

REQUEST FOR COUNCIL ACTION



CITY COUNCIL MEETING DATE:

DECEMBER 1, 2020

TITLE:

**REQUEST FOR PROPOSALS FOR
PLANNING AND ENVIRONMENTAL
SERVICES FOR SANTA ANA GENERAL
PLAN HOUSING ELEMENT UPDATE**

CLERK OF COUNCIL USE ONLY:

APPROVED

- ☐ As Recommended
- ☐ As Amended
- ☐ Ordinance on 1st Reading
- ☐ Ordinance on 2nd Reading
- ☐ Implementing Resolution
- ☐ Set Public Hearing For _____

CONTINUED TO _____

FILE NUMBER _____

/s/ Kristine Ridge

CITY MANAGER

RECOMMENDED ACTION

Authorize the Planning and Building Agency to send a Request for Proposals to qualified consulting firms to provide planning and environmental services for the update of the Santa Ana General Plan Housing Element.

DISCUSSION

Senate Bill 375, also known as California's Sustainable Communities Strategy and Climate Protection Act, calls for the integration of housing and transportation, in conjunction with establishing a greenhouse gas (GHG) reduction goal for the region. Towards this goal, the law requires updating of local jurisdictions' General Plan housing elements in conjunction with the adoption of the Southern California Association of Governments (SCAG) Regional Transportation Plan (RTP). With the adoption of the SCAG Regional Transportation Plan by the SCAG Board in September 2020, the next Housing Element planning cycle is to be completed by October 2021.

The required Housing Element Update will include evaluation and strategies to address Santa Ana's housing needs for the 2021-2029 planning period. The sixth cycle Regional Needs Housing Allocation (RHNA) assigned to the City of Santa Ana for 2021-2029 planning period is 3,087. The final RHNA allocations could be adjusted pending the outcome of the SCAG RHNA Appeals public hearings and SCAG Regional Council determination in early February 2021.

Staff is requesting authorization to distribute a Request for Proposals (Exhibit 1) for planning and environmental services to assist City staff with preparing this update. The full cost of the contract will be paid for with State Local Early Action Program (LEAP) Grant Program grant funds. The recommended contract will be submitted for City Council authorization after review of the proposal has been completed.

FISCAL IMPACT

There is no fiscal impact associated with this action.

Submitted By: Minh Thai, Executive Director – Planning and Building Agency

Exhibit: 1. Request for Proposal

REQUEST FOR PROPOSALS (RFP) NO. 20-135
FOR
GENERAL PLAN HOUSING ELEMENT UPDATE



CITY OF SANTA ANA
PLANNING AND BUILDING AGENCY

Melanie McCann
Project Manager
Phone: (714) 667-2746
Email: mmccann@santa-ana.org

KEY RFP DATES:

The schedule below is tentative and subject to change at the discretion of City, with appropriate notice to prospective Proposers.

Issue Date:	December 2, 2020
Deadline for Questions about RFP:	December 9, 2020
Proposal Due Date:	December 16, 2020, by 4:00 PM
Review of Proposals:	December 18, 2020
Projected Award Date:	January 19, 2021

RFP NO. 20-135 FOR
GENERAL PLAN HOUSING ELEMENT UPDATE



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I. **BACKGROUND**

The City of Santa Ana (the "City"), incorporated in 1886, is located in Orange County, California, which is considered to be one of the top growth areas in the state, as well as in the country. The City currently occupies a land area of 27.3 square miles and serves a population of approximately 338,000. The City of Santa Ana is a full service City of approximately 1,050 full-time and 510 part-time employees with twelve (12) agencies (departments). The City Council is composed of an elected Mayor and six (6) Council Members.

The Planning and Building Agency plays a critical role in achieving the City Council's goals for the physical development of the community. The agency's objective is to provide a safe, attractive, and business-friendly community through implementing state and local construction codes, as well as planning and regulating future land uses. The Planning Division is one of the four divisions that comprise the Planning and Building Agency. The Planning Division is responsible for the review and processing of land use applications and new development, the maintenance of the City's general plan and zoning code, environmental review, and historic preservation.

The City is currently in the process of updating its General Plan, which has not been comprehensively updated since 1982. The General Plan Update has been a multi-years long effort that is anticipated to be completed in early 2021. Ultimately, the City's General Plan will be comprised of 12 elements, organized into three distinct volumes: Services and Infrastructures, Natural Environment, and Built Environment. The General Plan Update proposes significant changes to the Land Use Map to accommodate future growth along major transit corridors or focus areas. <https://www.santa-ana.org/general-plan>

Not included in the comprehensive general plan update, the City of Santa Ana's 2014-2021 Housing Element was adopted on February 2014 and is currently in compliance with State Housing Element law by the State Department of Housing and Community Development (HCD). <https://www.santa-ana.org/general-plan/2014-2021-housing-element-update>

II. **PROJECT PURPOSE**

The City of Santa Ana is seeking a qualified consultant to comprehensively update its General Plan Housing Element to address the existing and future housing needs of our community, as well as the City's designated Regional Housing Needs Allocation (RHNA). The General Plan Update is to be in compliance with all the requirements of the State of California laws. Note, the Regional Needs Allocation (RHNA) assigned to the City of Santa Ana for the 2021-2029 planning period is 3,087, pending the SCAG RHNA Appeal process approvals.

III. **SCOPE OF SERVICES**

The City of Santa Ana is requesting proposals from planning consulting firms for the comprehensive update of the General Plan Housing Element and associated environmental documents required under the California Environmental Quality Act (CEQA).

Presently, the Housing Element Update is funded through the Local Early Action Planning (LEAP) Grant Program to be awarded to the City of Santa Ana by the State of California, Department of Housing and Community Development (HCD). All services provided by this RFP shall be in accordance with HCD's Notice of Funding Availability (NOFA), the LEAP Planning Grants Program Guidelines, and the 2020 Local Government Planning Support Grants Program Application.



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The selected consultant will be responsible for completion of work, with City staff and the Planning Commission providing oversight. The consultant will be expected to prepare and carry out the following:

- 1) As necessary, confer and meet with regulatory agencies (Orange County Sanitation District, Caltrans, South Coast Air Quality Management District, etc.).
- 2) Attendance at project meetings, outreach meetings, and study sessions with the Planning Commission and City Council.
- 3) Preparation of all graphic exhibits and handouts necessary for meetings, study sessions, and public hearings.
- 4) Presentations at meetings and public hearings. Education of both the Planning Commission and City Council will be a part of the scope of this project. The selected consultant will be responsible for educating the Planning Commission on the basics of planning, zoning principles, and any other information related to the project. The firm's Principal or a representative of the firm who has demonstrated ability in presenting technical data to Committees, Planning Commissions and City Councils will be required to attend the public meetings or other meetings as deemed necessary by City staff.
- 5) Utilize tools available through the Orange County Council of Governments (OCCOG) and Southern California Association of Governments (SCAG) intended to streamline housing element preparation, including data sets and affordability assumptions that are pre-approved by Housing and Community Development (HCD).
- 6) Organize meetings, conduct surveys, compile input, conduct presentations, prepare conceptual maps, notify the public of meetings, attend Planning Commission Subcommittee and Planning Commission meetings, attend City Council meetings, and update City staff members as needed and in a timely manner.
- 7) Primary responsibility for drafting and redrafting the text and exhibits for the Housing Element Update after receiving appropriate input from the community's citizens, stakeholders, Planning Commission, Community Development Commission, and City staff. The Housing Element Update should be brought into conformance with current Federal and State laws, modernized to complement current planning and zoning best practices, organized so that both staff and the general public can clearly define and understand this key policy document.
- 8) Prior to the drafting of any of these documents, the consultant is responsible for establishing a comprehensive participation, communication and information strategy to ensure appropriate volunteer, community, business, planning and staff involvement during these projects.
- 9) Drafting of the Housing Element Update should begin after the appropriate research/tasks are performed and any other research/tasks are performed as recommended by the consultant and agreed to by the City as outlined in a contract. Staff and the consultant must agree to a scope, outline, and organization of the ordinance before the first draft has begun.
- 10) Provide electronic copies of all documents produced, formatted in Microsoft Word (or agreed upon software) and PDF. The documents converted to PDF shall be indexed and searchable by chapter.

All data, GIS shapefiles, documents and plans shall be the property of the City of Santa Ana. Documents shall be organized so that they can be easily revised and reprinted, are adequately illustrated, are computer compatible, and are easily understood by diverse public interests.



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Consultant Responsibilities

The Consultant shall draft the General Plan Housing Element Update and provide technical and environmental services under the direction of City staff. The Consultant will be expected to provide experienced and knowledgeable professional staff. The Consultants' Project Manager and staff shall be responsive and maintain excellent working relationships with City staff, property owners, and/or stakeholders. The Consultant shall be committed to provide adequate staffing levels at all times in order to adhere to established schedules. The Consultant shall be knowledgeable and expected to be familiar with Federal, State and local regulations, policies and procedures as they pertain to all technical studies.

A. Initiation of the Project/Kick-Off: Attend a kick-off meeting to discuss the project with City staff within five working days of receiving a notice to proceed. At this time, staff will present any additional information about the project, discuss any project constraints and issues, and refine the scope and responsibilities.

B. Attendance at Meetings: The scope of services requires the selected consultant to work closely with staff in preparing the updated Housing Element document and draft environmental document. The consultant shall budget (at minimum) attendance at the following meetings:

- One (1) Kick-off meeting with City staff
- Progress site meetings and progress conference call meetings every other week (as needed based on project scope)
- One (1) Community Development & Housing Commission study session
- Two (2) Planning Commission study session
- One (1) Planning Commission hearing
- One (1) City Council study session
- One (1) City Council hearing

In addition to the meetings above, consultant shall budget attendance at all meetings that are part of the Consultant's community outreach master plan.

C. Deliverables (per submittal):

- Five (5) Printed Administrative drafts of all documents (draft element text, technical studies, graphic concepts, maps, etc.)
- One (1) Printed Final draft of all documents (and electronic versions)
- One (1) Electronic file (USB flash drive or CD including print quality PDF, web ready PDF, editable file) of all final public drafts, and final public technical reports in both Microsoft Word or InDesign format, and editable PDF format. GIS shapefiles for all mapping to be included as applicable.
- Up to 50 CDs for the distribution of all applicable documents to required agencies and organizations
- One (1) Electronic file of (USB flash drive or CD including print quality PDF, web ready PDF, editable file) of all adopted documents in both Microsoft Word format and editable PDF format.
- Meeting Notes for all site and conference call meetings
- Prior to start of work, software and programs used for data collection, documentation and mapping shall be approved by City staff to affirm compatibility with City systems.

D. Schedule and Timing: Provide a project schedule to identify the completion dates for major milestones. The Housing Element Update project is to be completed and City Council adopted by October 21, 2021 as required by State law; maintaining 8-year cycle for element updates.



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IV. TERM OF AGREEMENT

The term of the agreement is one (1) year. The City may, at its discretion, extend the agreement with the same or more limited scope of required services for up to two (2) additional six-month terms, contingent upon direction of the City Manager.

V. RFP SCHEDULE OF EVENTS

Schedule below is tentative and subject to change at discretion of City, with appropriate notice to prospective Proposers.

Issue Date:	December 2, 2020
Deadline for Questions about RFP:	December 9, 2020
Proposal Due Date:	December 16, 2020, by 4:00 PM
Review of Proposals:	December 18, 2020
Projected Award Date:	January 19, 2021

VI. RESPONSE TO RFP

A. SUBMITTAL INSTRUCTIONS (THIS IS FOR ELECTRONIC SUBMITTAL ONLY)

It is the responsibility of the Proposer to ensure that any proposals submitted have been uploaded to PlanetBids prior to the proposal due date and time. Proposals, including all required sections and forms, shall be submitted electronically via the City's Bid Management System, PlanetBids. No other form of submittal will be accepted. It is the responsibility of the Proposer to ensure that any proposals submitted has been uploaded to PlanetBids prior to this proposal due date and time.

PlanetBids will not accept late bids and no exceptions shall be made. Proposers will receive an e-bid confirmation number with a time stamp from PlanetBids indicating that their proposal was submitted successfully. The City will only receive and consider those proposals that were transmitted successfully. Submit proposal online at:
<http://www.planetbids.com/portal/portal.cfm?CompanyID=20137>.

Proposer shall be solely responsible for informing itself with respect to the proper utilization of the bid management system, for ensuring the capability of their computer system to upload the required documents, and for the stability of their internet service. Failure of the Proposer to successfully submit an electronic proposal shall be at the Proposer's sole risk and no relief will be given for late and/or improperly submitted proposals. Proposers experiencing any technical difficulties with the bid submission process may contact PlanetBids at (818) 992-1771. Questions of an operational nature may be directed to the City's assigned Project Manager. Neither the City, nor PlanetBids, makes any guarantee as to the timely availability of assistance, or assurance that any given problem will be resolved by the bid submission deadline.

Proposals shall NOT be mailed or sent via telegraphic, electronic or facsimile means.

All notifications, updates and addenda will be posted online on PlanetBids at <https://www.planetbids.com/portal/portal.cfm?CompanyID=20137>. Proposers shall be responsible for monitoring the site to obtain information regarding this solicitation. Failure to respond to required updates may result in a determination of a nonresponsive proposal.



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B. COMMUNICATION / CONTACT WITH CITY STAFF

Unless otherwise authorized herein, Proposers who are considering submitting a proposal in response to this RFP, or who submit a proposal in response to this RFP, are only to communicate with the assigned Project Coordinator(s), and no other City staff about this RFP from the date this RFP is issued until a contract is awarded. The City will provide all official communication concerning this RFP in writing via the City's Bid Management System, PlanetBids.

General questions regarding this RFP may be directed to the City's assigned Buyer utilizing the City's PlanetBids system.

The City will not be responsible for or bound by any oral communication or any other information or contact that occurs outside the official communication process specified herein, unless confirmed in writing by the designated Project Manager.

C. REQUEST FOR INFORMATION OR CLARIFICATION / QUESTIONS

Questions regarding this RFP shall be submitted via PlanetBids by **4:00 PM on December 9, 2020**. Responses to all questions will be posted on PlanetBids no later than the date and time shown at the schedule of key RFP dates above. All prospective Proposers are advised to visit PlanetBids on a regular basis as the responses may be posted earlier than the date above.

No verbal requests or responses will be accepted. Significant interpretations or clarifications will be addressed via addenda to this RFP.

D. ADDENDA

Any changes in RFP from the date of release to date of submittal will result in an addendum or amendment. Notification of such addendum or amendment shall be posted on City's PlanetBids system, <https://www.planetbids.com/portal/portal.cfm?CompanyID=20137>. Proposers shall be responsible for monitoring the site to obtain information regarding this solicitation.

E. UNDERSTANDING PROPOSAL

It is the responsibility of each Proposer to inquire about any criteria, condition, term, provision, or requirement of the RFP that the Proposer does not understand. Responses to inquiries, if they significantly change or clarify the RFP requirements or any aspect of the procurement process, will be forwarded by addenda to all Proposers. The City will not be bound by any oral responses to inquiries. By submitting proposals, Proposers assert that they have fully read the RFP and any addenda issued by the City, the proposed Contract and any other Contract Documents, and affirm that the terms and conditions stated therein are fully understood and are acceptable to the Proposer. Each Proposer accepts the terms and conditions of the Contract Documents and indicates their ability and willingness to perform the requested services under such terms and conditions. Any exceptions to the terms and conditions set forth in the Contract Document should be clearly noted in each Proposer's proposal.



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Please direct all questions regarding the procurement process to:

City of Santa Ana
Finance & Management Services – Purchasing Division
Stephanie Martinez, Buyer
Email: SMartinez10@santa-ana.org
Phone: (714) 647-5468

F. PROPOSAL CONTENTS

Proposals are to be prepared in such a way as to provide a straightforward, concise delineation of capabilities to satisfy the requirements of this RFP. Colored displays, promotional materials, etc., are not necessary or desired. Emphasis should be concentrated on conformance to RFP instructions, responsiveness to the RFP requirements, and on completeness and clarity of content. Dividers and clear organization of content and material are encouraged.

1. Cover Letter

Proposals shall include a letter signed by a principal or authorized representative who can make legally binding commitments for the entity. Include type of business entity. Cover Letter shall not exceed one page.

Cover letter must be addressed to the following:

Melanie McCann, Senior Planner
City of Santa Ana – Planning and Building Agency (M-20)
20 Civic Center Plaza
Santa Ana, CA 92701

2. Agreement Statement

Proposal shall include a statement outlining your concurrence or concerns with any and all provisions as contained in the Standard Agreement attached as Exhibit A of this RFP.

3. Firm and Team Experience

Proposal shall include a profile of the firm's experience including the following:

- i. A general description of the firm, including number of and resumes for employees available to work on the project.
- ii. Name and contact information of the project manager to be assigned to the project.
- iii. A description of the firm's experience in providing similar services to those requested in this RFP.
- iv. A list of the local office's most significant projects in the last five (5) years, indicating whether it was for the public or private sector, and including scope of work, date, project manager, and name and telephone number of the client contact.



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4. Cost Proposal

All Proposers are required to submit a cost breakdown by contract task (including renewal option term if exercised); including estimated hours, hourly rates, expenses, and a total not-to-exceed cost with their Proposal. Pricing instructions should be clearly defined to ensure fees proposed can be compared and evaluated. Proposals shall be valid for a minimum of ninety (90) days following Proposal deadline. The cost for developing the Proposal is the sole responsibility of the Proposer. All Proposals submitted become the property of the City.

The proposed fees and rates for this contract will be fixed for the duration of the agreement, including allowable renewal options exercised at the discretion of the City.

5. Certifications (ATTACHMENTS)

The following forms, included in this RFP, shall be signed and included as part of the proposal submittal package:

- Attachment A: References
- Attachment B: Proposer's Statement
- Attachment C: Non-Collusion Affidavit
- Attachment D: Non-Lobbying Certification
- Attachment E: Non-Discrimination Certification

6. References

Firm shall provide three (3) references from public agency customers for which similar services specified in this RFP have been performed, including contact names and telephone numbers, and types of services your firm has provided. Use Attachment A – References. The respondent grants permission for the City to contact any individuals listed as references.

City may disqualify a Proposer if:

- References fail to substantiate Proposer's description of services and deliverables provided; or
- References fail to support that Proposer has a continuing pattern of providing capable, productive, and skilled personnel, or
- City is unable to reach the point of contact with reasonable effort. It is the Proposer's responsibility to inform the point of contact(s) of normal City working hours.

7. Information provided by the City is solely for the purpose of conducting proposal evaluation and shall not be disclosed to any third party without the City's written permission.

8. Evidence of Financial Capacity

Proposer may be requested to submit its most recent audited financial statement, evidencing Proposer's financial capacity to fully perform the required services, including provision of equipment and personnel expenses over a ninety (90) day



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period. If said financial statement does not reflect full ninety (90) day operational capacity, Proposer may include a letter of credit as evidence of supplemental capacity.

9. Insurance

The selected Proposer shall provide the required evidence of insurance coverage as set forth in the standard agreement within ten (10) business days after receipt of Notice of Intent to Award. Contractor must maintain, for the duration of its contract, insurance coverages as required by the City.

Subcontractors must comply with the City's insurance requirements as stated herein. Primary Contractor shall not allow any Subcontractor to commence work until all insurance required of Subcontractor is obtained.

Additionally, Contractor shall provide the following insurance coverage:

A warrant that the firm maintains a prudent amount of errors and omissions insurance that covers negligent acts and is applicable to the work requested in this RFP.

Work on the contract shall not begin until after the awarded Contractor has submitted acceptable evidence of the required insurance coverages.

VII. SELECTION PROCEDURES & CRITERIA

- A. The City will establish a proposal review committee, consisting of City staff designated by the Executive Director of the Planning and Building Agency. The review committee will evaluate proposals based on the response to the RFP, which includes adherence to outlined directions and format, and the City evaluation criteria set forth below.
- B. Proposers will be ranked by Planning and Building Agency staff based on the following criteria:
 - Completeness of Proposal (15%)
 - Technical qualifications and experience of key members of the firm (20%)
 - Experience with similarly sized governmental agencies in providing the types of services outlined in this RFP (25%)
 - Capability of handling all aspects of the engagement as defined as well as providing support and technical assistance (25%)
 - Fees and charges related to the level of work proposed (15%)
- C. A final score will be calculated for each submitted proposal and used to rank Proposers. The City is under no obligation to accept any proposal and reserves the right to negotiate with respondents as to fees and terms. The City may reject proposals at its sole discretion.



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If a proposal fails to satisfy any requirements outlined in this RFP, it may be considered non-responsive and the proposal may be rejected.

The City shall not be obligated to accept the lowest priced proposal, but will make an award in the best interests of the City of Santa Ana after all factors have been evaluated.

Planning and Building Agency staff will recommend the top ranked consulting firm to the City Manager or City Council for award of contract.

VIII. WITHDRAWALS

Proposers are responsible for verifying all prices and information before submitting a proposal. Prior to the proposal due date, the Proposer or Proposer's representative may withdraw the proposal by providing written notice of the proposal withdrawal to the City Contact/Project Manager. Verbal or telephonic withdrawals are not permissible.

IX. PROTESTS

Proposers may file a "protest" to an RFP with the City's Purchasing Department. In order for a Bidder's protest to be considered valid, the protest must:

1. Be filed in writing within five (5) business days of either the RFP issued date or before 5:00 p.m. of the 5th business day following the posting of Bid Results/Notice of Intent to Award Contract on the City's website;
2. Clearly identify the specific irregularity or accusation;
3. Clearly identify the specific City staff determination or recommendation being protested;
4. Specify, in detail, the grounds of the protest and the facts supporting the protest; and
5. Include all relevant, supporting documentation with the protest at time of filing.

If the protest does not comply with each of these requirements, it will be rejected as invalid. If the protest is valid, the City's Purchasing Manager, or other designated City staff member, shall review the basis of the protest and all relevant information. The Purchasing Manager will provide a written decision to the protestor within ten (10) business days from receipt of protest. The decision from the Purchasing Manager, or her/her designee, is final and no further appeals will be considered.

X. GENERAL TERMS AND CONDITIONS

By submitting a Proposal, the Proposer acknowledges that it has thoroughly examined and accepts the Terms and Conditions of this RFP as described below:

A. AMERICANS WITH DISABILITIES ACT

The awarded Contractor hereby certifies that it will comply, as applicable, with the Americans with Disabilities Act of 1990 ("ADA"), 42 USC §§ 12101 et seq., and its implementing regulations, including Subtitle A, Title II of the ADA. Contractor will not discriminate against persons with disabilities nor against persons due to their relationship to or association with a person with a disability. Any contract entered into



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by the awarded Contractor (or any subcontract thereof), relating to this RFP, shall be subject to the provisions of this paragraph.

B. CITY RIGHT TO REJECT

The City reserves the right to reject any or all proposals submitted and no representation is made hereby that any agreement will be awarded pursuant to this RFP or otherwise.

The City reserves the right to accept or reject the combined or separate components of this proposal in part or in its entirety or to waive any minor inconsistency, informality or technical defect in the proposal.

C. CONFLICT OF INTEREST

Contractor shall exercise reasonable care and diligence to prevent any actions or conditions that could result in a conflict with the best interests of the City. This obligation shall apply to the Contractor; the Contractor's employees, agents, and Subcontractors associated with accomplishing work and services hereunder. The Contractor's efforts shall include, but not be limited to, establishing precautions to prevent its employees, agents, and Subcontractors from providing or offering gifts, entertainment, payments, loans or other considerations which could be deemed to influence or appear to influence City staff or elected officers from acting in the best interests of the City.

Each Proposer must disclose any existing or potential conflict of interest relative to the performance of the contractual services resulting from this RFP. Any such relationship that might be perceived or represented as a conflict should be disclosed. The City reserves the right to disqualify any Proposer on the grounds of actual or apparent conflict of interest.

No person, firm, or subsidiary thereof who has been awarded this Contract may be awarded a Contract for the provision of services, the delivery of supplies, or the provision of any other related action which is required, suggested, or otherwise deemed appropriate as an end product of this Contract. Therefore, Contractor is precluded from contracting for any work recommended as a result of this Contract.

D. CONTRACTOR'S EXPENSE

Pre-Contractual Expenses: The City is not liable for any costs incurred by Proposers prior to entering into a formal contract. Costs of developing a response to this RFP, are entirely the responsibility of the Proposer, and shall not be reimbursed in any manner by the City. Pre-contractual expenses are not to be included in the cost proposal. Pre-contractual expenses include, but are not limited to, preparation of the proposal, submission of the proposal and additional information, attendance at pre-proposal conference, negotiating any matter related to this RFP with City, and/or any other expenses incurred by the Proposer prior to the date of award and execution, if any, of the contract.

Other Expenses: The Contractor will be responsible for all costs related to photo copying, telephone communications, fax communications, and parking while on City sites during the performance of work and services under this Contract.

E. CONTRACTOR'S PROJECT MANAGER/ KEY PERSONNEL

Except as formally approved by the City, the key personnel identified in Contractor's proposal shall be the individuals who will actually complete the work. Changes in staffing must be reported in writing and approved by the City. The City shall have the right to require the removal and replacement of the Contractor's Project Manager and key



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personnel under the awarded contract. The City shall notify the Contractor in writing of such action. The City is not required to provide any reason, rationale, or additional factual information if it elects to request any specific key personnel be removed from performing services under the awarded contract. The City shall review and approve the appointment of the replacement for the Contractor's personnel. Said approval shall not be unreasonably withheld.

Standards of Conduct: Contractor's personnel shall be courteous and maintain good working relationships with all stakeholders, state or outside agencies, other team members and staff within the City.

Criminal Background Certification: Contractor certifies that all employees working on this contract have had a criminal background check at Contractor's cost and that said employees are clear of any sexual and drug-related convictions. Contractor further certifies that all employees hired by Contractor or Subcontractor shall be free from any felony convictions. City reserves the right to require Contractor to pay fingerprinting fees for personnel assigned to work in sensitive areas.

F. COST PROPOSAL

The price and amount of the Cost Proposal/Fee Schedule must have been arrived at independently and without consultation, communication, agreement or disclosure with or to any other Subcontractor, Proposer or prospective Proposer.

Prices offered by Proposers in their proposals are an irrevocable offer for the term of the contract and any contract extensions. The awarded Contractor agrees to provide the purchased services at the costs, rates, and fees as set forth in their Fee Schedule in response to this RFP. No other costs, rates or fees shall be payable to the awarded Subcontractor for implementation of their proposal.

G. DATA RETENTION

Contractor shall be responsible for retaining data, records, and documentation for the preparation of required items. These materials shall be made available to and as requested by City.

All materials, documents, data or information obtained from the City Data files or any City medium furnished to Contractor in the performance of an awarded contract will at all times remain the property of the City. Such data or information may not be used or copied for direct or indirect use by Contractor after completion or termination of this Contract without the express written consent of the City. All materials, documents, data or information, including copies, must be returned to the City at the end of the contract.

All data, documents and other products used, developed, or produced during response preparation of the RFP will become property of the City. All responses to the RFP shall become property of the City. Proposer information identified as proprietary shall be maintained confidential, to the extent allowed under the California Public Records Act.

H. DRUG-FREE WORKPLACE

The awarded Contractor certifies compliance with Government Code Section 8355 in matters relating to providing a drug-free workplace. Failure to comply with these requirements may result in suspension of payments under the Contract or termination of the contract or both, and the Contractor may be ineligible for award of any future City contracts.



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I. EXAMINATION

Proposer represents that it has thoroughly examined and become familiar with the services and responsibilities required this RFP and that it is capable of effectively and efficiently performing quality work to achieve the City's objectives. Any attachments referenced herein or any interpretations, clarifications or amendments subsequently posted in relation to this RFP are fully incorporated.

Any irregularities or lack of clarity in the RFP should be brought to the designated City Contact/Project Manager's attention as soon as possible so that corrective addenda may be furnished to prospective Proposers.

Proposals which appear unrealistic in the terms of technical commitments, lack of technical competence, or are indicative of failure to comprehend the complexity and risk of this contract, may be rejected.

J. EXECUTION OF AGREEMENT

Upon successful negotiations, the City and the selected Proposer will enter into an Agreement similar to that as shown in EXHIBIT 3 STANDARD AGREEMENT in the Appendix of this RFP. If a Proposer is unwilling or unable to execute an Agreement within thirty (30) days after being notified of selection under this RFP, the City reserves the right to select the next most qualified Proposer or call for new Proposals, whichever the City deems most appropriate.

K. JOINT OFFERS/SUBCONSULTANTS

Where two or more Proposers desire to submit a single Proposal in response to this RFP, they should do so on a prime sub-consultant basis. The City intends to contract with a single firm and not with multiple firms doing business as a joint venture. Should the use of sub-consultants be offered, the Proposer shall provide the same assurances of competence for the sub-consultant plus the demonstrated ability to manage and supervise the subcontracted work. Sub-consultants shall not be allowed to further subcontract with others for work under the Agreement. The provisions of the Agreement shall apply to all sub-consultants in the same manner as the Proposer.

The City reserves the right to reject, replace and approve any and all Subcontractors. All Subcontractor(s) shall be identified in the response to the RFP and the City reserves the right to reject any proposed Subcontractor(s). Subcontractors shall be the responsibility of the prime Contractor and the City shall assume no liability of such Subcontractors.

L. INDEPENDENT CONTRACTOR

Contractor is considered an independent Contractor and neither Contractor, its employees, nor anyone working under Contractor will be considered an agent or an employee of City. Neither Contractor, its employees, nor anyone working under Contractor, will qualify for workers' compensation or other fringe benefits of any kind through City.

M. LITIGATION STATUS

Each Proposer must include in its proposal a complete disclosure of any alleged significant prior or ongoing contract failures, any civil or criminal litigation or investigation pending which involves the Proposer or in which the Proposer has been judged guilty or liable. Failure to comply with the terms of this provision will disqualify any proposal. The City reserves the right to reject any proposal based upon the Proposer's prior history



CITY OF SANTA ANA

with the City or with any other party, which documents, without limitation, unsatisfactory performance, adversarial or contentious demeanor, significant failure(s) to meet contract milestones or other contractual failures.

N. NEGOTIATIONS

The City reserves the right to negotiate final contract terms with any Proposer selected. The contract between the parties will consist of the RFP together with any modifications thereto, and the awarded Contractor's proposal, together with any modifications and clarifications thereto that are submitted at the request of the City during the evaluation and negotiation process. In the event of any conflict or contradiction between or among these documents, the documents shall control in the following order of precedence: the final executed contract, the RFP, any modifications and clarifications to the awarded Contractor's proposal, and the awarded Contractor's proposal. Specific exceptions to this general rule may be noted in the final executed contract.

Negotiations shall be confidential and not subject to disclosure to competing Contractors unless and until an agreement is reached. If contract negotiations cannot be concluded successfully, the City reserves the right to negotiate a contract with another Contractor or withdraw the RFP.

O. PROJECT MANAGER

The selected Proposer will assume responsibility for all services in its proposal. The selected Proposer shall identify a sole point of contact, Project Manager, with the greatest knowledge in regard to the required service operations and contractual matters, including payment of any and all charges resulting from the Agreement.

P. PROPOSAL VALIDITY

Services, pricing, and warranties indicated in a Proposer's Proposal must be valid for a period of 90 days at minimum after the submission of the Proposal.

Q. PUBLIC AGENCIES

Other public agencies, as defined by California Government Code Section 6500, may choose to use the terms of this Contract, subject to Contractor's acceptance. The City is not liable or responsible for any obligations related to a subsequent contract between Contractor and another public agency.

R. PUBLIC RECORDS

Proposals will become public record after the award of a contract unless the proposal or specific parts of the proposal can be shown to be exempt by law. Each Proposer may clearly label all or part of a proposal as "CONFIDENTIAL" provided that the Proposer thereby agrees to indemnify and defend the City for honoring such a designation. The failure to so label any information that is released by the City shall constitute a complete waiver of any and all claims for damages caused by any release of the information. Proposer information identified as proprietary shall be maintained confidential, to the extent allowed under the California Public Records Act.

S. SUBCONTRACTORS

Proposals in response to this RFP must identify any Subcontractors, and outline the contractual relationship between the Awarded Subcontractor and each Subcontractor. An official of each proposed Subcontractor must sign, and include as part of the proposal submitted by the Prime Contractor, a statement to the effect that the Subcontractor has read and will agree to abide by the awarded Contractor's obligations. Any Subcontractor



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proposed after award of contract must be approved by the City before commencement of work.

The City will look solely to the awarded Contractor for the performance of all contractual obligations which may result from an award based on this RFP, and the awarded Contractor shall not be relieved for the non-performance of any or all Subcontractors.

XI. AWARD OF AGREEMENT

Selected Contractor(s) will be notified in writing. Any award is contingent upon the successful negotiation of final contract terms.

A. EXECUTION OF AGREEMENT

A standard agreement is included as Exhibit A – Standard Agreement of this RFP. “Proposer” will hereinafter be referred to as “Consultant” or “Contractor” in standard agreement. The term of the agreement will begin after the agreement is fully executed, and all required bonds, insurance documents and contents of the payment information packet have been received and approved.

XII. IMPLEMENTATION

A. KICK-OFF MEETING

A kick-off meeting will be held after award of contract. Contractor and its team will meet with City of Santa Ana staff to conduct introductions, discuss scope of services, and implementation process.

B. NOTICE TO PROCEED

Following the kick-off meeting, a formal Notice to Proceed (NTP) may be issued after the agreement is fully executed, and all insurance documents and contents of the Payment Information Packet have been received and approved.



CITY OF SANTA ANA

EXHIBIT A

SAMPLE AGREEMENT

THIS AGREEMENT is made and entered into on this ____ day of _____, 2020 by and between _____, ("Consultant"), and the City of Santa Ana, a charter city and municipal corporation organized and existing under the Constitution and laws of the State of California ("City").

RECITALS

- A. On January __, 2020, the City issued Request for Proposal No. 20-136, by which it sought proposals from qualified firms to provide _____ in accordance with _____.
- B. Consultant submitted a responsive proposal that was selected by the City. Consultant represents that Consultant is able and willing to provide such services described in the scope of services that was included in RFP No. 20-005
- C. In undertaking the performance of this Agreement, Consultant represents that it is knowledgeable in its field and that any services performed by Consultant under this Agreement will be performed in compliance with such standards as may reasonably be expected from a professional consulting firm in the field.

NOW THEREFORE, in consideration of the mutual and respective promises, and subject to the terms and conditions hereinafter set forth, the parties agree as follows:

1. SCOPE OF SERVICES

Consultant shall perform those services as collectively describe in Exhibit A, the scope of services that was included in RFP No. 20-136, and Exhibit B, Consultant's proposal dated _____, 2020, both of which are attached and incorporated by reference.

2. COMPENSATION

- a. City agrees to pay, and Consultant agrees to accept as total payment for its services the rates and charges identified in Exhibit B. The total sum to be expended under this Agreement shall not exceed \$ _____ during the initial term of this Agreement. This amount is comprised of (1) the sum of \$ _____ and (2) a 10% contingency of up to \$ _____ for services as may be performed by Consultant at the sole discretion of City.
- b. Payment by City shall be made within forty-five (45) days following receipt of proper invoice evidencing work performed, subject to City accounting procedures. Payment need not be made for work which fails to meet the standards of performance set forth in the Recitals which may reasonably be expected by City.



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3. TERM

This Agreement shall commence on [enter a Start Date or “the date first written above”] and terminate on _____, unless terminated earlier in accordance with Section 14 below. The term of this Agreement may be extended for two additional (2) one-year periods upon a writing executed by the City Manager and the City Attorney.

4. INDEPENDENT CONTRACTOR

Consultant shall, during the entire term of this Agreement, be construed to be an independent contractor and not an employee of the City. This Agreement is not intended nor shall it be construed to create an employer-employee relationship, a joint venture relationship, or to allow the City to exercise discretion or control over the professional manner in which Consultant performs the services which are the subject matter of this Agreement; however, the services to be provided by Consultant shall be provided in a manner consistent with all applicable standards and regulations governing such services. Consultant shall pay all salaries and wages, employer's social security taxes, unemployment insurance and similar taxes relating to employees and shall be responsible for all applicable withholding taxes.

5. OWNERSHIP OF MATERIALS

This Agreement creates a non-exclusive and perpetual license for City to copy, use, modify, reuse, or sublicense any and all copyrights, designs, and other intellectual property embodied in plans, specifications, studies, drawings, estimates, and other documents or works of authorship fixed in any tangible medium of expression, including but not limited to, physical drawings or data magnetically or otherwise recorded on computer diskettes, which are prepared or caused to be prepared by Consultant under this Agreement (“Documents & Data”). Consultant shall require all subcontractors to agree in writing that City is granted a non-exclusive and perpetual license for any Documents & Data the subcontractor prepares under this Agreement. Consultant represents and warrants that Consultant has the legal right to license any and all Documents & Data. Consultant makes no such representation and warranty in regard to Documents & Data which were provided to Consultant by the City. City shall not be limited in any way in its use of the Documents and Data at any time, provided that any such use not within the purposes intended by this Agreement shall be at City's sole risk.

6. INSURANCE

Prior to undertaking performance of work under this Agreement, Consultant shall maintain and shall require its subcontractors, if any, to obtain and maintain insurance as described below:

- a. Commercial General Liability Insurance. Consultant shall maintain commercial general liability insurance naming the City, its officers, employees, agents, volunteers and representatives as additional insured(s) and shall include, but not be limited to protection against claims arising from bodily and personal injury, including death resulting therefrom and damage to property, resulting from any act or occurrence arising out of Consultant's operations in the performance of this Agreement, including, without limitation, acts involving vehicles. The amounts of insurance shall be not less than the following: single limit coverage applying to bodily and personal injury, including death resulting therefrom, and property damage, in the total amount of \$1,000,000 per occurrence, with \$2,000,000 in the aggregate. Such insurance shall (a) name the City, its officers, employees, agents, and representatives as additional insured(s); (b) be primary and not contributory with respect to insurance or self-insurance programs maintained by the City; and (c) contain standard separation of insureds provisions.



CITY OF SANTA ANA

- b. Business automobile liability insurance, or equivalent form, with a combined single limit of not less than \$1,000,000 per occurrence. Such insurance shall include coverage for owned, hired and non-owned automobiles.
- c. Worker's Compensation Insurance. In accordance with the provisions of Section 3700 of the Labor Code, Consultant, if Consultant has any employees, is required to be insured against liability for worker's compensation or to undertake self-insurance. Prior to commencing the performance of the work under this Agreement, Consultant agrees to obtain and maintain any employer's liability insurance with limits not less than \$1,000,000 per accident.
- d. If Consultant is or employs a licensed professional such as an architect or engineer: Professional liability (errors and omissions) insurance, with a combined single limit of not less than \$1,000,000 per claim with \$2,000,000 in the aggregate.
- e. The following requirements apply to the insurance to be provided by Consultant pursuant to this section:
 - i. Consultant shall maintain all insurance required above in full force and effect for the entire period covered by this Agreement.
 - ii. Certificates of insurance shall be furnished to the City upon execution of this Agreement and shall be approved by the City.
 - iii. Certificates and policies shall state that the policies shall not be canceled or reduced in coverage or changed in any other material aspect without thirty (30) days prior written notice to the City.
 - iv. Where the amounts or coverage provided by the certificates of insurance provides coverage greater than those listed by this Agreement, the amounts provided by the certificates of insurance shall be incorporated by reference into the Agreement.
 - v. Consultant shall supply City with a fully executed additional insured endorsement.
- f. If Consultant fails or refuses to produce or maintain the insurance required by this section or fails or refuses to furnish the City with required proof that insurance has been procured and is in force and paid for, the City shall have the right, at the City's election, to forthwith terminate this Agreement. Such termination shall not affect Consultant's right to be paid for its time and materials expended prior to notification of termination. Consultant waives the right to receive compensation and agrees to indemnify the City for any work performed prior to approval of insurance by the City.

7. INDEMNIFICATION

Consultant agrees to defend, and shall indemnify and hold harmless the City, its officers, agents, employees, contractors, special counsel, and representatives from liability: (1) for personal injury, damages, just compensation, restitution, judicial or equitable relief arising out of claims for personal injury, including death, and claims for property damage, which may arise from the negligent operations of the Consultant, its subcontractors, agents, employees, or other persons acting on its behalf which relates to the services described in section 1 of this Agreement; and (2) from any claim that personal injury, damages, just compensation, restitution, judicial or equitable relief is due by reason of the terms of or effects arising from this Agreement. This indemnity and hold harmless agreement applies to all claims for damages, just compensation, restitution, judicial or equitable relief suffered, or alleged to have been suffered, by reason of the events referred to in this Section or by reason of the terms of, or effects, arising from this Agreement. The Consultant further agrees to indemnify, hold harmless, and pay all costs for the defense of the City, including fees and costs for special counsel to be selected by the City, regarding any action by a third party challenging the validity of this Agreement, or asserting that personal injury, damages, just compensation, restitution, judicial or equitable relief due to personal or property rights arises by reason of the terms of, or effects arising from this Agreement. City may make all reasonable decisions with respect to its representation in any legal proceeding.



CITY OF SANTA ANA

8. RECORDS

Consultant shall keep records and invoices in connection with the work to be performed under this Agreement. Consultant shall maintain complete and accurate records with respect to the costs incurred under this Agreement and any services, expenditures, and disbursements charged to the City for a minimum period of three (3) years, or for any longer period required by law, from the date of final payment to Consultant under this Agreement. All such records and invoices shall be clearly identifiable. Consultant shall allow a representative of the City to examine, audit, and make transcripts or copies of such records and any other documents created pursuant to this Agreement during regular business hours. Consultant shall allow inspection of all work, data, documents, proceedings, and activities related to this Agreement for a period of three (3) years from the date of final payment to Consultant under this Agreement.

9. CONFIDENTIALITY

If Consultant receives from the City information which due to the nature of such information is reasonably understood to be confidential and/or proprietary, Consultant agrees that it shall not use or disclose such information except in the performance of this Agreement, and further agrees to exercise the same degree of care it uses to protect its own information of like importance, but in no event less than reasonable care. "Confidential Information" shall include all nonpublic information. Confidential information includes not only written information, but also information transferred orally, visually, electronically, or by other means. Confidential information disclosed to either party by any subsidiary and/or agent of the other party is covered by this Agreement. The foregoing obligations of non-use and nondisclosure shall not apply to any information that (a) has been disclosed in publicly available sources; (b) is, through no fault of the Consultant disclosed in a publicly available source; (c) is in rightful possession of the Consultant without an obligation of confidentiality; (d) is required to be disclosed by operation of law; or (e) is independently developed by the Consultant without reference to information disclosed by the City.

10. CONFLICT OF INTEREST CLAUSE

Consultant covenants that it presently has no interests and shall not have interests, direct or indirect, which would conflict in any manner with performance of services specified under this Agreement.

11. NOTICE

Any notice, tender, demand, delivery, or other communication pursuant to this Agreement shall be in writing and shall be deemed to be properly given if delivered in person or mailed by first class or certified mail, postage prepaid, or sent by fax or other telegraphic communication in the manner provided in this Section, to the following persons:

To City:

Clerk of the City Council
City of Santa Ana
20 Civic Center Plaza (M-30)
P.O. Box 1988
Santa Ana, CA 92702-1988
Fax: 714- 647-6956

With courtesy copies to:



CITY OF SANTA ANA

Minh Thai
Executive Director
Planning and Building Agency
City of Santa Ana
20 Civic Center Plaza (M-20)
P.O. Box 1988
Santa Ana, California 92702

City Attorney's Office
City of Santa Ana
20 Civic Center Plaza
P.O. Box 1988
Santa Ana, CA 92702

To Consultant:

First & Last Name
Title
Consultant Firm Name
Address
City, State, Zip

A party may change its address by giving notice in writing to the other party. Thereafter, any communication shall be addressed and transmitted to the new address. If sent by mail, communication shall be effective or deemed to have been given three (3) days after it has been deposited in the United States mail, duly registered or certified, with postage prepaid, and addressed as set forth above. If sent by fax, communication shall be effective or deemed to have been given twenty-four (24) hours after the time set forth on the transmission report issued by the transmitting facsimile machine, addressed as set forth above. For purposes of calculating these time frames, weekends, federal, state, County or City holidays shall be excluded.

12. EXCLUSIVITY AND AMENDMENT

This Agreement represents the complete and exclusive statement between the City and Consultant, and supersedes any and all other agreements, oral or written, between the parties. In the event of a conflict between the terms of this Agreement and any attachments hereto, the terms of this Agreement shall prevail. This Agreement may not be modified except by written instrument signed by the City and by an authorized representative of Consultant. The parties agree that any terms or conditions of any purchase order or other instrument that are inconsistent with, or in addition to, the terms and conditions hereof, shall not bind or obligate Consultant or the City. Each party to this Agreement acknowledges that no representations, inducements, promises or agreements, orally or otherwise, have been made by any party, or anyone acting on behalf of any party, which is not embodied herein.

13. ASSIGNMENT

Inasmuch as this Agreement is intended to secure the specialized services of Consultant, Consultant may not assign, transfer, delegate, or subcontract any interest herein without the prior written consent of the City and any such assignment, transfer, delegation or subcontract without the City's prior written consent shall be considered null and void. Nothing in this Agreement shall be construed to limit the City's ability to have any of the services which are the subject to this Agreement performed by City personnel or by other consultants retained by City.

14. TERMINATION



CITY OF SANTA ANA

This Agreement may be terminated by the City upon thirty (30) days written notice of termination. In such event, Consultant shall be entitled to receive and the City shall pay Consultant compensation for all services performed by Consultant prior to receipt of such notice of termination, subject to the following conditions:

- a. As a condition of such payment, the Executive Director may require Consultant to deliver to the City all work product(s) completed as of such date, and in such case such work product
- b. shall be the property of the City unless prohibited by law, and Consultant consents to the City's use thereof for such purposes as the City deems appropriate.
- c. Payment need not be made for work which fails to meet the standard of performance specified in the Recitals of this Agreement.

15. NONDISCRIMINATION

Consultant shall not discriminate because of race, color, creed, religion, sex, marital status, sexual orientation, age, national origin, ancestry, or disability, as defined and prohibited by applicable law, in the recruitment, selection, training, utilization, promotion, termination or other employment related activities. Consultant affirms that it is an equal opportunity employer and shall comply with all applicable federal, state and local laws and regulations.

16. JURISDICTION - VENUE

This Agreement has been executed and delivered in the State of California and the validity, interpretation, performance, and enforcement of any of the clauses of this Agreement shall be determined and governed by the laws of the State of California. Both parties further agree that Orange County, California, shall be the venue for any action or proceeding that may be brought or arise out of, in connection with or by reason of this Agreement.

17. PROFESSIONAL LICENSES

Consultant shall, throughout the term of this Agreement, maintain all necessary licenses, permits, approvals, waivers, and exemptions necessary for the provision of the services hereunder and required by the laws and regulations of the United States, the State of California, the City of Santa Ana and all other governmental agencies. Consultant shall notify the City immediately and in writing of its inability to obtain or maintain such permits, licenses, approvals, waivers, and exemptions. Said inability shall be cause for termination of this Agreement.

18. MISCELLANEOUS PROVISIONS

- a. Each undersigned represents and warrants that its signature herein below has the power, authority and right to bind their respective parties to each of the terms of this Agreement, and shall indemnify City fully, including reasonable costs and attorney's fees, for any injuries or damages to City in the event that such authority or power is not, in fact, held by the signatory or is withdrawn.
- b. All Exhibits referenced herein and attached hereto shall be incorporated as if fully set forth in the body of this Agreement.



CITY OF SANTA ANA

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

ATTEST:

CITY OF SANTA ANA

Daisy Gomez
Clerk of the Council

Kristine Ridge
City Manager

APPROVED AS TO FORM:

SONIA R. CARVALHO
City Attorney

CONSULTANT:

By: _____
Assistant City Attorney

(name)
(title)
Tax ID# _____

RECOMMENDED FOR APPROVAL:

Minh Thai
Executive Director
Planning and Building Agency

SAMPLE ONLY



CITY OF SANTA ANA

ATTACHMENT A

REFERENCES

List and describe fully the contracts performed by your firm which demonstrate your ability to provide the supplies, equipment or services included in the scope of the proposal specifications. Attach additional pages if required. The City reserves the right to contact each of the references listed for additional information regarding your firm's qualifications.

Reference

Customer Name: _____ Contact Individual: _____

Address: _____ Phone Number: _____

_____ Facsimile Number: _____

Contract Amount: _____ Year: _____

Description of supplies, equipment, or services provided:

Reference

Customer Name: _____ Contact Individual: _____

Address: _____ Phone Number: _____

_____ Facsimile Number: _____

Contract Amount: _____ Year: _____

Description of supplies, equipment, or services provided:

Reference

Customer Name: _____ Contact Individual: _____

Address: _____ Phone Number: _____

_____ Facsimile Number: _____

Contract Amount: _____ Year: _____

Description of supplies, equipment, or services provided:

**THIS FORM MUST BE COMPLETED AND INCLUDED WITH THE PROPOSAL.
PROPOSALS THAT DO NOT CONTAIN THIS FORM WILL BE CONSIDERED NONRESPONSIVE.**



CITY OF SANTA ANA

ATTACHMENT B

PROPOSER'S STATEMENT

Proposer understands and agrees that this written RFP (or any part thereof specifically designated and accepted by the City of Santa Ana, hereinafter City) shall constitute the entire agreement between proposer and the City only after it has been accepted by the City Council, endorsed by the Clerk of the Council with her signature and official seal noting hereon the action of approval of the Council, signed by the Executive Director or his duly authorized agent, and signed by the City Attorney, denoting his approval of the form of this document, and its execution, and when it or an exact copy of it has been either delivered to proposer or deposited with the United States Postal Service properly addressed to the proposer with the correct postage affixed thereto.

Proposer further agrees that upon delivery (as defined above) of the accepted agreement he/she will furnish City all required bonds and certificate of liability insurance within ten (10) days (excluding Saturdays, Sundays and City's legal holidays), or the funds, check, draft, or proposer's bond substituted in lieu thereof accompanying this proposal shall become the property of the City and shall be considered as payment of damages due to the delay and other causes suffered by City because of the failure to furnish the necessary bonds and because it is distinctly agreed that the proof of damages actually suffered by City is difficult to ascertain; otherwise said funds, check drafts, or proposer's bond substituted in lieu thereof shall be returned to the undersigned.

Proposer understands that a proposal is required for the entire work, that the estimated quantities set forth in the RFP schedule are solely for the purpose of comparing proposals, and that final compensation under the contract will be based upon the actual quantities of work satisfactorily completed.

All terms contained in the specifications, the certification of nondiscrimination by contractors, and the required insurance certificates are to be incorporated by reference into this agreement and are made specifically as part of this RFP.

Firm _____

Signed and Printed Name: _____

Title _____

Date _____

**THIS FORM MUST BE COMPLETED AND INCLUDED WITH THE PROPOSAL.
PROPOSALS THAT DO NOT CONTAIN THIS FORM WILL BE CONSIDERED NONRESPONSIVE.**



CITY OF SANTA ANA

ATTACHMENT C

NON-COLLUSION AFFIDAVIT

(Title 23 United States Code Section 112 and Public Contract Code Section 7106)

To the CITY OF SANTA ANA

In accordance with Title 23 United States Code Section 112 and Public Contract Code 7106 the proposer declares that the proposal is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation; that the proposal is genuine and not collusive or sham; that the proposer has not directly or indirectly induced or solicited any other proposer to put in a false or sham proposal, and has not directly or indirectly colluded, conspired, connived or agreed with any proposer or anyone else to put in a sham proposal, or that anyone shall refrain from bidding; that the proposer has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the proposal price of the proposer or any proposer, or to fix any overhead, profit, or cost element of the proposal price, or of that of any other proposer, or to secure any advantage against the public body awarding the contract of anyone interested in the proposed contract; that all statements contained in the proposal are true; and, further, that the proposer has not, directly or indirectly, submitted his or her proposal price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any corporation, partnership, company association, organization, bid depository, or to any member or agent thereof to effectuate a collusive or sham proposal.

Note: The above noncollusion affidavit is part of the proposal. Signing this proposal on the signature portion thereof shall also constitute signature of this noncollusion affidavit. Proposers are cautioned that making a false certification may subject the certifier to criminal prosecution.

Signed _____

State of California, County of _____

Subscribed and sworn to (or affirmed) before me on this _____ day of _____, 20____, by _____, proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

Notary Public Signature

Notary Public Seal

**THIS FORM MUST BE COMPLETED AND INCLUDED WITH THE PROPOSAL.
PROPOSALS THAT DO NOT CONTAIN THIS FORM WILL BE CONSIDERED NONRESPONSIVE.**



CITY OF SANTA ANA

ATTACHMENT D

NON-LOBBYING CERTIFICATION

The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in conformance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The prospective participant also agrees by submitting his or her bid or proposal that he or she shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such subrecipients shall certify and disclose accordingly.

Signed: _____

Title: _____

Firm: _____

Date: _____

**THIS FORM MUST BE COMPLETED AND INCLUDED WITH THE PROPOSAL.
PROPOSALS THAT DO NOT CONTAIN THIS FORM WILL BE CONSIDERED NONRESPONSIVE.**



CITY OF SANTA ANA

ATTACHMENT E

NON-DISCRIMINATION CERTIFICATION

The undersigned consultant or corporate officer, during the performance of this contract, certifies as follows:

1. The Consultant shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Consultant shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Consultant agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
2. The Consultant shall, in all solicitations or advertisements for employees placed by or on behalf of the Consultant, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.
3. The Consultant shall send to each labor union or representative of workers with which he/she has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Consultant's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
4. The Consultant shall comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
5. The Consultant shall furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his/her books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation, to ascertain compliance with such rules, regulations, and orders.
6. In the event of the Consultant's non-compliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, the contract may be canceled, terminated, or suspended in whole or in part and the Consultant may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulations, or order of the Secretary of Labor, or as otherwise provided by law.



CITY OF SANTA ANA

7. The Consultant shall include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontract or purchase order as the administering agency may direct as means of enforcing such provisions, including sanctions for noncompliance; provided, however, that in the event the Consultant becomes involved in, or is threatened with, litigation with a subconsultant or vendor as a result of such direction by the administering agency, the Consultant may request that the United States enter into such litigation to protect the interests of the United States.
8. Pursuant to California Labor Code Section 1735, as added by Chapter 643 Stats. 1939, and as amended, no discrimination shall be made in the employment of persons upon public works because of race, religious creed, color, national origin, ancestry, physical handicaps, mental condition, marital status, or sex of such persons, except as provided in Section 1420, and any consultant of public works violating this Section is subject to all the penalties imposed for a violation of the Chapter.

Signed: _____

Title: _____

Firm: _____

Date: _____

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THIS FORM MUST BE COMPLETED AND INCLUDED WITH THE PROPOSAL.
PROPOSALS THAT DO NOT CONTAIN THIS FORM WILL BE CONSIDERED NONRESPONSIVE.