REQUEST FOR PROPOSALS (RFP)
FOR
COMMERCIAL / INDUSTRIAL INSPECTION
AND DATABASE MANAGEMENT
CONSULTANT SERVICES

RFP NO.: 18-017

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

Tyrone Chesanek, PE
Project Manager
714-647-5045 Office
tchesanek@santa-ana.org

Approved for Release:

Edwin “William” Galvez, P.E.
Acting Executive Director
Public Works Agency

KEY RFP DATES:
Issue Date: Monday March 5th, 2018
Deadline for Requests for Information: Monday March 19th, 2018
Proposal Due Date: Friday March 30th, 2018 – 2:00 pm
Anticipated Award Date: Tuesday May 15th, 2018
NOTICE INVITING PROPOSALS

NOTICE IS HEREBY GIVEN that proposals will be received from qualified firms for COMMERCIAL / INDUSTRIAL INSPECTION AND DATABASE MANAGEMENT CONSULTANT SERVICES.

Responses to this Request for Proposals (RFP) will be accepted until Friday March 30th, 2018 at 2:00 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 the proposal due date and time.

All notifications, updates and addenda will be posted on the City’s RFP Bid page at 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 determining the Proposal is nonresponsive. Questions regarding this Request for Proposals shall be made in writing via e-mail to the Project Manager as identified on the cover of this RFP and per “INSTRUCTIONS TO PROPOSERS” in RFP Section II.

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

SEALED PROPOSAL FOR
RFP NO. 18-017; COMMERCIAL / INDUSTRIAL INSPECTION AND DATABASE MANAGEMENT CONSULTANT SERVICES
IN THE CITY OF SANTA ANA
DO NOT OPEN WITH REGULAR MAIL

City of Santa Ana
Attn.: Tyrone Chesaneck
Public Works Agency M-22;
20 Civic Center Plaza, 3rd Floor, Ross Annex
Santa Ana, CA 92701

Proposals shall be MAILED, HAND DELIVERED, OR COURIERED. LATE, TELEGRAPHIC, ELECTRONIC OR FACSIMILE PROPOSALS WILL NOT BE CONSIDERED.
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I. INTRODUCTION / PROJECT DESCRIPTION

The City of Santa Ana is soliciting proposals from professional consulting firms to assist the City conduct its Commercial/Industrial Facilities Inspection Program as required by the City’s Municipal Separate Storm Sewer System (MS4) Permit. A detailed Scope of Work is described in Attachment 1 of the Appendix.

Number of Proposal Copies and signature: Six (6) hard copies and one (1) digital file on USB Flash Drive (or equivalent) of your Statement of Qualifications shall be signed by a company official with the power to bind the company and submitted to the City of Santa Ana, per the “Notice Inviting Proposals.” One (1) copy of your Fee Proposal shall be submitted as outlined in “Fee Proposal.”

Proposal Contents
A responsive proposal shall be limited to a MAXIMUM of (15) DOUBLE-SIDED PAGES (excluding front and back covers, section dividers and attachments). Font size shall be minimum 11-pt. The page limitation includes all appendices, attachments, and supplemental information.

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

<table>
<thead>
<tr>
<th>Criteria</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Firm Qualifications and Financial Responsibility</td>
<td>25</td>
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<tr>
<td>Staff and Sub-consultant Qualifications</td>
<td>25</td>
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<tr>
<td>Scope of Work Understanding</td>
<td>20</td>
</tr>
<tr>
<td>Work Plan Logic, Clarity, and Specificity</td>
<td>20</td>
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<td>Schedule</td>
<td>10</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>100</strong></td>
</tr>
</tbody>
</table>

The City will establish a proposal review committee to evaluate proposers based on the response to the RFP, including adherence to outlined directions and format, and the evaluation criteria above. A final score will be calculated for each proposal and used to rank the proposers.
II. 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 responsibilities 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) no fewer than five (5) calendar days prior to the date and time set for opening of proposals. 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 website, santa-ana.org/bids-rfps as set forth in the Notice Inviting Proposals. Addenda shall become part of the agreement documents.

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 projects 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 Scope of Work within ten (10) business days after receipt of notice that the contract has been awarded. Failure to provide the required insurance certificates shall be cause for the annulment of the award and the forfeiture of the proposal guaranty.

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 contract has been awarded. The packet is available on the City’s website: santa-ana.org/bids-rfps.

H. PRE-PROPOSAL MEETING

Should a pre-proposal be scheduled, the date, time and location is 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 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 contract 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. BID 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.
III. SUBMITTAL REQUIREMENTS

A. GENERAL

I. The number of Proposal Copies and signature is specified in:

RFP SECTION I - INTRODUCTION / PROJECT DESCRIPTION.

II. Deadline: Proposals are due to the City of Santa Ana at the date, time, and location specified in the Notice Inviting Proposals.

B. PROPOSAL CONTENTS

The proposal format and page limitation, if any, is specified in:

RFP SECTION I - INTRODUCTION / PROJECT DESCRIPTION.

I. STATEMENT OF QUALIFICATIONS

1. Cover Letter – Proposals shall include a letter signed by a principal or authorized representative who can make legally binding commitments for the entity.

2. Contract Agreement Statement: Proposal shall include a statement outlining your concurrence or concerns with any and all provisions as contained in the Agreement attached herein as Attachment 2 in the Appendix.

3. Firm and Team Experience: Proposal shall include a profile of the firm’s experience. Include resumes of project team/sub-consultants that will be providing services which 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 and will be the person to conduct the presentation, if invited for an interview.

4. Understanding of Need: Proposal shall include an outline which demonstrates the firm’s understanding of the work. This outline should include anticipated approach, tasks necessary for successful completion, deliverables, and suggestions or special concerns that the City should be made aware of. Identify any assumptions and/or exclusions used in preparation of the scope of work and associated fee estimate.

5. Relevant Project Experience: Proposal shall include a list of projects which your firm or personnel have completed within the last 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.
6. **References:** Proposal shall include a listing of relevant projects with references for three public entities for which Proposer has performed similar work within the past five (5) years.

II. **SCOPE OF SERVICES AND SCHEDULE:**

Proposal shall include a Scope of Services and Schedule which details the work phases to be completed, the tasks to be accomplished, the deliverables to be provided, and the schedule / timeline to complete the project, based upon the requested Scope of Services detailed in Attachment 1 of this RFP.

III. **FEE PROPOSAL:**

The 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, a table outlining the tasks and team hourly effort for each of the major tasks, and a Project Fee Schedule as outlined in the Scope of Services.

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.

IV. **CERTIFICATIONS:**

The following forms 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

IV. **PROPOSAL REVIEW (CONSULTANT SELECTION)**

A. **EVALUATION AND RATING**

The criteria for evaluating the proposals are specified in:

RFP SECTION I - INTRODUCTION / PROJECT DESCRIPTION.

B. **SELECTION**

The committee may interview the top ranking proposers. The City will recommend award of the contract to the proposer who will provide the best value to the City. City reserves the right to begin negotiations and enter into a contract without interview or further discussions.
V. CONTRACT AWARD

A. REQUEST FOR COUNCIL ACTION

Following evaluation and rating by the proposal review committee, the Project Manager will recommend award of a contract to the proposer providing the best value to the City.

B. EXECUTION OF AGREEMENT

The Scope of Services, Schedule, and Fees submitted in the proposal will be the basis of any negotiation of final terms which will lead to a completed agreement ready for execution based on the standard Agreement attached herein as Attachment 2 in the Appendix.

VI. 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 required bonds, insurance documents and contents of the Information Packet have been received and approved.

For "On-Call" contracts, Consultant will be notified by individual City Project Managers on a case-by-case basis to request project/task specific proposals. Written NTPs will be then issued accordingly.

VII. PUBLIC RECORDS

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 information shall be maintained confidential, to the extent allowed under the California Public Records Act.

Proposals will become public record after award of contract. Proposer information identified as proprietary information shall be maintained confidential, to the extent allowed under the California Public Records Act.
CITY OF SANTA ANA
REQUEST FOR PROPOSALS
FOR
COMMERCIAL/INDUSTRIAL INSPECTION AND
DATABASE MANAGEMENT CONSULTANT SERVICES
RFP NO. 18-017

SCOPE OF SERVICES

DESCRIPTION

The City of Santa Ana (City) is soliciting proposals from professional consulting firms to assist the City to inspect all commercial and industrial facilities as required by its Orange County Municipal Separate Storm Sewer System (MS4) National Pollutant Discharge Elimination System (NPDES) permit. The NPDES permit is issued by the Santa Ana Regional Water Quality Control Board (Regional Board). The City is a co-permittee of the NPDES Permit and is required to inspect all commercial and industrial facilities within its jurisdiction. The proposal requires submission of a Task Order Proposal to assist the City in continuing to implement its Commercial and Industrial Facility Inspection Program (Inspection Program). The City maintains a Commercial and Industrial Inspection Database to track all facility inspections. The City desires to enter into a three-year Agreement with the selected consulting firm, with the option for the City to grant a two-year renewal option, exercisable by the City Manager and the City Attorney.

The City of Santa Ana is a co-permittee of the fourth term NPDES Permit (Order No. R8-2009-0030 - NPDES No. CAS618030). All work regarding inspection of facilities within the City’s Commercial and Industrial Database will abide by the most currently adopted NPDES permit. The Regional Board is in the process of adopting a fifth term NPDES permit, however at the time of this RFP there is no known anticipated adoption date of the fifth term NPDES permit. Should the Regional Board adopt a fifth term NPDES permit during the life of the executed Agreement, all work related to the Inspection Program described in this RFP will abide by the terms and requirements of the fifth term NPDES permit. Based upon the fourth draft of the fifth term permit, the basis for commercial and industrial facility prioritization designations and subsequent inspection frequencies is not anticipated to increase the number of inspections.

Proposals should include a proposed Scope of Services to address the Inspection Program for the first three years of a four year NPDES permit cycle. In accordance with the currently adopted fourth term NPDES permit requirements, the anticipated required commercial and industrial facility inspection frequencies are as follows:

**Industrial Facilities**

All high priority sites shall be inspected at least once a year, all medium priority sites shall be inspected at least once every two years; and all low priority sites shall be inspected at least once per permit cycle.

**Commercial Facilities**

All high priority sites shall be inspected at least once a year; all medium priority sites shall be inspected at least once every two years; and all low priority sites shall be inspected at least once per permit cycle.
Attachment 1

Based upon the City’s Prioritized Commercial and Industrial Facility Inventory, the following facilities will need to be inspected during the next three fiscal years. These numbers are approximate and are subject to change.

City of Santa Ana Commercial and Industrial Program Inspection Schedule FY 2018-2021

<table>
<thead>
<tr>
<th>Year*</th>
<th>High Priority Industrial</th>
<th>Medium Priority Industrial</th>
<th>Low Priority Industrial</th>
<th>High Priority Commercial</th>
<th>Medium Priority Commercial</th>
<th>Low Priority Commercial</th>
<th>Re-Inspections**</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>2018/19</td>
<td>133</td>
<td>56</td>
<td>143</td>
<td>217</td>
<td>175</td>
<td>175</td>
<td>180</td>
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<tr>
<td>2019/20</td>
<td>133</td>
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<td>2020/21</td>
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<td>180</td>
<td>1079</td>
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<td>429</td>
<td>651</td>
<td>494</td>
<td>439</td>
<td>540</td>
<td>3235</td>
</tr>
</tbody>
</table>

* Updates and revision of Commercial & Industrial Facility Database based upon updated business license data could change inspection quantities. Adoption of the fifth term NPDES permit could also change inspection quantities.

** Assumes 20% Re-Inspections for follow-up after initial inspections.

PROJECT TASKS

This Task Order Scope of Work consists of the following three tasks:

- **Task 1 - Manage Commercial and Industrial Facility Inspection Program Database and Inventory**

  The Consultant shall ensure that the City's Commercial and Industrial Facility Inspection Program Database complies with all database requirements of the NPDES permit including prioritization of all facilities. Consultant shall be responsible for providing City in a timely manner all data and related submittal requirements by the Regional Board pertaining to the Commercial and Industrial Facility Inspection Program as required by the NPDES permit. Submittals are to include quarterly updates and Annual Report Program Effectiveness Assessment (PEA) data submittals.

  The Consultant will also participate in periodic meetings with the City to update Inspection progress, discuss enforcement issues, provide recommendations for improving the Inspection Program based upon field experience, and maintain the Prioritized Commercial and Industrial Facility Inventory. The Consultant will assist in the long-term management of the Inspection Program and update the Prioritized Commercial and Industrial Facility Inventory with information from the City’s most current business license database. The Consultant will provide the City via electronic mail summary status reports with monthly invoices.

- **Task 2 - Conduct Facility Inspections and Issue Enforcement Notifications**

  The Consultant will conduct on-site facility inspections as outlined in the NPDES permit. As necessitated by field inspections, or as requested by the City, the Consultant will also investigate, respond to, and issue Administrative Citations for infractions related to the NPDES permit and the City’s Water Quality Ordinance. As part of the requirements of this proposal, the Consultant will also outline procedures and methods for accomplishing this subtask by the prescribed schedule.
Task 3 - Perform Additional NPDES Program Assistance as Needed

The Consultant will provide additional technical and regulatory assistance related to the overall NPDES Program as requested by the City. Additional program assistance may include special inspections and studies, updating the City's Local Implementation Plan (LIP), Statewide Trash Provisions compliance, TMDL compliance, stormwater and non-stormwater sample collection and analysis, and other tasks related to improving and enhancing the City's NPDES Program.

This task may also include the response to illicit discharges on the City's behalf and the issuance of Administrative Citations when applicable and under the direction of the City. The Consultant will act on the City's behalf to ensure proper response and cleanup of discharges (into the public right-of-way) are accomplished according to NPDES permit requirements. The Consultant must have staff with proper demonstrated NPDES illegal discharge response training and have the capacity to respond to an illegal discharge and be able to respond at the scene within one-hour of City notification.

The Consultant must be able to assist the City through this contract to provide the services needed. The Consultant shall utilize in-house staff and/or sub-consultants satisfactorily to the City to complete the assignments. For specialized work for which the prime Consultant will require a sub-consultant, the prime Consultant will serve as an administrative liaison between the City and the sub-consultant. The prime Consultant mark-up for sub-consultants shall not exceed 10%.
PROPOSED SCOPE OF SERVICES

The Consultant shall furnish a fee schedule for the proposed service. The Consultant shall include a fee schedule and total cost broken down by task as shown in Attachment 1, Table 1 through Table 3.

Fee Proposal (1 copy) shall be separately bound, sealed, and submitted to the City. The project fee schedule shall include the following:

A. Hourly rate for each personnel category.
B. Any other direct charges.
C. Indirect cost or overhead.
D. Cost of supplies and materials (itemized).

Consultant may submit a revised fee schedule at the beginning of the calendar year for any adjustments to the hourly rates. The Consultant may be required to submit supporting back-up documentation for the revised fee schedule changes. The City shall review and determine if the rate increases are warranted. The City's determination is final.
### TABLE 1

<table>
<thead>
<tr>
<th>Year *</th>
<th>High Priority Industrial</th>
<th>Medium Priority Industrial</th>
<th>Low Priority Industrial</th>
<th>High Priority Commercial</th>
<th>Medium Priority Commercial</th>
<th>Low Priority Commercial</th>
<th><strong>Re-Inspections</strong></th>
<th>Total</th>
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<td>2018/19</td>
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**Year 2018/19**

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<th>Description</th>
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<tbody>
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<td>Subtask No. 1 – Manage Commercial and Industrial Facility Inspection Program Database and Inventory</td>
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Personnel/Labor Classification required for this Subtask:

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<th>Subtask</th>
<th>Description</th>
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Personnel/Labor Classification required for this Subtask:

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<th>Description</th>
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Personnel/Labor Classification required for this Subtask:

**Total Cost for Fiscal Year 2018/19**

<table>
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<th>Subtask</th>
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<th>Year</th>
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<th>Medium Priority Industrial</th>
<th>Low Priority Commercial</th>
<th>High Priority Commercial</th>
<th>Medium Priority Commercial</th>
<th>Low Priority Commercial</th>
<th><strong>Re-Inspections</strong></th>
<th>Total</th>
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<td><strong>Year 2019/20</strong></td>
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<td><strong>Subtask Total</strong></td>
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**Total Cost for Fiscal Year 2019/20** $
## TABLE 3

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<tr>
<th>Year *</th>
<th>High Priority Industrial</th>
<th>Medium Priority Industrial</th>
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<th>Low Priority Commercial</th>
<th><strong>Re-Inspections</strong></th>
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Personnel/Labor Classification required for this Subtask:

| 2.0    | Subtask No. 2 – Conduct Facility Inspections and Issue Enforcement Notifications | $                          |                        |                         |                            |                        |                      |       |

Personnel/Labor Classification required for this Subtask:

| 3.0    | Subtask No. 3 – Additional NPDES Program Assistance as Requested                         | $ 50,000                     |                        |                         |                            |                        |                      |       |

Personnel/Labor Classification required for this Subtask:

| Total Cost for Fiscal Year 2020/21 | $                          |
### TABLE 4
**PART I – LIST OF KEY PERSONNEL**

<table>
<thead>
<tr>
<th>Names</th>
<th>Functions</th>
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<tbody>
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### TABLE 5
**PART II – LIST OF SUBCONSULTANTS**

<table>
<thead>
<tr>
<th>Sub-Consultant Name / Address</th>
<th>Functions</th>
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<tbody>
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TABLE 6
PRICE SUMMARY SHEET
SCHEDULE I - HOURLY RATES

<table>
<thead>
<tr>
<th>Name</th>
<th>Job Title/Classification</th>
<th>Job Function</th>
<th>Fully Burdened Hourly Rate*</th>
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</tbody>
</table>

* Fully Burdened rate includes all overhead, general costs, administration costs and profit.
PROFESSIONAL SERVICES AGREEMENT

CITY OF SANTA ANA

THIS AGREEMENT is made and entered into this _____ day of _______ 2018 by and between _______ (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”).

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. TERM

This Agreement shall commence on ______________, 2018 for a three (3) year term with the option for the City to grant a two-year renewal option, exercisable by the City Manager and the City Attorney.

2. SCOPE OF WORK

Consultant agrees to 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 into this Agreement by reference.

3. SCHEDULE OF SERVICES

Upon Notice to Proceed issued by the City, Consultant shall complete services and shall perform and deliver them to the City as described and detailed in Exhibit A. Consultant shall meet the work deliverables within the schedule and compensation approved herein.

4. COMPENSATION

City agrees to pay, and Consultant agrees to accept as total payment for its services for City, the rates, fees, and charges identified in Compensation - Exhibit B, attached hereto and incorporated into this Agreement by reference, in an amount not to exceed __________________, annually.

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 disks (CDs), USB jump drives or equivalent, 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. PAYMENTS & INVOICES

a. Consultant shall submit a monthly invoice by the fifteenth of the month to the City for the services rendered in the prior month.

b. All invoices for work performed under this Agreement shall be submitted in a format approved by the City. Invoices shall include the following information at a minimum:

   i. Consultant’s invoice number and City’s agreement number
   ii. Beginning and ending dates for services
   iii. City Project and/or Task Order number and/or name (if applicable)
   iv. Work site address/location (if applicable)
   v. Tasks or deliverables completed, and percentage (%) of total services completed.
   vi. Remaining Overall and Task Order budget available

City will, within 45 days of receiving such statement in a manner that meets the City’s requirements, review the statement and subsequently pay the approved charges thereon.

7. 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.
8. 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 which 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, and $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 3300 of the Labor Code, Contractor, if Contractor 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, Contractor agrees to obtain and maintain any employer’s liability insurance with limits not less than $1,000,000 per accident.

d. Professional liability (errors and omissions) insurance, with a combined single limit of not less than $1,000,000 per claim and $2,000,000 annual aggregate shall be maintained.

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 in form by the City Attorney.
   iii. Certificates and policies shall state that the policies shall not be cancelled or reduced in coverage or changed in any other material aspect without thirty (30) days prior written notice to the City, except for 10 days’ notice for non-payment of premium.
Attachment 2

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 Contractor’s right to be paid for its time and materials expended prior to notification of termination. Contractor waives the right to receive compensation and agrees to indemnify the City for any work performed prior to approval of insurance by the City.

9. 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.

10. LAWS AND REGULATIONS

Consultant shall keep itself fully informed of and in compliance with all local, state and federal laws, rules and regulations in any manner affecting the performance of the Project or the services and shall give all notices required by law. Consultant shall be liable for all violations of such laws and regulations in connection with services. If the Consultant performs any work knowing it to be contrary to such laws, rules and regulations and without giving written notice to the City, Consultant shall be solely responsible for all costs arising therefrom. Consultant shall defend, indemnify and hold City, its officials, directors, officers, employees and agents free and harmless, pursuant to the indemnification provisions of this Agreement, from any claim or liability arising out of any failure to comply with such laws, rules or regulations.

11. 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
Attachment 2

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.

12. 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, as further specified in Certifications – Exhibit C, attached hereto and incorporated into 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 authorized representatives of the parties. 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:
Attachment 2

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(s) 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. 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 into this Agreement by
reference.

17. 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. The 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.

18. 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.

19. 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 facsimile or other telegraphic
communication in the manner provided in this Section, to the following persons:
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 facsimile, 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.

20. 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.
Attachment 2

c. All Exhibits referenced herein and attached hereto shall be incorporated as if fully set forth in the body of this Agreement.
IN WITNESS WHEREOF, the parties hereto have executed this Agreement the date and year first above written.

ATTEST:  

CITY OF SANTA ANA

MARIA D. HUIZAR  
Clerk of the Council

RAUL GODINEZ II  
City Manager

APPROVED AS TO FORM:  
SONIA R. CARVALHO  
City Attorney

By:  
John Funk  
Assistant City Attorney

RECOMMENDED FOR APPROVAL:  

CONSULTANT:

Edwin "William" Galvez  
Acting Executive Director  
Public Works Agency

(Name)  
(Title)
ATTACHMENT 3-1: NON-COLLUSION AFFIDAVIT CERTIFICATIONS

CITY OF SANTA ANA
REQUEST FOR PROPOSALS
FOR
COMMERCIAL / INDUSTRIAL INSPECTION AND
DATABASE MANAGEMENT CONSULTANT SERVICES
RFP NO.: 18-017

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 ______________________________

THIS FORM MUST BE COMPLETED AND INCLUDED WITH THE PROPOSAL. PROPOSALS THAT DO NOT CONTAIN THIS FORM WILL BE CONSIDERED NONRESPONSIVE.
ATTACHMENT 3-2: NON-LOBBYING CERTIFICATION CERTIFICATIONS

CITY OF SANTA ANA
REQUEST FOR PROPOSALS
FOR
COMMERCIAL / INDUSTRIAL INSPECTION AND
DATABASE MANAGEMENT CONSULTANT SERVICES
RFP NO.: 18-017

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 ______________________________________________________

THIS FORM MUST BE COMPLETED AND INCLUDED WITH THE PROPOSAL. PROPOSALS THAT DO NOT CONTAIN THIS FORM WILL BE CONSIDERED NONRESPONSIVE.
ATTACHMENT 3-3: NON-DISCRIMINATION BY CONSULTANTS CERTIFICATIONS

CITY OF SANTA ANA
REQUEST FOR PROPOSALS
FOR
COMMERCIAL / INDUSTRIAL INSPECTION AND
DATABASE MANAGEMENT CONSULTANT SERVICES
RFP NO.: 18-017

As suppliers of goods or services to the City of Santa Ana, the Firm listed below certifies that it does not discriminate in its employment with regard to race, color, religion, sex, or national origin; that it is in compliance with all federal, state and local directives and executive orders regarding non-discrimination in employment and including, but not limited to, what is listed in the Non-Discrimination Clause in Exhibit 10-V per: http://www.dot.ca.gov/hg/LocalPrograms/iam/forms/chapter10/10v-2013-05-14.docx and that it agrees to demonstrate positively and aggressively the principle of equal opportunity in employment. The same shall apply and be included in all sub-consultant agreements.

WE AGREE SPECIFICALLY:

1. To take affirmative steps to hire minority employees with the company.

2. To establish or observe employment policies within affirmative promotion opportunities for minority persons at all job levels.

3. To communicate this policy to all persons concerned, including all company employees, outside recruiting services, especially those servicing minority communities, and to the minority communities at large.

FIRM NAME ____________________________________________

TITLE OF PERSON SIGNING ____________________________________________

SIGNATURE AND PRINTED NAME ____________________________________________

DATE ____________________________________________

Please include any additional information available regarding equal opportunity employment programs now in effect within your company.

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

Attachment 3 - 3