REQUEST FOR PROPOSALS (RFP)
FOR
ARCHITECTURAL SERVICES FOR
SANTIAGO PARK GAS HOUSE AREA DEVELOPMENT
FOR THE
RFP NO.: 16-040

CITY OF SANTA ANA
Santa Ana Public Works Agency
20 Civic Center Plaza
Santa Ana, CA 92701

Suzi Furjanic
Project Manager
(714) 571-4241 Office
sfurjanic@santa-ana.org

Approved for Release:

Fred Mousavipour
Executive Director
Public Works Agency

KEY RFP DATES (Subject to change at discretion of City):

Issue Date: Monday October 3, 2016
Letter of Intent: Monday October 17, 2016
Deadline for Requests for Information: Monday October 24, 2016
Proposal Due Date: Monday October 31, 2016; 5:00pm.
Projected Award Date: Tuesday January 17, 2016
NOTICE INVITING PROPOSALS

NOTICE IS HEREBY GIVEN that proposals will be received from qualified firms for Santiago Park Gas House Area Development.

Responses to this Request for Proposals (RFP) will be accepted until Monday October 31, 2016 at 5:00 p.m. Proposals received after this date/time will not be considered. It is the responsibility of the proposer to ensure that any proposals submitted have sufficient time to be received by the City of Santa Ana prior to this proposal due date and time.

Proposals shall be enclosed in a sealed envelope and marked clearly with following information, formatted as follows:

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[SUBMITTING COMPANY]

“SEALED PROPOSAL FOR
RFP NO. 16-040
SANTIAGO PARK GAS HOUSE AREA DEVELOPMENT
IN THE CITY OF SANTA ANA
DO NOT OPEN WITH REGULAR MAIL.”

City of Santa Ana
Attn.: Suzi Furjanic
Public Works Agency:
20 Civic Center Plaza; 3rd Floor Reception, Ross Annex
Santa Ana, CA 92701
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Proposals shall be mailed, hand delivered, or sent by courier service. Proposals shall NOT be sent via telegraphic, electronic or facsimile.

All notifications, updates and addenda will be posted on the City’s RFP Bid page at www.santa-ana.org/bids-rfps. 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.

LETTER OF INTENT: Interested firms shall submit a Letter of Intent of their pending proposal to the noted Project Manager by the required date as shown on the cover page of this RFP. Letters shall be forwarded via certified mail or email.
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I. GENERAL

Nature of Work:
The City of Santa Ana is seeking an Architectural firm to provide concept design, design development and Contract Documents for the Santiago Park Gas House Area Development project. A detailed Scope of Work is included in the Appendix of this RFP as Attachment 1.

Number of Proposals and Signature:
The submittal shall include four (4) hard copies and one (1) digital file on a labeled USB Flash Drive (or equivalent). One of the hard copies shall be marked as “ORIGINAL” and shall be signed by a company official with the power to bind the company and submitted to the City of Santa Ana. One (1) copy of your Fee Proposal shall be submitted.

Proposal Evaluation and Rating:
The criteria for evaluating the proposals submitted will take the following items into consideration:

- Firm/Team Experience 20%
- Understanding of Need 20%
- Relevant Project Experience 20%
- Schedule 15%
- References 15%
- Fee* 10%

The City has established a proposal review committee to evaluate proposers based on the response to the RFP, which includes adherence to outlined directions and format, and the City evaluation criteria set forth above. A final score will be calculated for each submitted proposal and used to rank the proposers.

Project Funding:
Project is funded with Capital Outlay Funds.

II. PROPOSAL 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. EXAMINATION: Proposer represent 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 the relation to this RFP are fully incorporated.
B. EXECUTION OF AGREEMENT: The City and the selected Proposer will enter into an Agreement similar to that as shown in Attachment 2, 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.

C. PROPOSAL VALIDITY: Services, pricing and warranties indicated in a respondent’s Proposal must be valid for a period of 120 days after the submission of the Proposal.

D. PRE-CONTRACTUAL EXPENSES: Santa Ana shall not, in any event, be liable for any pre-contractual expenses incurred by Proposers in the preparation of its proposal.

E. 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-subconsultant 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 subconsultants be offered, the Proposer shall provide the same assurances of competence for the subconsultant plus the demonstrated ability to manage and supervise the subcontracted work. Subconsultants shall not be allowed to further subcontract with others for work under the Agreement. The provisions of the Agreement shall apply to all subconsultants in the same manner as the Proposer.

III. INSTRUCTIONS TO PROPOSERS

A. CITY RESPONSIBILITIES

The City will provide information in its possession relevant to preparation of required information in RFP. The City will provide only the staff assistance and documentation specifically referred to herein.

B. PROPOSER RESPONSIBILITIES

Point of Contact: The selected proposer will assume responsibility for all services in its proposal. The selected proposer shall identify a sole point of contact 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.

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 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.

C. REQUEST FOR INFORMATION OR CLARIFICATION

All questions or requested clarifications shall be made in writing via e-mail to the Project Manager (contact information as noted on the cover page to this RFP) by or before the “Deadline for Requests for Information” date noted on the cover page of this RFP. No verbal requests or responses will be accepted. Significant interpretations or clarifications will be addressed via addenda to this RFP, as indicated in Section III.D.
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 website, www.santa-ana.org/bids-rfps.

E. LICENSES & PERMITS

The selected Proposer shall be required to obtain a City of Santa Ana Business license within ten (10) business days of selection and must provide a copy to the City Project Manager or designee prior to commencing any work in Santa Ana.

Additionally, Proposer will be responsible for obtaining any licenses/permits required by the Scope of Work.

F. 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 award.

G. PAYMENT INFORMATION PACKET

The selected Proposer shall return a completed payment information packet within ten (10) business days after the successful Proposer has received notice that the agreement has been awarded. The packet is available on the City’s website: www.santa-ana.org/bids-rfps.

H. PRE-PROPOSAL MEETING

A pre-proposal meeting, if scheduled, will occur on the date, time and location identified on the cover page of this RFP. The meeting will include discussion of the project scope and a question-and-answer session. It is highly recommended that the Proposer’s key team members attend this meeting. Significant interpretations or clarifications will be addressed via addenda to this RFP, as described above in “Section III.D: Addenda”.

I. 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.

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. Subcontractors shall be the responsibility of the successful Proposer and the City shall assume no liability of such subcontractors.

J. PROTESTS

Proposers with concerns or rebuttal of any staff determination of non-responsiveness or non-responsibility may submit, in writing within five (5) business days, to the Project Manager, any
concerns regarding the RFP process or staff determination. Such writing shall be considered by the City Manager or his designated representative, and may be acted upon within five (5) business days. If no action is taken within such time, there shall be no change to the staff determination. The exercise by Proposer of its right to submit written concerns shall be a condition precedent to seeking judicial review of any award of a contract hereunder.

IV. SUBMITTAL REQUIREMENTS

A. GENERAL

1. Number of Copies and signature: Refer to Section I: General.

2. Deadline: Proposals are due to the City of Santa Ana, at the date, time, and location set forth above in the Notice Inviting Proposals.

B. PROPOSAL CONTENTS

A responsive proposal shall contain the following documentation:

1. STATEMENT OF QUALIFICATIONS

The Statement of Qualifications shall be limited to a MAXIMUM of (10) DOUBLE-SIDED PAGES (excluding front and back covers, section dividers and attachments such as resumes, forms). Font size shall be minimum 11-point Arial. Proposal exhibits shall be maximum 11” x 17”. The Statement of Qualifications includes the following:

a. 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.

b. 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 Attachment 2, in the Appendix of this RFP.

c. Firm and Team Experience: Proposal shall include a profile of the firm’s experience. Include resumes of project team/sub-contractors that outline their technical and design experience. At a minimum, this should include the project manager/principal agent, associates in charge when project manager/principal agent is unavailable, key personnel, firm size, and an organization chart identifying only those who will perform work for the proposed project and the percentage of each individual’s time devoted to this project. The project manager/principal agent shall be the primary contact person to represent your firm.

d. Understanding of Need: Proposal shall include an outline which demonstrates the firm’s understanding of the scope of work. This outline should include anticipated approach, tasks necessary for successful completion, and suggestions or special concerns that the City should be made aware of.

e. Relevant Project Experience: Proposal shall include a list of relevant projects which your firm or personnel have completed within the last five (5) years, including significant
work with public agencies. Project information should include project description, year completed, client name, along with a person to contact and their telephone number.

f. **Schedule:** Proposal shall include a detailed schedule based on the Scope of Services explained below (IV.B.2), with a written statement which provides information on current workload and how this project would be accommodated.

g. **References:** Proposal shall include references for three public entities for which Proposer has performed similar work within the past five (5) years

h. **Fee:** Fees may or may not be included as part of evaluation criteria. Refer to “I. GENERAL”, and IV. SUBMITTAL REQUIREMENTS, B.3 FEE PROPOSAL, below. *(this item not part of page limit)*

2. **SCOPE OF SERVICES & SCHEDULE**

Proposal shall include a Scope of Services which details the work phases to be completed, the tasks to be accomplished and the deliverables to be provided. Scope of Services shall be incorporated into the schedule as described above (IV.B.1.f) to complete the project based upon the requested Scope of Work, detailed in Attachment 1, which is included in the Appendix of this RFP.

3. **FEE PROPOSAL:**

Proposer’s fee proposal shall be submitted concurrently with the technical proposal, but in a separately sealed envelope, clearly labeled as “Fee Proposal.” This shall include the firm’s Standard Hourly Fee Schedule, and/or a Project Fee Schedule where applicable and as outlined in the Scope of Work.

Where fees are NOT included as part of evaluation criteria, the fee proposal will not be opened until the proposals have been evaluated by the proposal selection committee. The City will select the consultant based on qualifications, and then negotiate a contract price based on available funding.

Where fees ARE included as part of the evaluation criteria, the fee proposal will be opened and reviewed concurrently with the proposal, and weighted per the percentage identified in “I. GENERAL”.

4. **CERTIFICATIONS:**

The following forms, included in Attachment 3 in the Appendix of this RFP shall be signed and included as part of the proposal submittal package:

- Attachment 3-1: Non-Collusion Affidavit
- Attachment 3-2: Non-Lobbying Certification
- Attachment 3-3: Non-Discrimination Certification
V. PROPOSAL REVIEW (CONSULTANT SELECTION)

A. EVALUATION AND RATING

Refer to Section I, General.

B. SELECTION

The committee may interview the top ranking proposers. The City will recommend award of the agreement to the proposer who will provide the best quality and value to the City. City reserves the right to begin negotiations and enter into an agreement without interview or further discussions.

VI. AWARD OF AGREEMENT

A. REQUEST FOR COUNCIL ACTION

Following evaluation and rating by the proposal review committee, the Executive Director will recommend award of an agreement to the proposer providing the best quality and value to the City.

B. EXECUTION OF AGREEMENT

A standard agreement is included as Attachment 2, in the Appendix of this RFP. “Proposer” will hereinafter be referred to as “Consultant” 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.

VII. IMPLEMENTATION

A. KICK-OFF MEETING

A kick-off meeting will be held after award of contract. Consultant 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.

VIII. PUBLIC RECORDS

All responses to the RFP shall become property of the City, and proposals will become public record after award of agreement. Proposer information identified as proprietary information shall be maintained confidential, to the extent allowed under the California Public Records Act.
Appendix
ATTACHMENT 1
SCOPE OF WORK

CITY OF SANTA ANA
REQUEST FOR PROPOSALS
FOR
SANTIAGO PARK GAS HOUSE AREA DEVELOPMENT
RFP NO.: 16-040

Introduction and Background:

Santiago Park is a 35-acre linear park located in the northern edge of the City of Santa Ana along Santiago Creek. It is the city’s oldest and largest wilderness park. The park contains both passive and active recreation opportunities which run along both sides of Santiago Creek and includes acres of restored riparian habitat, recreational trails, a nature reserve, the “Wildlife and Watershed Interpretive Center,” the “Wildlife and Habitat Viewing Facility,” the Santiago Park Lawn Bowling Clubhouse and greens, archery, tennis courts, a baseball field, log cabin, and playground equipment.

At the midpoint of Santiago Park is a large barren area referred to as the “Gas House” area, named for a small stone-façade structure which was built in the 1930s as part of the Works Progress Administration (WPA) park improvements. The “Santiago Park Gas House Area Development” (the project) involves renovation of the existing gas house, renovation of an existing restroom, replacement of existing playground equipment, and site development which includes construction of an amphitheater, installation of native riparian landscaping, automatic “smart” irrigation, drainage thru natural infiltration, decomposed granite walkways, site amenities and interpretive signage to educate the public about the gas house and the important contribution that the Works Progress Administration made in the 1938 construction of Santiago Park.

The park area comprising the project’s Scope of Work, is between the log cabin / children’s play area (to the west), the Lawn Bowling Center (to the east), and the two terraces between these points. It is shown in a diagrammatic site plan included in this Request for Proposals as part of this Attachment 1.

The project, as represented in the concept plan and as outlined below under Consultant Responsibilities shall include the following components:

- Gas house renovation, including seismic upgrades as required
- Restroom renovation, include relocation of existing entrance doors to face park playground
- Parking lot improvements at Valencia Avenue, including gate and entrance signage
- Playground Renovation at Log Cabin
- Renovation of one (1) BBQ brazier
- Amphitheater area, with seating, stage area and lighting
- Decomposed Granite Walkways with split rail fencing around landscape areas
• California Native/Riparian landscaping, butterfly garden, plant identification signage
• Site and Amphitheater Lighting
• Automatic irrigation system
• Site Amenities, including interpretive signage, information board/kiosk, benches, picnic tables, bike racks
• Drainage which utilizes “Low Impact Development” concepts with goal for full site infiltration.
• Community Approval

The amphitheater area is to be utilized by Santiago Park Wildlife and Watershed Center programs and Santa Ana Parks, Recreation and Community Service programming. Programming will include cultural discussions, storytelling, evening musical performances and art talks. Electrical shall be provided for musical instruments, microphones, amplifier, speakers and lighting. Up lighting on stage floor is desirable and nearby storage should be considered for equipment. A natural sound barrier berm around the amphitheater should also be considered.

This project is funded with Capital Outlay Funds. Total Project Budget is approximately $1.2m.

**Consultant Responsibilities:**

*The Consultant's responsibilities include the following, and shall consist of the following project tasks:*

Consultant is responsible for providing all design and engineering as required for all components within the project scope of work. This includes, but is not limited to, survey, civil engineering, geotechnical investigation and report (for soils analysis), infiltration testing, electrical engineering.

Consultant will also be responsible for facilitating up to 3 meetings with PSNA to obtain input and finalize concept plan.

Consultant shall provide review sets in .pdf format. Final plans shall be provided in AutoCAD or Microstation format, and .pdf format.

**Task 1: Pre-Design**

Preliminary design shall include Kick-off meeting with City Staff to discuss scope of work, project goals and objectives, potential elements and issues and schedule. Pre-Design will also include up to 3 meetings with Park Santiago Neighborhood Association (PSNA) (facilitated by consultant) to obtain input and finalize concept plan.

- Deliverables shall include up to 3 rendered concept plans, which incorporate community input and provide basis for discussion at community meetings.
- Final Concept shall be approved by PSNA and PRCSA.
Task 2: Design Development (50% plans)
Design development will involve the schematic development of plans based upon the approved conceptual design plan, which shall include architectural, landscape architectural, civil engineering, and electrical engineering (including photometrics), draft technical specifications and “opinion of estimated cost”.

- Deliverables shall include a 50% set of plans, draft specification and “Opinion of Probable Cost”.

Task 3: Construction Documents (90% and 100% plans)
Construction Documents (CDs) shall include finalizing approved deliverables from the Design Development phase. This includes the provision of detailed engineering and construction drawings that will serve as the basis for both bidding and construction by a general contractor.

- Deliverables shall include 90% and 100% plans, final technical specifications, and a finalized “Opinion of Probable Cost”.

Plans shall include, but are not limited to the following:

- Title Sheet
- Civil Engineering
  - Site Erosion Plan
  - Parking Lot at Valencia Avenue
  - Horizontal and Vertical Control Plan
  - Grading And On-Site Drainage Plan
  - Site Utility Plan
- Architectural (Gas House and Restroom)
  - Plans, Elevations, Electrical, Plumbing, Details,
- Structural Engineering (Gas House and Restroom)
  - Plans, Details
  - Structural Calculations, as required
- Landscape Architectural
  - Site Layout/Construction Plans And Details (including plumbing)
  - Site Sections, as applicable
  - Planting Plans/Details/Notes
  - Irrigation Plans/Details/Calculations/Notes
- Electrical
  - Electrical Site Plan, including lighting, electrical outlets
  - Photometrics
  - Location of panels, switchgear, meters
  - Schedules
  - Details
  - Notes, specifications
Plan Check & Permits:
Construction drawings shall be in accordance with the 2013 California Building Code and the Americans with Disabilities Act and will require review/approval by the City Planning and Building Agency.

As a condition of plan check approval, plans, specifications and structural calculations must be signed by a California licensed architect / landscape architect / civil engineer as appropriate.

Construction drawings shall be submitted at 90% completion for constructability review by Public Works Design Construction Engineering Divisions, and revised as directed. The 100% complete construction drawing package will then be submitted for final City review to the following City Agencies:

- Parks, Recreation and Community Services Agency
- Planning and Building Agency (Building, Electrical, Plumbing, SAPD)
- Public Works Agency

Drawings should be indexed and organized so they can be separated cleanly for individual reviews by the Planning and Building Agency. The Public Works Agency Project Manager will coordinate the submittal and review process. Once complete, the consultant will revise the Contract Documents

Technical Specifications
Technical specifications for all components listed above shall be provided by Consultant, or their Sub-consultants, to the City in CSI (Construction Specifications Institute) format. City Staff will combine these specifications with the City Boiler Plate which together, will become the Project Manual.

Final Opinion of Probable Cost
Consultant shall provide updated opinion of probable construction cost which shall reflect finalized plans, materials, systems, details of construction, and known or anticipated changes in the bidding market relative to the project. Should project scope exceed available budget, project plans/specifications will be phased as appropriate.

Task 4: Bid Advertisement, Construction Administration, Record Drawings:

Bid Advertisement
Consultant shall provide support to the City during the Bidding phase by assisting with questions, requests for information/clarification, or conflicts arising out of the bidding process. Consultant shall also attend pre-bid meeting, if scheduled.

Construction Administration
Consultant shall provide support to the City during the Construction Administration phase by assisting with questions, requests for information/clarification, and/or reviewing submittals.

Record Drawings / As-built Plans:
Upon construction completion, consultant shall incorporate as-built information, as provided by the General Contractor, into the drawing files to provide record drawings for City archives.
**Fee Proposal:**
In addition to Section IV.B.3 (Submittal Requirements: Fee Proposal) fee schedule shall be structured to correspond to the above mentioned tasks as follows:

- **Task 1:** Pre-Design
- **Task 2:** Design Development
- **Task 3:** Construction Documents
- **Task 4:** Bid Advertisement, Construction Administration, Record Drawings

**Total Fee:** ____________

Fee schedule for each task should include an hourly breakdown that corresponds to the task total.

**City Responsibilities**

The City will be responsible for the following items:
- Providing copies of available plans and existing documentation on file.
- Providing standard City boilerplate specification.
- Acting as a liaison with the appropriate decision making bodies, as necessary.
- Furnish electronic design file with City title block and title sheet (24” x 36”)
- Process plans for governmental agency approvals having jurisdiction over the project.
SANTIAGO PARK TRAIL AND LANDSCAPE IMPROVEMENTS
PROJECT LOCATION MAP
CITY PLACE

MORNING LANE

ROLLING, MOUNTED
GRASSY ROLL WITH
POLETS OF NATIVE PLANTS

CONNECT TRAIL
AREAS ALONG CREEK
KIEP CUSTODICLY
NATURAL RADD NATIVE
PLANTS \ NEW SEATING
- ACCOMMODATE

OAK GROVE
DROP OFF

SINGLE LANE FOR EASY ACCESS

SHAPE PEDESTRIAN ENTRY
NOT OPEN TO TRAFFIC

ENTRY FEATURES \ LIGHTS OR ANN
SWING

EXISTING LAND AREAS
- ENHANCED WALLS
- ESTRIN
- SCREEN WALLS WITH
ARDO, LINES, SHRUBS

VALERIA
CONSULTANT AGREEMENT
CITY OF SANTA ANA

THIS AGREEMENT is made and entered into this _____ day of __________, 2016 by and between Consultant Company Name _____, (hereinafter “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 (hereinafter “City”).

RECITALS

A. The City desires to retain a consultant having special skill and knowledge in the field of Architectural Services

B. Consultant represents that Consultant is able and willing to provide such services to the City.

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 during the term of this Agreement, the tasks and obligations including all labor, materials, tools, equipment, and incidental customary work required to fully and adequately complete the services described and set forth in Scope of Services - Exhibit A, attached hereto and incorporated by reference. The Scope of Services shall include a Schedule for the Delivery of Services, which shall be delivered as prescribed, beginning upon the City’s issuance of a Notice to Proceed.

2. COMPENSATION

City agrees to pay, and Consultant agrees to accept as total payment for its services for City, an amount not to exceed $________________________ in accordance to rates and charges identified in Compensation - Exhibit B, attached hereto and incorporated by reference, and in accordance with Section 18.
3. TERM

This Agreement shall commence on the date written above for a two (2) year term with the option for the City to grant up to a two (2) one (1)-year renewal option(s) exercisable by the City Manager and the City Attorney, unless terminated earlier in accordance with Section 15, below.

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 insured’s provisions.

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. 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

To the fullest extent permitted by law, Consultant shall indemnify, defend and hold harmless City, its officers, agents and employees (collectively, the “indemnified parties”) from and against any and all claims (including, without limitation, claims for bodily injury, death or damage to property), demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including, without limitation, attorney’s fees, disbursements and court costs) of every kind and nature whatsoever (individually, a claim; collectively, “claims”), to any work performed or services provided under this Agreement arising out of, relating to or pertaining to the
negligence, recklessness or willful misconduct of Consultant, its principals, officers, agents, employees, vendors, suppliers, contractors, subcontractors, anyone employed directly or indirectly by any of them or for whose acts they may be liable for any or all of them. Notwithstanding the foregoing, nothing herein shall be construed to require Consultant to indemnify the indemnified parties from any claim arising from the sole negligence or willful misconduct of the indemnified parties. This indemnity shall apply to all claims and liability regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by the Consultant.

8. INTELLECTUAL PROPERTY INDEMNIFICATION

Consultant shall defend and indemnify the City, its officers, agents, representatives, and employees against any and all liability, including costs, for infringement of any United States’ letters patent, trademark, or copyright infringement, including costs, contained in the work product or documents provided by Consultant to the City pursuant to this Agreement.

9. 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.

10. 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.
11. 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. Conflict may be further specified in Certifications - Exhibit C, attached hereto and incorporated in this Agreement by reference.

12. DISCRIMINATION

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 and as further specified in Certifications - Exhibit C, attached hereto and incorporated in this Agreement by reference.

13. 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.

14. 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.

15. TERMINATION

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 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.

b. Payment need not be made for work which fails to meet the standard of performance specified in the Recitals of this Agreement.

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. **PAYMENTS & INVOICES**

a. Payment by City shall be made within 45 days (forty-five) 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.

b. Invoices should be submitted on the 15th of each month and shall include the following information at a minimum:
   
   v. Consultant’s invoice number and City’s agreement number
   vi. Beginning and ending dates for services
   vii. City Project and/or Task Order number and/or name (if applicable)
   viii. Work site address/location (if applicable)

19. **MISCELLANEOUS PROVISIONS**

a. Additional provisions, if any, are identified as Additional Provisions, Exhibit D, attached hereto and incorporated into this Agreement by reference.

b. 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.

c. All Exhibits referenced herein and attached hereto shall be incorporated as if fully set forth in the body of this Agreement.
20. **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:

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<tr>
<th>Name</th>
<th>Title</th>
<th>Address</th>
<th>Fax</th>
</tr>
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<tbody>
<tr>
<td>Fred Mousavipour</td>
<td>Executive Director</td>
<td>City of Santa Ana</td>
<td>714-647-5635</td>
</tr>
<tr>
<td></td>
<td></td>
<td>20 Civic Center Plaza (M-21)</td>
<td></td>
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<tr>
<td></td>
<td></td>
<td>P.O. Box 1988</td>
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<tr>
<td></td>
<td></td>
<td>Santa Ana, California 92702</td>
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Sonia R. Carvalho  
City Attorney  
City of Santa Ana  
20 Civic Center Plaza (M-29)  
P.O. Box 1988  
Santa Ana, California 92702  
Fax: 714-647-6515

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.

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

Maria D. Huizar  
Clerk of the Council

CITY OF SANTA ANA

David Cavazos  
City Manager

APPROVED AS TO FORM:

SONIA R. CARVALHO  
City Attorney

CONSULTANT:  
Consultant Company Name

By: __________________________
José Sandoval  
Chief Assistant City Attorney

(name)  
(title)  
Tax ID# __________________________

RECOMMENDED FOR APPROVAL:

FRED MOUSAVIPOUR  
Executive Director  
Public Works Agency
EXHIBIT A

SCOPE OF SERVICES
(from Attachment 1 of RFP, and Consultant Proposal)

EXHIBIT B

FEE PROPOSAL, including hourly rates
(from separately sealed envelope included with Consultant Proposal)

EXHIBIT C

CERTIFICATIONS
(from Attachment 3 of RFP)
APPENDIX
ATTACHMENT 3-1: NON-COLLUSION AFFIDAVIT
CERTIFICATIONS

CITY OF SANTA ANA
REQUEST FOR PROPOSALS
FOR
SANTIAGO PARK GAS HOUSE AREA DEVELOPMENT
RFP NO.: 16-040

NON-COLLUSION AFFIDAVIT
(Title 23 United States Code Section 112 and Public Contract Code Section 7106)

To the CITY OF SANTA ANA DEPARTMENT OF PUBLIC WORKS

In accordance with Title 23 United States Code Section 112 and Public Contract Code 7106 the BIDDER declares that the bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation; that the bid is genuine and not collusive or sham; that the BIDDER has not directly or indirectly induced or solicited any other BIDDER to put in a false or sham bid, and has not directly or indirectly colluded, conspired, connived or agreed with any BIDDER or anyone else to put in a sham bid, or that anyone shall refrain from bidding; that the BIDDER has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the bid price of the BIDDER or any BIDDER, or to fix any overhead, profit, or cost element of the bid price, or of that of any other BIDDER, 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 bid are true; and, further, that the BIDDER has not, directly or indirectly, submitted his or her bid 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 bid.

Note: The above Non-collusion Affidavit is part of the Proposal. Signing this Proposal on the signature portion thereof shall also constitute signature of this Non-collusion Affidavit. BIDDERS 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
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 any 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, loan or cooperative agreement, the undersigned shall complete and submit a “Disclosure of Lobbying Activities”.

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 sub recipients shall certify and disclose accordingly.

Firm ______________________________________________________________________________________

Signed and Printed Name: ____________________________________________________________________

Title ______________________________________________________________

Date ______________________________________________________________________________________
APPENDIX
ATTACHMENT 3-3: NON-DISCRIMINATION CERTIFICATION CERTIFICATIONS

CITY OF SANTA ANA
REQUEST FOR PROPOSALS
FOR
SANTIAGO PARK GAS HOUSE AREA DEVELOPMENT
RFP NO.: 16-040

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.

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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