condition, notifies the Contract Officer in writing of the causes of the delay. The Contract Officer shall thereupon ascertain the facts and the extent of the delay, and extend the time for performing the Services for the period of the enforced delay when and if in the Contract Officer's judgment such delay is justified. The Contract Officer's determination shall be final and conclusive upon the Parties to this Agreement. In no event shall Contractor be entitled to recover damages against OCFA for any delay in the performance of this Agreement, however caused, Contractor's sole remedy being extension of the Agreement pursuant to this section.

### **3.4 Term.**

Unless earlier terminated in accordance with Section 8.5 of this Agreement, this Agreement shall commence upon the Effective Date, and shall continue in full force and effect for an initial one-year term ("Initial Term"). Thereafter, at the sole option of the OCFA, the Agreement may be extended for up to two additional one-year renewal terms. Following the Initial Term, and prior to any subsequent renewal term, the Contractor may increase the annual cost of Services. In no event, however, shall an increase in annual cost of Services exceed current prices plus three (3) percent per year or the percentage increase in the Consumer Price Index-Urban (CPI-U) for the immediately preceding 12-month period, whichever is lower.

## **4. COORDINATION OF WORK**

### **4.1 Representative of Contractor.**

The following principal of the Contractor is hereby designated as being the principal and representative of Contractor authorized to act in its behalf with respect to the Services to be performed under this Agreement and make all decisions in connection therewith: Mike McCall, Sales Manager

It is expressly understood that the experience, knowledge, capability and reputation of the foregoing principal is a substantial inducement for OCFA to enter into this Agreement. Therefore, the foregoing principal shall be responsible during the term of this Agreement for directing all activities of Contractor and devoting sufficient time to personally supervise the Services performed hereunder. The foregoing principal may not be changed by Contractor without the express written approval of the Contract Officer.

#### **4.2 Contract Officer.**

The Contract Officer shall be Steve Klein, unless otherwise designated in writing by OCFA. It shall be the Contractor's responsibility to keep the Contract Officer fully informed of the progress of the performance of the Services and Contractor shall refer any decisions that must be made by OCFA to the Contract Officer. Unless otherwise specified herein, any approval of OCFA required hereunder shall mean the approval of the Contract Officer. The Contract Officer shall have authority to sign all documents on behalf of the OCFA required hereunder to carry out the terms of this Agreement.

#### **4.3 Prohibition Against Subcontracting or Assignment.**

The experience, knowledge, capability and reputation of Contractor, its principals and employees, were a substantial inducement for OCFA to enter into this Agreement. Therefore, Contractor shall not contract with any other entity to perform in whole or in part the services required hereunder without the express written approval of OCFA. If Contractor is permitted to subcontract any part of this Agreement by OCFA, Contractor shall be responsible to OCFA for the acts and omissions of its subcontractor(s) in the same manner as it is for persons directly employed. Nothing contained in this Agreement shall create any contractual relationships between any subcontractor and OCFA. All persons engaged in the Work will be considered employees of Contractor. OCFA will deal directly with and will make all payments to Contractor. In addition, neither this Agreement nor any interest herein may be assigned, transferred, conveyed, hypothecated, or encumbered voluntarily or by operation of law, whether for the benefit of creditors or otherwise, without the prior written approval of OCFA. 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 Contractor, 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 Contractor or any surety of Contractor from any liability hereunder without the express written consent of OCFA.

#### **4.4 Independent Contractor.**

A. The legal relationship between the Parties is that of an independent contractor, and nothing herein shall be deemed to make Contractor, or any of its personnel, an OCFA employee. During the performance of this Agreement, Contractor and its officers, employees, and agents shall act in an independent capacity and shall not act as OCFA officers or employees. Contractor will determine the means, methods and details of performing the Services subject to the requirements of this Agreement. The personnel performing the Services under this Agreement on behalf of Contractor shall at all times be under Contractor's exclusive direction and control. Neither OCFA nor any of its officials, officers, employees, agents or volunteers shall

have control over the conduct of Contractor or any of its officers, employees, or agents, except as set forth in this Agreement. Contractor, its officers, employees or agents, shall not maintain a permanent office or fixed business location at OCFA's offices. OCFA shall have no voice in the selection, discharge, supervision, or control of Contractor's officers, employees, representatives or agents or in fixing their number, compensation, or hours of service. Contractor shall pay all wages, salaries, and other amounts due its employees in connection with the performance of Services under this Agreement and shall be responsible for all reports and obligations respecting them, including but not limited to social security income tax withholding, unemployment compensation, workers' compensation, and other similar matters. OCFA shall not in any way or for any purpose be deemed to be a partner of Contractor in its business or otherwise a joint venturer or a member of any joint enterprise with Contractor.

B. Contractor shall not incur or have the power to incur any debt, obligation, or liability against OCFA, or bind OCFA in any manner.

C. No OCFA benefits shall be available to Contractor, its officers, employees, or agents, in connection with the performance of any Work or Services under this Agreement. Except for professional fees paid to Contractor as provided for in this Agreement, OCFA shall not pay salaries, wages, or other compensation to Contractor for the performance of any Work or Services under this Agreement. OCFA shall not be liable for compensation or indemnification to Contractor, its officers, employees, or agents, for injury or sickness arising out of performing any Work or Services hereunder. If for any reason any court or governmental agency determines that the OCFA has financial obligations, other than pursuant to Section 2 herein, of any nature relating to salary, taxes, or benefits of Contractor's officers, employees, representatives, agents, or subconsultants or subcontractors, Contractor shall defend, indemnify, and hold harmless OCFA from and against all such financial obligations.

#### **4.5 Employee Retirement System Eligibility Indemnification.**

A. In the event that Contractor or any employee, agent, or subcontractor of Contractor providing any Work or Services under this Agreement claims or is determined by a court of competent jurisdiction to be eligible for enrollment in an employee retirement system as an employee of the OCFA, Contractor shall indemnify, defend, and hold harmless OCFA against: (1) all such claim(s) and determination(s); (2) for the payment of any employee and/or employer contributions for employee retirement system benefits on behalf of Contractor or its employees, agents or subcontractors; and (3) the payment of any penalties and interest on such contributions which would otherwise be the responsibility of the OCFA.

B. Notwithstanding any other agency, state or federal policy, rule, regulation, law or ordinance to the contrary, Contractor and any of its employees, agents, and subcontractors providing any Work or Services under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any claims to, any

compensation, benefit, or any incident of employment by OCFA, including but not limited to eligibility to enroll in PERS as an employee of OCFA and entitlement to any contribution to be paid by OCFA for employer contribution and/or employee contributions for PERS benefits.

## **5. INSURANCE**

### **5.1 Compliance with Insurance Requirements.**

Contractor shall obtain, maintain, and keep in full force and effect during the term of this Agreement, at its sole cost and expense, and in a form and content satisfactory to OCFA, all insurance required under this section. Contractor shall not commence any Work or Services under this Agreement unless and until it has provided evidence satisfactory to OCFA that it has secured all insurance required under this section. In addition, Contractor shall not allow any subconsultant or subcontractor to commence any Work or Services until it has provided evidence satisfactory to OCFA that the subconsultant or subcontractor has secured all insurance required under this section. If Contractor's existing insurance policies do not meet the insurance requirements set forth herein, Contractor agrees to amend, supplement or endorse the policies to do so.

### **5.2 Types of Insurance Required.**

As a condition precedent to the effectiveness of this Agreement, and without limiting the indemnity provisions set forth in this Agreement, Contractor shall obtain and maintain in full force and effect during the term of this Agreement, including any extension thereof, the following policies of insurance:

A. Commercial General Liability Insurance. Contractor shall obtain and maintain, in full force and effect throughout the term of this Agreement, a policy of Commercial General Liability Insurance written on an occurrence basis with limits of at least one million dollars (\$1,000,000.00) per occurrence, two million dollars (\$2,000,000.00) in the general aggregate, and one million dollars (\$1,000,000.00) for products and completed operations. Defense costs shall be paid in addition to the limits. The policy shall contain no endorsements or provisions limiting coverage for (1) contractual liability; (2) cross liability exclusion for claims or suits by one insured against another; or (3) contain any other exclusion contrary to the Agreement.

B. Automobile Liability Insurance. Contractor shall obtain and maintain, in full force and effect throughout the term of this Agreement, a policy of Automobile Liability Insurance written on a per occurrence basis with limits of at least one million dollars (\$1,000,000.00) combined limit for each occurrence covering bodily injury and property damage. The policy shall specifically include coverage for owned, non-owned, leased, and hired automobiles.



C. Workers' Compensation Insurance. Contractor shall obtain and maintain, in full force and effect throughout the term of this Agreement, a policy of Workers' Compensation Insurance in at least the minimum statutory amounts, and in compliance with all other statutory requirements, as required by the State of California. Contractor agrees to waive and obtain endorsements from its workers' compensation insurer waiving all subrogation rights under its workers' compensation insurance policy against the OCFA, its officials, officers, employees, agents and volunteers, and to require each of its subconsultants and subcontractors, if any, to do likewise under their workers' compensation insurance policies. Contractor shall obtain and maintain, in full force and effect throughout the term of this Agreement, a policy of Employer's Liability Insurance written on a per occurrence basis with limits of at least one million dollars (\$1,000,000.00) per accident for bodily injury or disease.

### **5.3 Acceptability of Insurers.**

Insurance required by this section shall be issued by a licensed company authorized to transact business in the state by the Department of Insurance for the State of California with a current rating of A:VII or better (if an admitted carrier), or a current rating of A:X or better (if offered by a non-admitted insurer) listed on the State of California List of Eligible Surplus Lines Insurers (LESLI), by the latest edition of A.M. Best's Key Rating Guide, except that the OCFA will accept workers' compensation insurance from the State Compensation Fund. In the event the OCFA determines that the Work or Services to be performed under this Agreement creates an increased or decreased risk of loss to the OCFA, the Contractor agrees that the minimum limits of the insurance policies may be changed accordingly upon receipt of written notice from the OCFA. Contractor shall immediately substitute any insurer whose A.M. Best rating drops below the levels specified herein.

### **5.4 Insurance Endorsements.**

Required insurance policies shall not be in compliance if they include any limiting provision or endorsement that has not been submitted to the OCFA for written approval. Required insurance policies shall contain the following provisions, or Contractor shall provide endorsements on forms approved by the OCFA to add the following provisions to the insurance policies:

A. The policy or policies of insurance required by this section for Commercial General Liability and Automobile Liability Insurance shall be endorsed to provide the following:

(i) Additional Insured: The OCFA, its officials, officers, employees, agents and volunteers, shall be additional insureds with regard to liability and defense of suits or claims arising out of the performance of the Agreement; and

(ii) Additional Insured Endorsements: Additional insured endorsements shall not (1) be restricted to "ongoing operations", (2) exclude

“contractual liability”, (3) restrict coverage to “sole” liability of Contractor, or (4) contain any other exclusions contrary to the Agreement; and, the coverage shall contain no special limitations on the scope of protection afforded to additional insureds.

(iii) Notice: The policy or policies of insurance required by this section for Commercial General Liability and Automobile Liability Insurance shall be endorsed to state that coverage shall not be suspended, voided, cancelled, or modified, or reduced in coverage or in limits, except after thirty (30) days’ prior written notice by First Class U.S. Mail, postage-prepaid, has been provided to the OCFA. Notwithstanding the foregoing, if coverage is to be suspended, voided, or cancelled because of Consultant’s failure to pay the insurance premium, the notice provided to OCFA shall be by ten (10) days’ prior written notice.

B. For all policies of Commercial General Liability Insurance, Contractor shall provide endorsements for ongoing operations and completed operations to effectuate this requirement.

#### **5.5 Deductibles and Self-Insured Retentions.**

Any deductible or self-insured retention must be approved in writing by the OCFA in advance and shall protect the OCFA, its officials, officers, employees, agents and volunteers, in the same manner and to the same extent as they would have been protected had the policy or policies not contained a deductible or self-insured retention.

#### **5.6 Primary and Non-Contributing Insurance.**

All policies of Commercial General Liability Insurance and Automobile Liability Insurance shall be primary and any other insurance, deductible, or self-insurance maintained by the OCFA, its officials, officers, employees, agents or volunteers, shall not contribute with this primary insurance. Policies shall contain or be endorsed to contain such provisions.

#### **5.7 Waiver of Subrogation.**

All policies of Commercial General Liability and Automobile Liability Insurance shall contain or be endorsed to waive subrogation against the OCFA, its officials, officers, employees, agents and volunteers, or shall specifically allow Contractor or others providing insurance evidence in compliance with the requirements set forth in this section to waive their right to recovery prior to a loss. Contractor hereby agrees to waive its own right of recovery against the OCFA, its officials, officers, employees, agents and volunteers, and Contractor hereby agrees to require similar written express waivers and insurance clauses from each of its subconsultants or subcontractors.

## **5.8 Evidence of Coverage.**

Concurrently with the execution of this Agreement, Contractor shall deliver certificates of insurance together with original endorsements affecting each of the insurance policies required by this section. Required insurance policies shall not be in compliance if they include any limiting provision or endorsement that has not been submitted to the OCFA for written approval. The certificates of insurance and original endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf. At least fifteen (15) days prior to the expiration of any such policy, evidence of insurance showing that such insurance coverage has been renewed or extended shall be filed with the OCFA. If such coverage is cancelled or reduced and not replaced immediately so as to avoid a lapse in the required coverage, Contractor shall, within ten (10) days after receipt of written notice of such cancellation or reduction of coverage, file with the OCFA evidence of insurance showing that the required insurance has been reinstated or has been provided through another insurance company or companies. Contractor shall promptly furnish, at OCFA's request, copies of actual policies including all declaration pages, endorsements, exclusions and any other policy documents OCFA requires to verify coverage.

## **5.9 Requirements Not Limiting.**

Requirement of specific coverage or minimum 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. Nothing in this section shall be construed as limiting in any way the indemnification provision contained in this Agreement, or the extent to which Contractor may be held responsible for payments of damages to persons or property.

## **5.10 Enforcement of Agreement (Non-Estoppel).**

Contractor acknowledges and agrees that actual or alleged failure on the part of the OCFA to inform Contractor of any non-compliance with any of the insurance requirements set forth in this section imposes no additional obligation on the OCFA nor does it waive any rights hereunder.

## **5.11 Insurance for Subconsultants.**

Contractor shall include all subconsultants or subcontractors engaged in any Work or Services for Contractor relating to this Agreement as additional insureds under the Contractor's insurance policies, or Contractor shall be responsible for causing its subconsultants or subcontractors to procure and maintain the appropriate insurance in compliance with the terms of the insurance requirements set forth in this section, including adding the OCFA, its officials, officers, employees, agents and volunteers, as additional insureds to their respective policies. All policies of Commercial General Liability Insurance provided by Contractor's subconsultants or subcontractors performing any Work or Services related to this Agreement shall be endorsed to name

the OCFA, its officials, officers, employees, agents and volunteers, as additional insureds. Contractor shall not allow any subconsultant or subcontractor to commence any Work or Services relating to this Agreement unless and until it has received satisfactory evidence of their compliance with all insurance requirements under this Agreement, to the extent applicable. Contractor agrees to provide satisfactory evidence of compliance with this subsection upon request of the OCFA.

#### **5.12 Other Insurance Requirements.**

The following terms and conditions shall apply to the insurance policies required of Contractor pursuant to this Agreement:

A. Contractor shall provide immediate written notice to OCFA if (1) any of the insurance policies required herein are terminated, cancelled or suspended, (2) the limits of any of the insurance coverages required herein are reduced, or (3) the deductible or self-insured retention is increased.

B. All insurance coverage and limits provided by Contractor and available or applicable to this Agreement are intended to apply to each insured, including additional insureds, against whom a claim is made or suit is brought to the full extent of the policies. Nothing contained in this Agreement or any other agreement relating to the OCFA or its operations shall limit the application of such insurance coverage.

C. None of the insurance coverages required herein will be in compliance with the requirements of this section if they include any limiting endorsement which substantially impairs the coverages set forth herein (e.g., elimination of contractual liability or reduction of discovery period), unless the endorsement has first been submitted to the OCFA and approved in writing.

D. Certificates of insurance will not be accepted in lieu of required endorsements, and submittal of certificates without required endorsements may delay commencement of the Work. It is Contractor's obligation to ensure timely compliance with all insurance submittal requirements as provided herein.

E. Contractor agrees to ensure that subconsultants and subcontractors, if any, and any other parties involved with the Work under this Agreement who are brought onto or involved in the Work by Contractor, provide the same minimum insurance coverage required of Contractor. Contractor 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. Contractor agrees that upon request, all agreements with subcontractors and others engaged in the Work will be submitted to the OCFA for review.

F. Contractor agrees to provide immediate written notice to OCFA of any claim, demand or loss against Contractor arising out of the Work or

Services performed under this Agreement and for any other claim, demand or loss which may reduce the insurance available to pay claims, demands or losses arising out of this Agreement.

## **6. INDEMNIFICATION**

To the fullest extent permitted by law, Contractor shall defend (at Contractor's sole cost and expense with legal counsel reasonably acceptable to OCFA), indemnify and hold the OCFA, its officials, officers, employees, agents and volunteers, free and harmless from any and all claims, demands, orders, causes of action, costs, expenses, liabilities, losses, penalties, judgments, arbitration awards, settlements, damages or injuries of any kind, in law or in equity, including but not limited to property or persons, including wrongful death, (collectively "Claims") in any manner arising out of, pertaining to, related to, or incident to any alleged acts, errors or omissions, or willful misconduct of Contractor, its officers, directors, employees, subcontractors, Contractors or agents, in connection with Contractor's performance under this Agreement, including without limitation the payment of all consequential damages, expert witness fees and attorneys' fees and other related costs and expenses. Notwithstanding the foregoing, to the extent that the Work or Services performed by Contractor are subject to Civil Code Section 2782.8, the above indemnity shall be limited, to the extent required by Civil Code Section 2782.8, to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Contractor. Under no circumstances shall the insurance requirements and limits set forth in this Agreement be construed to limit Contractor's indemnification obligation or other liability hereunder. Notwithstanding the foregoing, such obligation to defend, hold harmless and indemnify the OCFA, its officials, officers, employees, agents and volunteers, shall not apply to the extent that such Claims are caused in part by the sole negligence or willful misconduct of the OCFA.

## **7. RECORDS AND REPORTS**

### **7.1 Reports.**

Contractor shall periodically prepare and submit to the Contract Officer such reports concerning the performance of the Services required by this Agreement as the Contract Officer shall require.

### **7.2 Records.**

Contractor shall keep complete, accurate, and detailed accounts of all time, costs, expenses, and expenditures pertaining in any way to this Agreement. Contractor shall keep such books and records as shall be necessary to properly perform the Services required by this Agreement and enable the Contract Officer to evaluate the performance of such Services. The Contract Officer shall have full and free access to such books and records at all reasonable times, including the right to inspect, copy, audit and make records and transcripts from such records. Contractor shall maintain

such books and records in accordance with generally accepted accounting principles and shall clearly identify and retain the same for a period of three (3) years from the date of final payment by OCFA hereunder.

### **7.3 Ownership of Documents.**

Except for any documents required by the rules of conduct governing Contractor's profession to be owned by Contractor, all drawings, specifications, reports, records, documents and other materials prepared by Contractor, its employees, subconsultants, subcontractors and agents in the performance of this Agreement shall be the property of OCFA and shall be delivered to OCFA upon request of the Contract Officer or upon the termination of this Agreement, and Contractor shall have no claim for further employment or additional compensation as a result of the exercise by OCFA of its full rights or ownership of the documents and materials hereunder. Contractor may retain copies of such documents for its own use. Contractor shall have an unrestricted right to use the concepts embodied therein. Contractor shall ensure that all of its subconsultants and subcontractors shall provide for assignment to OCFA of any documents or materials prepared by them, and in the event Contractor fails to secure such assignment, Contractor shall indemnify OCFA for all damages resulting therefrom.

### **7.4 Release of Documents.**

All drawings, specifications, reports, records, documents and other materials prepared by Contractor, its employees, subconsultants, subcontractors and agents in the performance of Services under this Agreement shall not be released publicly without the prior written approval of the Contract Officer.

## **8. ENFORCEMENT OF AGREEMENT**

### **8.1 California Law.**

This Agreement shall be construed and interpreted 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 Orange, State of California, or any other appropriate court in such county, and Contractor covenants and agrees to submit to the personal jurisdiction of such court in the event of such action.

### **8.2 Waiver.**

No delay or omission in the exercise of any right or remedy of a non-defaulting Party on any default shall impair such right or remedy or be construed as a waiver. No consent or approval of OCFA shall be deemed to waiver or render unnecessary OCFA's consent to or approval of any subsequent act of Contractor. 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.

### **8.3 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.

### **8.4 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 injunctive relief, a declaratory judgment, or any other remedy consistent with the purposes of this Agreement.

### **8.5 Termination Prior to Expiration of Term.**

OCFA reserves the right to terminate this Agreement at any time, with or without cause, upon thirty (30) days' written notice to Contractor, except that where termination is due to the fault of the Contractor and constitutes an immediate danger to health, safety and general welfare, the period of notice shall be such shorter time as may be appropriate. Upon receipt of the notice of termination, Contractor shall immediately cease all Services hereunder except such as may be specifically approved by the Contract Officer. Contractor shall be entitled to compensation for all services rendered prior to receipt of the notice of termination and for any services authorized by the Contract Officer thereafter.

Contractor may terminate this Agreement, with or without cause, upon thirty (30) days' written notice to OCFA.

### **8.6 Termination for Default of Contractor.**

A. Contractor's failure to comply with any provision of this Agreement shall constitute a default.

B. If the Contract Officer, determines that Contractor is in default in the performance of any of the terms or conditions of this Agreement, he/she shall notify Contractor in writing of such default. Contractor shall have ten (10) days, or such longer period as OCFA may designate, to cure the default by rendering satisfactory performance. In the event Contractor fails to cure its default within such period of time, OCFA shall have the right, notwithstanding any other provision of this Agreement, to terminate this Agreement without further notice and without prejudice of any remedy to which OCFA may be entitled at law, in equity, or under this Agreement. Contractor shall be liable for any and all reasonable costs incurred by OCFA as a result of such default. Compliance with the provisions of this section shall not constitute a

waiver of any OCFA right to take legal action in the event that the dispute is not cured, provided that nothing herein shall limit OCFA's right to terminate this Agreement without cause pursuant to Section 8.5.

C. If termination is due to the failure of the Contractor to fulfill its obligations under this Agreement, OCFA may, after compliance with the provisions of Section 8.6(B), take over the work and prosecute the same to completion by contract or otherwise, and the Contractor shall be liable to the extent that the total cost for completion of the Services required hereunder exceeds the Maximum Contract Amount (provided that the OCFA shall use reasonable efforts to mitigate such damages), and OCFA may withhold any payments to the Contractor for the purpose of set-off or partial payment of the amounts owed the OCFA as previously stated. The withholding or failure to withhold payments to Contractor shall not limit Contractor's liability for completion of the Services as provided herein.

#### **8.7 Attorneys' Fees.**

In the event any dispute between the Parties with respect to this Agreement results in litigation or any non-judicial proceeding, the prevailing Party shall be entitled, in addition to such other relief as may be granted, to recover from the non-prevailing Party all reasonable costs and expenses, including but not limited to reasonable attorneys' fees, expert witness fees, court costs and all fees, costs, and expenses incurred in any appeal or in collection of any judgment entered in such proceeding. To the extent authorized by law, in the event of a dismissal by the plaintiff or petitioner of the litigation or non-judicial proceeding within thirty (30) days of the date set for trial or hearing, the other Party shall be deemed to be the prevailing Party in such litigation or proceeding.

### **9. OCFA OFFICERS AND EMPLOYEES; NON-DISCRIMINATION**

#### **9.1 Non-Liability of OCFA Officers and Employees.**

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

#### **9.2 Covenant Against Discrimination.**

Contractor covenants that, by and for itself, its heirs, executors, assigns, and all persons claiming under or through them, that there shall be no discrimination or segregation in the performance of or in connection with this Agreement regarding any person or group of persons on account of race, disability, medical condition, color, creed, religion, sex, sexual orientation, marital status, age, national origin, or ancestry. Contractor shall take affirmative action to insure that applicants and employees are



treated without regard to their race, disability, medical condition, color, creed, religion, sex, sexual orientation, marital status, national origin, or ancestry.

## **10. MISCELLANEOUS PROVISIONS**

### **10.1 Notice.**

Any notice, demand, request, 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 pre-paid, first-class mail to the address set forth below. Either Party may change its address by notifying the other Party of the change of address in writing. Notice shall be deemed communicated forty-eight (48) hours from the time of mailing if mailed as provided in this Section.

To OCFA:	Orange County Fire Authority Attention: Steve Klein 1 Fire Authority Road Irvine, CA 92602
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To Contractor:	Mako Overhead Door Inc. Attention: Mike McCall 5618 E La Palma Ave. Anaheim, CA 92807
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### **10.2 Entire Agreement.**

This Agreement constitutes the entire agreement between the Parties and supersedes all prior negotiations, arrangements, agreements, representations, and understandings, if any, made by or among the Parties with respect to the subject matter hereof. No amendments or other modifications of this Agreement shall be binding unless executed in writing by both Parties hereto, or their respective successors, assigns, or grantees.

### **10.3 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 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 shall be interpreted to carry out the intent of the Parties hereunder.

#### **10.4 Successors in Interest.**

This Agreement shall be binding upon and inure to the benefit of the Parties' successors and assignees.

#### **10.5 Third Party Beneficiary.**

Nothing contained in this Agreement is intended to confer, nor shall this Agreement be construed as conferring, any rights, including, without limitation, any rights as a third-party beneficiary or otherwise, upon any entity or person not a party hereto.

#### **10.6 Recitals.**

The above-referenced Recitals are hereby incorporated into the Agreement as though fully set forth herein and each Party acknowledges and agrees that such Party is bound, for purposes of this Agreement, by the same.

#### **10.7 Survival.**

Any responsibility of Contractor for warranties, insurance, indemnity, record-keeping or compliance with laws with respect to this Agreement shall not be invalidated due to the expiration or termination of this Agreement.

#### **10.8 Corporate Authority.**

Each of the undersigned represents and warrants that (i) the Party for which he/she is executing this Agreement is duly authorized and existing, (ii) he/she is duly authorized to execute and deliver this Agreement on behalf of the Party for which he/she is signing, (iii) by so executing this Agreement, the Party for which he/she is signing is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which the Party for which he/she is signing is bound.

IN WITNESS WHEREOF, the Parties have executed and entered into this Agreement as of the date first written above.

"OCFA"

ORANGE COUNTY FIRE AUTHORITY

Date: \_\_\_\_\_

By: \_\_\_\_\_

Debbie Casper  
Purchasing Manager

APPROVED AS TO FORM.

ATTEST:

By: \_\_\_\_\_

DAVID E. KENDIG  
GENERAL COUNSEL

Sherry A.F. Wentz  
Clerk of the Board

Date: 10/13/17

"CONTRACTOR"

MAKO OVERHEAD DOOR INC.

Date: 10/10/17

By: \_\_\_\_\_

Mike McCall  
Sales Manager

## EXHIBIT A

## SCOPE OF WORK

OCFA currently has a centralized Property Management Section responsible for the maintenance and repair of its headquarters and fire stations. The purpose of this Request for Proposals is to establish a contract for apparatus bay door repair and maintenance services on an as needed basis. The successful contractor will provide repair and maintenance services including all personnel, labor, supervision, materials, tools and equipment required to maintain and repair apparatus bay door systems of OCFA's seventy-three (73) fire stations, a 33,870 SQFT warehouse, 7 bay air operations hangar and the RFOTC. The list of Fire Stations, facilities, and their addresses are provided as Attachment A. Continual and reliable operation is essential for the 24-hour operation of our facilities. It is essential that prompt, thorough service is provided at these locations.

The intent of these specifications is to describe the repairs and maintenance requirements in general terms. The detailed specifications required will be based on the particular requirements at the time that a given job, and be judged based on those requirements. OCFA will consider value-engineering suggestions from Contractor and may accept alternates recommended if they provide equal or better functionality, durability, and cost effectiveness; however, OCFA, in its sole discretion, may require specific manufacturers and model numbers for any given job.

There are approximately 220 overhead apparatus bay/garage doors and 40 gates. The overhead doors consist of various sizes of Sectional, Roll, and Telescopic from various manufacturers as follows:

- Type 1: Consists of Section and Roll doors with associated operators, and slide gates with operators.
- Type 2: Consists of MILCOR, Telescoping doors and all associated hardware.

Fire stations 17, 46, and 56 are equipped with bi-fold doors.

The following is a partial list of items or issues that may need attention:

- Door wheels binding in tracks or guides
- Bent door tracks
- Doors out of the tracks
- Crimping or buckling of door panels
- Door spring failure
- Loss of electrical power for door hoist
- Door motor failure
- Hit and damaged doors
- Door not providing enough clearance for apparatus
- Abnormally loud doors

Additional services other than those listed may be requested by OCFA Property Management during the contract term. Any additional services added to the contract are to be provided at the same time and material prices offered in the proposal.

Services not detailed in this scope, are not to be performed unless they are requested, provided a project number and authorized by OCFA. All additional work must be documented, signed by OCFA Property Management. Additional work is to be billed at the hourly rate provided in the proposal.

All offerors providing services will have the competency, relevant experience, knowledge, and reliability which qualify the individual(s) to successfully provide the required supplies and services requested in this RFP.

## **MINIMUM QUALIFICATIONS**

- 1) Contractor must be skilled and regularly engaged in the general class or type of work called for under the contract. The successful contractor must also have no less than five (5) years of experience in providing apparatus bay door repair and maintenance services.
- 2) Contractor must possess a valid California **C-61/D-28** or other appropriate Contractor's license at the time of proposal submission, pursuant to California Public Contract Code Section 3300 and Business and Professions Code Section 7028.15. The respondent must be licensed as a contractor in accordance with the provisions of California Business and Professions Code Chapter 9, Article 5 Licensing 7065-7077. The successful contractor must maintain the license throughout the duration of this contract.
- 3) Pursuant to SB854, and Labor Code Section 1725.5 contractor must be registered with the Department of Industrial Relations (DIR).

The offeror must state specifically in the descriptive narrative or other supporting documents how the offeror meets the minimum qualifications specified above.

*Offerors must meet the minimum requirements to be considered responsive. Failure to meet these minimum requirements will cause the submitted proposal to be eliminated from further consideration in the evaluation process.*

## **SPECIFIC REQUIREMENTS – GENERAL RESPONSIBILITIES OF SUCCESSFUL CONTRACTOR**

### **Performance Requirements:**

Contractor must provide trained and experienced personnel. Supervisors must be qualified, proficient in English, trained and capable of providing adequate supervision and direction to Contractors' employees and must demonstrate verbal and written communication skills sufficient for the work required herein.

All work must be done per specifications, according to all applicable and acceptable industry standards as it relates to each trade, of the highest quality workmanship commensurate with the required work, and completed by the time required. Contractor personnel must wear uniforms, furnished by the Contractor with the Contractor's name and/or logo, and employee name at all times during the performance of the work at the RFOTC.

Contractor must provide their own telephones. The use of OCFA telephones and radios are prohibited except under emergency circumstances for medical aid, fire, or safety.

Contractor must furnish and maintain at its own expense, an adequate stock of materials/supplies, parts, all equipment and tools to perform the specified work and provide a timely service. All supplies, labor, vehicles and equipment must be compliant with the specifications, terms and provisions set forth herein and shall be subject to random, unannounced inspection by OCFA.

Any additional work performed on an hourly basis, separate from the contract will require a daily time sheet signed by OCFA Property Management Facilities Manager or designated representative.

OCFA will not provide office or storage space for the Contractor's supplies, vehicles or equipment.

**Repair Request Procedure:**

During regular working hours, the facility requesting service will contact the Property Management Section and place a service call. The request for service will be logged and staff will then contact the contractor and provide:

- Location (site name and address)
- Nature of the problem
- Name of on-site contact person
- Phone number of on-site contact person

After regular hours, weekends, and holidays, the Battalion Chief or Section Manager will give the station personnel the authorization to place a service call to the Contractor and advise OCFA Property Management that a call was placed as an emergency so the request can be logged and a number provided to the Contractor.

The contractor, under both circumstances, may call the site with the problem and obtain any additional information it deems necessary and to provide an anticipated arrival time of the service technician.

(Note: A portion of the fire stations are staffed with volunteers that have no permanent personnel on the site, while others are staffed with 24-hour permanent personnel. It is essential to coordinate the arrival of the service technician with fire personnel.)

**Service Call Procedure:**

Upon arrival at each site, the Contractor shall complete the following:

- Sign in on the station log (at all fire stations)
- Check in with the Station Captain, if available
- Evaluate the specific materials and labor required to complete the repair
- Develop an estimate of the expected costs (if possible)
- Develop potential alternatives with costs, in the case of repair vs. replacement
- Advise Property Management by telephone of the cost of repairs and other work PRIOR to proceeding with the work.
- Contractor will proceed with work after authorization is received from Property Management
- Complete all work in accordance with the estimate

Contractor must prepare service call report detailing the work performed, obtain the signature of the Station Captain on the report (if available), and leave a copy of the report at the site. That report must at least contain the following: Time of arrival, time of departure, brief summary of repair request, detailed summary of the work performed, summary of any additional work required or recommended.

Contractor must advise Property Management if any additional work is required and when the Contractor will return to perform the work.

If urgent repairs are needed, Contractor will advise Property Management, by telephone, with an estimate of repairs and other work prior to proceeding with the work.

Contractor must contact Property Mgmt. to obtain additional authorization when the repair work is expected to exceed the original estimate by more than 10%.

## **Service Requirements:**

### **A. General**

- a. Note that per the Business and Professions Code ss. 7059: "In no case shall the...[Contractor] whose classification constitutes less than a majority of the project [perform the project unless]...the performance of the work in the crafts or trades, other than in which [Contractor] is licensed, is incidental and supplemental to the performance of the work in the craft for which the [Contractor] is licensed....All work to be performed outside of [Contractor's] license specialty, except work authorized by [the aforementioned], shall be performed by a licensed subcontractor..."
- b. Perform all work in accordance with the latest editions or addenda of the following applicable codes, standards and specifications.
- c. Perform all work according to all applicable industry-standards and to the highest quality commensurate with the required work.
- d. Ensure that all work is done only by experienced and professional personnel.
- e. Provide everything necessary to complete the repairs and maintenance work including but not limited to labor, equipment, materials, consumables, etc.
- f. Ensure that all work properly and neatly fits the adjacent existing materials.
- g. Perform work according to any applicable manufacturer's specifications.
- h. Provide a 24/7 call number for emergency repair work.
- i. Respond in the time required.
- j. Remove and properly dispose of any to-be-replaced materials.
- k. Provide all documentation, altered diagrams, updated or new manuals, and the like within seven calendar days after the repairs have been affected. (as applicable)

### **B. Repairs**

- a. Diagnose and recommend an appropriate solution to remedy the damage or defect according to all applicable manufacturers' specifications, Standard Specifications for Public Works Construction, and industry standard practices.
- b. Provide an estimate of the repair costs at the hourly rates and materials amounts.
- c. Make approved repairs as soon as possible, but only after department so authorizes.
- d. Verify work has been completed properly and adjacent work is not affected.

## **Technical Requirements**

### **A. General**

- a. The work required hereunder is based on the California Department of Consumer Affairs Contractors State License Board (CSLB). Any changes made by the CSLB automatically apply to the license classifications listed below.

#### **i. C-61 Limited Specialty Classification**

- (a) Limited specialty is a specialty contractor classification limited to a field and scope of operations of specialty contracting for which an applicant is qualified other than any of the specialty contractor classifications listed and defined in this article.
- (b) An applicant classified and licensed in the classification Limited Specialty shall confine activities as a contractor to that field or fields and scope of operations set forth in the application and accepted by the Registrar or to that permitted by Section 831.



- (c) Upon issuance of a C-61 license, the Registrar shall endorse upon the face of the original license certificate the field and scope of operations in which the licensee has demonstrated qualifications.
- (d) A specialty contractor, other than a C-61 contractor, may perform work within the field and scope of the operations of Classification C-61, provided the work is consistent with established usage and procedure in the construction industry and is related to the specialty contractor's classification

**ii. D-28 Doors, Gates and Activating Devices Contractor**

- (a) All doors, gates and activating devices contractor installs, modifies or repairs all types of residential, commercial or industrial doors including overhead or sliding door assemblies. This includes but is not limited to: wood and screen doors, metal-clad doors, glass sliding/stationary doors and frames, automatic revolving doors, hospital cubical doors and related installations, power activated doors, gates, movable sun shades/shutters, card activated equipment and other access control device and any low voltage electronic or manually operated door hardware/ device.

**B. Subcontractors**

- a. The majority of the work as required herein and at the time the work is requested must be done by the awarded Contractor.
- b. The work may not be subcontracted or sublet to another contractor unless the contractor has been listed on the Subcontractor List or a substitution of that contractor has been approved by Property Management in advance of any scheduled or actual work.
- c. Subcontractor(s) must meet all insurance requirements of the prime contractor.

**C. Specialized Equipment**

- a. Provide all equipment necessary to facilitate the work required herein at Contractor's sole expense.
- b. Provide the necessary safety equipment.
- c. Ensure that you have accurately and completely determined the actual types of equipment well in advance of the work to be performed.

**D. Specific Work for Repairs**

- a. Repairing
  - i. Make necessary repairs to ensure that equipment, components or fixtures are operating properly and according to the manufacturer's specifications.
  - ii. Tour all designated work areas with Property Management to review and document items requiring corrective action.
  - iii. Ensure that any items used to make repairs meet or better the original manufacturer (OEM) specifications.
  - iv. Coordinate the repairs and times with Property Management.

**b. Reporting**

- i. Provide verbal reports to Property Management as necessary to facilitate the work required herein.
- ii. Provide written reports, along with warranties of installed products (outside of products provided by OCFA), to Property Management with the invoice for completed work, which must contain, but not limited to the following:
  1. Location number/address serviced.
  2. Facility generated Work Order(s)
  3. Date and time Location was serviced.
  4. Types of and Quantities materials used and/or replaced.
  5. Potential Hazards at and around the Locations.
  6. Proposed alternate products that are cost-effective, energy efficient, and or have environmental advantages.
  7. Failure to provide the written report with the invoice will suspend any related payments by the number of days until the report is received.
  8. Failure to complete the required replacements will suspend any related payments by the number of days until the work is received.

**c. Replacing Materials**

- i. Replace materials only with same item as being replaced.
  - ii. If alternative materials are being proposed, use the most energy-efficient, cost-effective, and replacements that have environmental advantages and that exhibit the same performance characteristics as the item being replaced. All such proposed replacements must be reviewed in advance of their replacements by Property Management prior to such replacements; then, only after approval will such replacements be permitted.
  - iii. Dispose of any materials used in the course of completing scope of work properly, and in accordance to all governing agencies at contractor sole expense. This includes manifesting and chain of custody if required based on the nature of work being provided.
- I. Make all required remedies to any work deficiencies as soon as practicably possible, but in no event greater than three business days after receipt of notification from OCFA.

**Performance Hours:**

All work must be coordinated with OCFA Property Management unless otherwise specified.

The Contractor must conduct the work at all times in a manner which will not interfere with normal OCFA operations.

**Quality Control:**

All items furnished must be new, of good workmanship, in full accordance with the specifications, and free of defects. Items will be subject to inspection by the OCFA. If any product or service delivered shows evidence of shipping damage or defects, does not meet applicable specifications, or does not perform to the standards represented by the supplier, the OCFA shall reject same. Supplier will refund money which has been paid and bear all costs of removal and return of the products. Unless otherwise specified, all products provided shall have a manufacturer's warranty of at least twelve (12) months on workmanship, parts, and labor.

**Damage or repair:**

If any materials, equipment or other property contained in or constituting a part of an OCFA premise shall be damaged or destroyed by Contractor or its subcontractor(s), if any, in the course of performing services, Contractor shall at its expense promptly repair or replace the same, to the complete satisfaction of OCFA.

**Safety:**

Contractor, its employees, and agents must comply with all applicable health and safety requirements and procedures while performing services and exercise caution at all times for the protection of persons and property. Safety provisions of all applicable laws and ordinances shall be strictly observed and the Contractor and property at all sites. All fines, penalties and/or repair charges resulting from the Contractor's neglect of safety provisions shall be the sole responsibility of the Contractor.

Contractor shall provide and maintain the necessary precautions, supervision, and safeguards for the safety of all persons performing services and shall not cause or permit to exist an unlawful, hazardous, unsafe, unhealthy, or environmentally unsound condition over which Contractor has control.

SDS sheets (material safety data sheets) are to be provided on all products before they are brought on the premises. SDS shall be posted in each location the products are stored. All containers shall bear proper labels.

Contractor must outfit all equipment and materials used with any and all such safety devices and warning mechanisms as may be necessary to advise and protect the public and prevent personal injury and property damage.

Contractor shall must restrict access to the designated areas and parking spaces under the performance of the contract.

Contractor and its employees shall not enter areas of the facilities not specifically included in this specification for services.

**Warranties:**

Contractor represents, warrants, and covenants that in connection with any services performed under this specification: it is in the business of performing the Services described hereunder; it is experienced and expert in performing such services; all equipment used in the performance of services hereunder shall be suitable for such use; it understands the currently-known hazards which are presented to persons, property, and the environment in connection with the performance of such services and the transportation, storage and disposal of material; it is aware of all laws, regulations, orders, and other governmental requirements pertaining to the performance of such services; it will perform such services in full compliance with all applicable laws, regulations, orders, and other governmental requirements; it will perform such services in compliance with all necessary and applicable permits and it has obtained or will obtain all

permits necessary to perform the services; it possesses the professional and technical skills required to perform the services; no environmental enforcement actions have been brought or are likely to be brought against contractor that could have a material adverse effect on OCFA; and any agents or personnel employed by the contractor will meet the same standards as apply to contractor that could have a material adverse effect on OCFA.

**Additional Information:**

This contract is for the maintenance and repair of existing items, equipment, and structures and does not include larger projects, new work or add-ons. Splitting costs on a single facility-generated work order, projects, or work to avoid this limitation is prohibited and subject Contract to immediate termination.

OCFA will invite Contractors to provide quotes for larger projects. Contractors may provide additional discounts at the time of the quote. Contractor with the lowest total responsive quote for a given job will be awarded that job. This process will be repeated for future work.

OCFA may choose to award jobs that are expected to be less than \$5,000 to Contractor any that it chooses; such choice will be based on past pricing, timely performance, and quality of work.

The preceding dollar limitation applies only to ROUTINE requests and does not apply to EMERGENCY or URGENT requests; OCFA may choose to award EMERGENCY or URGENT jobs as is in OCFA's best interests.

The OCFA may also conduct regular performance reviews on a regular basis to evaluate the levels of service and quality provided.

Contract Coordinator: OCFA/Property Management Staff (714) 573-6470

Contract Manager: Steve Klein, OCFA Facilities Manager, (714) 573-6475, cell (714) 720-6067 and email: [steveklein@ocfa.org](mailto:steveklein@ocfa.org).





August 23, 2017

Orange County Fire Authority  
1 Fire Authority Road  
Irvine, Ca 92602

Dear Manager,

I would like to take this opportunity to introduce our company. **MAKO OVERHEAD DOOR** is a 24 hour, radio dispatched, full service overhead door company geared to meet your every need. We are currently servicing all of southern California. We specialize in installation, repairing, and general maintenance of all your door and dock needs, including commercial rolling steel doors, hollow metal, glass aluminum, fire rated doors and store front grills. Our company trucks are fully stocked and equipped to ensure prompt and efficient service. Here at **MAKO OVERHEAD DOOR**, we are proud to say that we take the bite out of high prices of our competition.

**MAKO OVERHEAD DOOR** has a proven track record for success. We will work closely with you to ensure safety, security and peace of mind. A true testament to our outstanding quality of work and low prices are our loyal clients.

**MAKO OVERHEAD DOOR** is a fully licensed, insured, and bonded company with 14 years of service in the community.

We look forward to working with you in the future. Please feel free to give us a call to address any concerns or questions that you may have.

Sincerely,

A handwritten signature in dark ink, appearing to read "Mike McCall". The signature is fluid and cursive, with the first name "Mike" and last name "McCall" clearly distinguishable.

Mike McCall  
Sales Manager



**APPENDIX A - OFFEROR'S INFORMATION**

Please complete and/or provide all requested information. If the proposal is submitted by a corporation, please provide an additional attachment that states the names of the officers who can sign an agreement on behalf of the corporation and whether more than one officer must sign. If the proposal is by a partnership or a joint venture, state the names and addresses of all general partners and joint venture parties. If the respondent is a sole proprietorship or another entity that does business under a fictitious name, the proposal shall be in the real name of the respondent with a designation following showing "DBA (the fictitious name)," provided however, that no fictitious name shall be used unless there is a current registration with the Orange County Recorder.

The undersigned, as respondent, declares that all documents regarding this proposal have been examined and accepted and that, if awarded, will enter into a contract with the Orange County Fire Authority.

Business Legal Name:		
Mike J McCall Jr DBA Mako Overhead Door		
Business Parent or Ownership:		
Address:		
5618 E La Palma Ave Anaheim Ca 92807		
Business Telephone No.	Business Fax No.	
714-998-0122	714-970-2107	
Business Tax I.D. Number:	CSLB License Number:	DIR Registration Number:
27-006736	620943	1000037076
Legal form of company: (partnership, corporation, joint venture)		
Sole proprietorship		
Length of time your business has been in business:	Length of time at current location:	
14 years	10 years	
Number of employees and Number of Current Clients		
14 full time		

**Management person responsible for direct contact with the Orange County Fire Authority and service required for this Request for Proposal (RFP).**

Name:	Title:
Mike McCall	Owner
Telephone No.:	E-mail:
714-719-9111	mike@makodoor.com

**Person responsible for the day-to-day servicing of the account:**

Name:	Title:
Dawn Farris	Office Manager
Telephone No.:	E-mail:
714-998-0122	dawn@makodoor.com

**Please indicate if you are subject to the Party and Participant disclosure requirements. Yes No**  
**If yes, you are required to submit form/s (see Appendix F).**

**\*For additional information please see page 15 "Campaign Contribution Disclosure".**





#### Section V : Proposal Requirements

3. Ability to Meet General Requirements: Mako Overhead Door has been performing service/ repair / installation for the Orange County Fire Authority for 8 years. Mako has been and will continue to meet the requirements of the Orange County Fire Authority.

4. Relevant Experience: Mako Overhead Door has performed such duties as, installation and repair of overhead doors and motor operators, installation and repair of gates and motor operators. Mako Overhead Door has performed this work for the Long Beach City College, and City of Santa Ana,

Long Beach City College  
4901 E Carson Street  
Long Beach, Ca 90808

Curtis 562-822-9122  
June 2017 Project Date  
Installation of new roll up door

City of Santa Ana  
20 Civic Center Plaza M-11  
Santa Ana, Ca 92702

Mark Shorthouse  
May 2017 Project Date  
Installation of new roll up fire door



## APPENDIX B - REFERENCES

Describe fully at least three contracts performed by your business that demonstrate your ability to provide the services included with the scope of the specifications. Attach additional pages if needed. OCFA reserves the right to contact each of the references listed for additional information regarding their experience with your company.

Customer Agency Name	Frome Development
Contact Individual & Title	Debbie Office Manager
E-mail/Telephone number	debbie@fromeinc.com 714-641-1130
Date of Project & Description of services provided including contract amount	07/08/17 Furnish and installed two overhead doors \$2900.00
Customer Agency Name	Sygnos Inc
Contact Individual & Title	Wade Project Manager Camp Pendelton
E-mail/Telephone number	wade@sygnosinc.com 951-249-1233
Date of Project & Description of services provided including contract amount	06/27/17 Installation of several overhead doors and panic divices on several glass doors. <del>\$28000.00</del>
Customer Agency Name	Milk Studio
Contact Individual & Title	Willie Owner
E-mail/Telephone number	willie@milkstudios.com
Date of Project & Description of services provided including contract amount	06/28/17 Furnish and install one powder coated slide gate and operator \$11570.00
Customer Agency Name	
Contact Individual & Title	
E-mail/Telephone number	
Date of Project & Description of services provided including contract amount	
Customer Agency Name	
Contact Individual & Title	
E-mail/Telephone number	
Date of Project & Description of services provided including contract amount	





#### Appendix C – Proposal Questionnaire

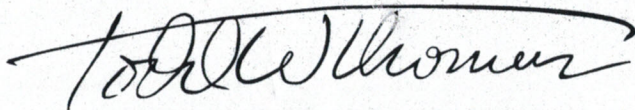
1. Mako Overhead Door has knowledge in the door industry for 30+ years. Mako is a certified commercial roll up door specialty company.
2. Mako Overhead Door's employees are certified technicians' in the residential door and commercial door field.
3. Mako Overhead Door travels to San Bernardino County, Los Angeles County, Riverside County, and Orange County.
4. Mako Overhead Door receives a service call from Property Management. The service will be put in the schedule for same day unless otherwise specified. The call is given to the employee with the most knowledge of the issue, ie door or gate.
5. Mako Overhead Door employees fully inspect all moving parts of the door/gate, manually then with motor. Mako has customer check for proper operation before leaving site. If applicable.
6. Mako Overhead Door Labor warranty is for 90 Days on repairs, 1 Year labor for new material. The material warranty is from manufacture of materials.
7. Currently, Mako Overhead Door has 14 technicians in the field.
8. No fee for extensions, at this time
9. No change or exception



*IN RECOGNITION of completion of all prescribed requirements  
and meeting the eligibility criteria as established by the  
Institute of Door Dealer Education and Accreditation Board of Directors*

*Mike McCall*  
*Mako Overhead Door*

*is hereby granted the designation*  
**CERTIFIED COMMERCIAL ROLLING DOOR SYSTEMS TECHNICIAN**  
*and is entitled to all privileges in accordance thereof*



Todd W. Thomas, Managing Director  
on Behalf of the Board of Directors

*April 30, 2017*

Valid through above Date





Associated General Contractors of America  
San Diego Chapter, Inc.

Awarded: October 6, 2016

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**Mike McCall**


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Has successfully completed  
**24-hours of Competent Person for Fall Protection Training**


Including a combination of formal classroom and of practical applications, in accordance with EM 385-1-1 dated November 30, 2014, and applicable ANSI regulations. Referencing 29CFR1910, 29CFR1926, and Title 8 of the California Construction Safety Orders.

**At the AGC San Diego Chapter Fall Protection Campus on October 4, 5 & 6, 2016.**

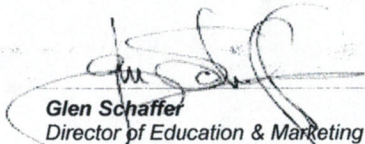
**This certificate is valid for 2 years**

  
Michael Mims  
Safety Manager, Certified Instructor  
SMART Safety Group

10/6/2016

  
Vince Hundley, MS, CSP  
Safety Director, AGC San Diego Chapter  
President and CEO SMART Safety Group

10/6/2016

  
Glen Schaffer  
Director of Education & Marketing  
AGC San Diego Chapter, Inc.

10/6/2016





## APPENDIX D - PRICING PAGE

**Proposal Costs** - The service charges information is relevant to a determination of whether the cost is fair and reasonable in light of the services to be provided. This section shall include the proposed costs to provide the services as described in your proposal. Any additional costs outside the scope of the agreement must be approved by the OCFA in writing before commencing services for said costs.

Refer to Attachment B to provide line item pricing. Please fill in the additional pricing sections for additional consideration. Any request for services estimated at \$5,000 or greater may require informal bidding and a one-time purchase order will be issued with department approval prior to start of work. These prices shall be used in ALL invoices. These prices shall include all mark ups and overhead.

**Please complete this section by providing Attachment B and submit with your bid in a separate envelope or through the cost file in the online bidding system.**

The OCFA reserves the right to request additional quotes and use alternate sources for completion of the work, to obtain competitive prices on any repair and replacement and to utilize information obtained under this contract relative to necessary materials and repairs as it deems appropriate.

**"PIGGYBACK" CLAUSE.** Offeror shall indicate below if he will extend the same prices, terms, and conditions of the proposal to other public agencies: Yes  X  No     . Offeror's response to this question will not be considered in award of contract. When the offeror extends the prices, terms, and conditions of this proposal to other public agencies, the contract shall be between offeror and the other agencies, and the Orange County Fire Authority shall bear no responsibility or liability for the contracts.

**Term of Offer:** It is understood and agreed that this offer may not be withdrawn for a period of **one hundred eighty days** (180) from the Proposal Submittal Deadline, and at no time in case of successful offeror.

No pricing adjustment will be allowed in the first year of the contract.



## APPENDIX E - CERTIFICATION OF PROPOSAL

In responding to **RFP RO2220 – Apparatus Bay Door Repair and Maintenance Services**, the undersigned offeror(s) agrees to provide services for OCFA per the specifications. Offeror further agrees to the terms and conditions specified herein the following terms and conditions that are a part of this proposal and any resulting contract. **If there are any exceptions they must be stated in an attachment included with the offer.**

- A. The offeror hereby certifies that the individual signing the submittal is an authorized agent for the offeror and has the authority to legally bind the offeror to the Contract. Signature below verifies that the offeror has read, understands, and agrees to the conditions contained herein and on all of the attachments and agenda.
- B. The submission of the offer did not involve collusion or other anti-competitive practices.
- C. The offeror has not given, offered to give, nor intends to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, meal or service to a public servant in connection with the submitted offer.
- D. **The offeror has submitted the Party, Participant (Agent) Disclosure Form if applicable.**
- E. The offeror shall not discriminate against any employee or applicant for employment in violation of Federal or State law.
- F. The offeror complies fully with the Federal Debarment Certification regarding debarment suspension, ineligibility and voluntary exclusion.

**Independent Price Determination:** I certify that this offer is made without prior understanding, arrangement, agreement, or connection with any corporation, business or person submitting an offer for the same services, and is in all respects fair and without collusion or fraud. I certify that I have not entered into any arrangement or agreement with any Orange County Fire Authority public officer. I understand collusive bidding is a violation of State and Federal law and can result in fines, prison sentences, and civil damage awards. I agree to abide by all conditions of this offer and certify that I am authorized to sign this agreement for the offeror.

### TO THE ORANGE COUNTY FIRE AUTHORITY:

The Undersigned hereby offers and shall furnish the services in compliance with all terms, scope of work, conditions, specifications, and amendments in the Request for Proposal which is incorporated by reference as fully set forth herein. The representations herein are made under penalty of perjury.

Mike J McCall Jr DBA Mako Overhead Door

---

Name of Business

5618 E La Palma Ave

---

Address

Anaheim Ca 92807

---

City State Zip

 08/21/2017

---

Signature of Person Authorized to Sign Date

Mike McCall Owner

---

Printed Name Title



**ORANGE COUNTY FIRE AUTHORITY**  
**PARTY DISCLOSURE FORM**Party's Name: Mako Overhead DoorParty's Address: 5618 E La Palma Ave Anaheim Ca 92807Party's Telephone: 714-998-0122Solicitation Title and Number: Apparatus Bay Door Repair and Maintenance RFP R02220

Based on the party disclosure information provided, are you or your business subject to party disclosures?

No ☒ If no, check the box and sign below. Yes ☐ If yes, check the box, sign below and complete the form.Date: 08/21/2017Mike McCall  
Signature of Party and/or Agent***To be completed only if campaign contributions have been made in the preceding twelve (12) months. Attach additional copies if needed.***

Board Member(s) or Alternate(s) to whom you and/or your agent made campaign contributions and dates of contribution(s) in the preceding 12 months:

Name of Member: \_\_\_\_\_

Name of Contributor (if other than Party): \_\_\_\_\_

Date(s): \_\_\_\_\_

Amount(s): \_\_\_\_\_

Name of Member: \_\_\_\_\_

Name of Contributor (if other than Party): \_\_\_\_\_

Date(s): \_\_\_\_\_

Amount(s): \_\_\_\_\_

Name of Member: \_\_\_\_\_

Name of Contributor (if other than Party): \_\_\_\_\_

Date(s): \_\_\_\_\_

Amount(s): \_\_\_\_\_



**ORANGE COUNTY FIRE AUTHORITY**  
**PARTICIPANT DISCLOSURE FORM**

***To be completed only if campaign contributions have been made in the preceding twelve (12) months. Attach additional copies if needed.***

Prime's Business Name: N/A

Party's Name: \_\_\_\_\_

Party's Address: \_\_\_\_\_

Party's Telephone: \_\_\_\_\_

Solicitation Title and Number: \_\_\_\_\_

Date: \_\_\_\_\_

Signature of Party and/or Agent \_\_\_\_\_

Board Member(s) or Alternate(s) to whom you and/or your agent made campaign contributions and dates of contribution(s) in the preceding 12 months:

**Name of Member:** \_\_\_\_\_

**Name of Contributor (if other than Party):** \_\_\_\_\_

**Date(s):** \_\_\_\_\_

**Amount(s):** \_\_\_\_\_

**Name of Member:** \_\_\_\_\_

**Name of Contributor (if other than Party):** \_\_\_\_\_

**Date(s):** \_\_\_\_\_

**Amount(s):** \_\_\_\_\_

**Name of Member:** \_\_\_\_\_

**Name of Contributor (if other than Party):** \_\_\_\_\_

**Date(s):** \_\_\_\_\_

**Amount(s):** \_\_\_\_\_



## APPENDIX G

## CONTRACTOR'S LICENSING STATEMENT

The undersigned certifies that the Contractor is licensed in accordance with the laws of the State of California. The successful Contractor and subcontractors are required to hold the State of California Contractor's License(s) and DIR registration as required by SB854. Provide additional contractor's license details if applicable.

Contractor's License No. 620943 Class C61/D28 Expiration 05/31/2019

Department of Industrial Relations (DIR) # 1000037076

Name of Individual Contractor Mike McCall

Signature of Owner 

Business Address 5618 E La Palma Ave Anaheim Ca 92807

*If the contractor operates under a partnership provide the name of the firm, name, title and address below.*

Name of Firm N/A

Business Address \_\_\_\_\_

Name \_\_\_\_\_ Title \_\_\_\_\_

Address \_\_\_\_\_

Name \_\_\_\_\_ Title \_\_\_\_\_

Address \_\_\_\_\_

*If the contractor operates under a corporation, provide the name and address below in addition to the signatures of the President and Secretary.*

Name of Corporation N/A

Business Address \_\_\_\_\_

Corporation organized under the laws of the State of California

\_\_\_\_\_  
Signature of the Corporation President

\_\_\_\_\_  
Signature of the Corporation Secretary

Date \_\_\_\_\_



## APPENDIX H

### LIST OF SUBCONTRACTORS

Contractor acknowledges and agrees that under Public Contract Code section 4100, et seq., it must clearly set forth below the name and location of each subcontractor who will perform work or labor or render service to the contractor in or about the work in an amount in excess of one-half of one percent (0.5%) of contractor's total bid and the kind of work that each will perform. Furthermore, contractor acknowledges and agrees that under Public Contract Code section 4100, et seq., if contractor fails to list as to any portion of work, or if contractor lists more than one subcontractor to perform the same portion of work (i.e. contractor must indicate what portion of the work each subcontractor will perform), contractor must perform that portion itself or be subjected to penalty under applicable law.

If alternate bids are called for and contractor intends to use subcontractors different from or in addition to those subcontractors listed for work under the base bid, contractor must list subcontractors that will perform work in an amount in excess of one half of one percent (0.5%) of contractor's total bid, including alternates.

In case more than one subcontractor is named for the same kind of work, the Contractor is to state the portion of work that each subcontractor will perform. contractors or suppliers of materials only do not need to be listed. If further space is required for the list of proposed subcontractors, additional sheets showing the required information, as indicated below, shall be attached hereto and made a part of this document.

Listed below is the name of each subcontractor that will perform work, labor, or render services to the undersigned related to the work of this project. This is to include any subcontractor that will specially fabricate and install a portion of work according to detailed drawings contained in the plans and specifications in the amount greater than one half of one percent (.05%) of the contractors total bid.

<b>Subcontractor Name</b> _____	<b>Location</b> _____
<b>Portion of Work/Trade</b> _____	
<b>Bid Amount</b> _____	
<b>Contractor's License Number</b> _____	<b>DIR Number</b> _____
<b>Subcontractor Name</b> _____	<b>Location</b> _____
<b>Portion of Work/Trade</b> _____	
<b>Bid Amount</b> _____	
<b>Contractor's License Number</b> _____	<b>DIR Number</b> _____



**APPENDIX I****CERTIFICATION OF NON-DISCRIMINATION BY CONTRACTORS**

Labor Code Section 1735 requires that no discrimination be made in the employment of persons upon public works because of the race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status or sex of such persons, except as provided in Government Code Section 12940.

The business listed below certifies that it does not discriminate in its employment with regard to the factors set forth in Labor Code Section 1735; that it is in compliance with all federal, state and local directives and executive orders regarding non-discrimination in employment; and that it agrees to demonstrate positively and aggressively the principle of equal employment opportunity in employment.

We agree specifically:

1. To establish or observe employment policies which affirmatively promote opportunities for minority persons at all job levels.
2. To communicate this policy to all persons concerned, including all business employees, outside recruiting services, especially those serving minority communities, and to the minority communities at large.
3. To take affirmative steps to hire minority employees within the company.

**Business Name** Mako Overhead Door

**Signature** Mike McCall

**Printed Name/Title of Business Representative** Mike McCall Owner

**Date** 08/21/2017

Please include any additional information available regarding equal opportunity employment programs now in effect within your company.

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**APPENDIX J****DEBARMENT AND SUSPENSION CERTIFICATION****TITLE 49, CODE OF FEDERAL REGULATIONS, PART 29**

The Contractor, under penalty of perjury, certifies that, except as noted below, he/she or any other person associated therewith in the capacity of owner, partner, director, officer, manager:

- is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any Federal agency;
- has not been suspended, debarred, voluntarily excluded or determined ineligible by any Federal agency within the past 3 years;
- does not have a proposed debarment pending; and
- has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past 3 years.

If there are any exceptions to this certification, insert the exceptions in the following space.

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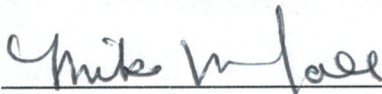
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Exceptions will not necessarily result in denial of award, but will be considered in determining contractor responsibility. For any exception noted above, indicate below to whom it applies, initiating agency, and dates of action.

Note: Providing false information may result in criminal prosecution or administrative sanctions.

**Business Name** Mako Overhead Door

**Signature** 

**Printed Name/Title of Business Representative** Mike McCall / Owner

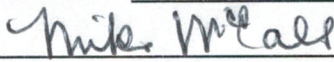
**Date** 08/21/2017

**APPENDIX K****PREVAILING WAGE CERTIFICATION****RFP RO2220****Apparatus Bay Door Repair and Maintenance Services**

I hereby certify that I will conform to the State of California Public Works Contract requirements regarding prevailing wages, benefits, on-site audits with 48-hour notice, payroll records, and apprentice and trainee employment requirements, for all Services on the above Project, including, without limitation, the State labor compliance monitoring and enforcement by the Compliance Monitoring Unit of the Department of Industrial Relations, if this Project is subject to a labor compliance.

Date August 21 2017

Legal Name of Contractor Mike J McCall Jr DBA Mako Overhead Door

Signature 

Print Name Mike McCall

Title Owner



**APPENDIX L****WORKER'S COMPENSATION INSURANCE CERTIFICATION****RFP RO2220**

Apparatus Bay Door Repair and Maintenance Services

Labor Code section 3700 in relevant part provides:

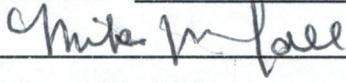
Every employer except the State shall secure the payment of compensation in one or more of the following ways:

- a. By being insured against liability to pay compensation in one or more insurers duly authorized to write compensation insurance in this state.
- b. By securing from the Director of Industrial Relations, a certificate of consent to self- insure, which may be given upon furnishing proof satisfactory to the Director of Industrial Relations of ability to self-insure and to pay any compensation that may become due to his employees.

I am aware of the provisions of Section 3700 of the Labor Code which requires 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 work of this contract.

Date August 21 2017

Legal Name of Contractor Mike J McCall Jr DBA Mako Overhead Door

Signature 

Print Name Mike McCall

Title Owner

(In accordance with Article 5 - commencing at section 1860, chapter 1, part 7, division 2 of the Labor Code, the above certificate must be signed and filed with the awarding body prior to performing any work under this Contract.)

**ATTACHMENT B - PRICING SHEET**  
**RO2220 - Apparatus Bay Door Maintenance and Repair Services**

Apparatus Bay Door Maintenance and Repair Services  
The following scenarios provide an example of some repairs that may be requested.  
Please complete the tables below. Price includes any labor, supplies, and equipment needed to perform the services as specified. Include all markup and overhead.  
(Labor must be based on prevailing wage)

Item	Description	Quantity	Unit Cost	Extended Cost
1	<p>Replace damaged chain, both sprockets and reset limits on an overhead roll up door.</p> <p>Labor rate information:</p> <p>Classification 1: 2 man crew</p> <p>\$180 an hr x Number of Hours 4</p> <p>Classification 2:</p> <p>\$_____/HR x Number of Hours _____</p> <p>Materials cost \$234.00</p> <p>cost plus 30 percent mark up = overhead and profit</p> <p>Overhead cost \$_____</p> <p>Profit \$_____</p>	20	\$954.00	\$19,080.00
2	<p>Replace 8-3" damaged roll up rollers and install 18' of new 3" track</p> <p>Labor rate information:</p> <p>Classification 1: 2 man crew</p> <p>\$____180.00_/HR x Number of Hours ____3.5____</p> <p>Classification 2: _____</p> <p>\$_____/HR x Number of Hours _____</p> <p>Materials cost \$169.00_____</p> <p>cost plus 30 percent mark up = overhead and profit</p> <p>Overhead cost \$_____</p> <p>Profit \$_____</p>	30	\$799.00	\$23,970.00
3	<p>Replace 1 set of 100,000 cycle roll up door springs. Springs approx 20' from the ground.</p> <p>Labor rate information:</p> <p>Classification 1: 2 man crew</p> <p>\$____180.00_/HR x Number of Hours ____8____</p> <p>Classification 2: _____</p> <p>\$_____/HR x Number of Hours _____</p> <p>Materials cost \$2080.00_____</p> <p>cost plus 30 percent mark up = overhead and profit</p> <p>Overhead cost \$_____</p> <p>Profit \$_____</p>	40	\$3,520.00	\$140,800.00

**ATTACHMENT B - PRICING SHEET**  
**RO2220 - Apparatus Bay Door Maintenance and Repair Services**

4	<p>Install new Millers safety edge on 26' wide roll up door with new take up reel.</p> <p>Labor rate information:</p> <p>Classification 1: 2 man crew</p> <p>\$____180.00____/HR x Number of Hours ____4____</p> <p>Classification 2: _____</p> <p>\$_____/HR x Number of Hours _____</p> <p>Materials cost               \$660.00_____</p> <p>Overhead cost               \$132.00_____</p> <p>Profit                         \$133.00_____</p>	20		\$0.00
5	<p>Replace 1 HP operator motor on a sectional roll up door. Operator is approx 18' from the ground.</p> <p>Labor rate information:</p> <p>Classification 1: 2 man crew</p> <p>\$__180.00__/_HR x Number of Hours ____6____</p> <p>Classification 2: _____</p> <p>\$_____/HR x Number of Hours _____</p> <p>Materials cost               \$1723.00_____</p> <p>cost plus 30 peercent mark up = overhead and profit</p> <p>Overhead cost               \$_____</p> <p>Profit                         \$_____</p>	5	\$2,803.00	\$14,015.00
6	<p>Replace the bottom panel on a 20' wide sectional roll up door along with new hinges, rollers, Millers edge and reset limits. Panel is 20'X24" high.</p> <p>Labor rate information:</p> <p>Classification 1: 2 man crew</p> <p>\$__180.00__/_HR x Number of Hours ____5____</p> <p>Classification 2: _____</p> <p>\$_____/HR x Number of Hours _____</p> <p>Materials cost               \$1216_____</p> <p>cost plus 30 percent mark up = overhead and profit</p> <p>Overhead cost               \$_____</p> <p>Profit                         \$_____</p>	10	\$2,116.00	\$21,160.00

**TOTAL ANNUAL AMOUNT**

**\$219,025.00**

**ATTACHMENT B - PRICING SHEET**  
**RO2220 - Apparatus Bay Door Maintenance and Repair Services**

Please fill in the additional pricing sections for additional consideration. Any request for services estimated at \$5,000 or greater may require informal bidding and a one-time purchase order will be issued with department approval prior to start of work. The OCFA reserves the right to use alternate sources for completion of the work, to obtain competitive prices on any repair and replacement and to utilize information obtained under this contract relative to necessary materials and repairs as it deems appropriate.

Additional Rate Information	
Description	Rate
Labor per hour - Prevailing Wages Standard Rate: Mon through Fri, 7:00 a.m. to 5:00 p.m.  Classification:  1 man  Classification:  2 man crew  Classification: _____	   \$120.00____/Hour  \$180.00____/Hour  \$_____/Hour
Labor per hour - Prevailing Wages Overtime Rate:  Classification:  1 man  Classification:  2 man crew  Classification: _____	   \$180.00____/Hour  \$270.00____/Hour  \$_____/Hour
Minimum Call Out charge (if applicable)	\$200.00
Trip Charge (if applicable)	N/A

Additional Rate Information	
Description	Rate
Percentage discount off MSRP list price (materials) 30 percent mark up from actual cost	_____ %