

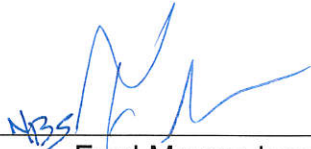
REQUEST FOR PROPOSALS (RFP)
FOR
ON-CALL EMERGENCY WATER AND SEWER CLEANUP SERVICES
RFP NO.: 17-120



**CITY OF SANTA ANA
PUBLIC WORKS AGENCY
20 Civic Center Plaza
Santa Ana, CA 92701**

**Cesar Barrera, P.E.
Project Manager
(714) 647-3387 Office
cbarrera@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:	Thursday, October 19, 2017
Letter of Intent:	Friday, October 27, 2017
Deadline for Requests for Information:	Tuesday, November 7, 2017
Pre-Proposal Meeting (optional):	There is no scheduled meeting
Proposal Due Date:	Tuesday, November 14, 2017
Presentation/Interviews (optional):	To be determined
Projected Award Date:	Tuesday, December 19, 2017



NOTICE INVITING PROPOSALS

NOTICE IS HEREBY GIVEN that proposals will be received from qualified firms for on-call emergency water and sewer cleanup services.

Responses to this Request for Proposals (RFP) will be accepted until Tuesday, November 14, 2017, at 3:00 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:

**“SEALED PROPOSAL FOR
RFP NO. 17-120
ON-CALL EMERGENCY WATER AND SEWER CLEANUP SERVICES
IN THE CITY OF SANTA ANA
DO NOT OPEN WITH REGULAR MAIL.”**

City of Santa Ana
Attn.: Cesar Barrera
Public Works Agency;
City Corporation Yard
220 South Daisy Avenue, Bldg. A
Santa Ana, CA 92703

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.

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I. GENERAL

Nature of Work:

The City of Santa Ana is seeking Contractors to provide on-call emergency water and sewer clean-up services. A detailed Scope of Work is included in ATTACHMENT 1: SCOPE OF WORK in the Appendix of this RFP.

Number of Proposals and Signature:

The submittal shall include five (5) 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 15%
- Understanding of Need 25%
- Relevant Project Experience 15%
- References 10%
- Fee 35%

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 Water Enterprise funds. Special conditions may apply. Refer to ATTACHMENT 1: SCOPE OF WORK in the Appendix of this RFP.

Term of Contract Agreement:

The City desires to enter into a contract with the three (3) highest rated firms for an initial 3 year term with a City option for 1, 2 year renewal. This term is outlined in the Standard Consultant Agreement, as contained in ATTACHMENT 2: STANDARD AGREEMENT in the Appendix of this RFP.

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 represents that it has thoroughly examined and become familiar with the services and responsibilities required in 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: STANDARD AGREEMENT in the Appendix of this RFP. If a Proposer is unwilling or unable to execute an Agreement within thirty (30) days after being notified of selection under this RFP, the City reserves the right to select the next most qualified Proposer or call for new Proposals, whichever the City deems most appropriate.

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 sub-consultant basis. The City intends to contract with a single firm and not with multiple firms doing business as a joint venture. Should the use of sub-consultants be offered, the Proposer shall provide the same assurances of competence for the sub-consultant plus the demonstrated ability to manage and supervise the subcontracted work. Sub-consultants shall not be allowed to further subcontract with others for work under the Agreement. The provisions of the Agreement shall apply to all sub-consultants in the same manner as the Proposer.

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 below in SUB-SECTION D "ADDENDA".

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. The selected proposer shall obtain and pay for a temporary construction meter permit from the Corporate Yard of the City of Santa Ana at 220 South Daisy Avenue. The meter deposit for fiscal year 2017/2018 is \$1,193.10. Final fees are determined based upon the duration of the meter rental, water consumption rates and quantity of water used. These fees are subject to increase whenever the City raises water rates.

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 SUB-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 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" above.

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 (20) 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: STANDARD AGREEMENT 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 in SUB-SECTION IV.B.2. "SCOPE OF SERVICES & SCHEDULE" 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 SECTION I "GENERAL" above and SUB-SECTION IV.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 in SUB-SECTION IV.B.1.F "SCHEDULE" to complete the project based upon the requested Scope of Work, detailed in ATTACHMENT 1: SCOPE OF WORK 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 SECTION I "GENERAL" above.

4. CERTIFICATIONS

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

- Non-Collusion Affidavit
- Non-Lobbying Certification
- Non-Discrimination Certification

V. PROPOSAL REVIEW (CONSULTANT SELECTION)

A. EVALUATION AND RATING

Refer to SECTION I "GENERAL" above.

B. SELECTION

The committee may interview the top ranking proposers. The City will recommend award of the agreement to the proposers 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: STANDARD AGREEMENT 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

I. REQUEST SUMMARY

The City of Santa Ana is soliciting proposals from qualified firms to provide on-call emergency water and sewer cleanup services on an as-needed basis. **The City will select up to three firms to provide these services.**

II. INTRODUCTION AND BACKGROUND

The City of Santa Ana is located in the County of Orange in Southern California and encompasses 27.2 square miles and a population over 325,000 people.

The City of Santa Ana's Public Works Agency – Water Resources Division oversees and maintains the daily operations of the Water System and Sanitary Sewer System. The City of Santa Ana's water system has an average day demand of about 43 MG with 45,000 services. It is comprised of approximately 444 miles of water main, 45 MG of storage at 5 sites, 7 MWD connections, 21 groundwater wells, 7 pump stations, 4 pressure regulating stations and utilizes 2 pressure zones. The City's sanitary sewer system has approximately 8,000 manholes, 390 miles of sewer mains and 2 lift stations. The sewer system collects all sewage and transports it to the Orange County Sanitation District for treatment.

III. DESCRIPTION OF WORK - GENERAL

The successful contractor shall provide all labor, material, and supplies necessary to complete cleanup of debris, mud, dirt, and sludge associated with water main breaks and sewer system overflows (SSO's). Contractor shall provide and maintain in good repair all equipment necessary to perform the required services and related tasks.

The Contractor shall be available on an on-call basis, 24 hours a day, seven days a week, with the ability to arrive on-site at the City location within two hours of notification. Regular business hours are considered from 7am to 5 pm (Monday through Friday). The Contractor shall haul and dispose of the vacuumed materials and debris to the Orange County Sanitation District's (OCSD) facilities or an approved waste handling facility.

The Contractor shall be an independent Contractor capable of providing experienced, knowledgeable and professional staff. The Contractor shall be responsive and maintain excellent working relationships with city residents, businesses, government officials and City staff. The Contractor shall provide adequate staffing levels at all times and adhere to established schedules.

IV. DESCRIPTION OF WORK – SEWER EMERGENCY CLEANUP SERVICES

Several actions must be taken to properly cleanup and mitigate potential effects, including, but are not limited to:

- Use straw wattle and/or sandbags to protect storm drain from debris, install straw wattle on site;
- Application of absorbent material;
- Removal of contaminated soil and used absorbent;
- Flushing the SSO site including gutters and affected area with clean water;
- Vacuum all wash down water into the Contractor's vacuum truck.

V. DESCRIPTION OF WORK – WATER EMERGENCY CLEANUP SERVICES

Several actions must be taken to properly cleanup and mitigate potential effects, including, but are not limited to:

- Use straw wattle and/or sandbags to protect storm drain from debris, install straw wattle on site;
- Cleanup of debris on the roadways, mud/debris on the roadway;
- Vacuum all wash down water into the Contractor's vacuum truck.

VI. DISTRIBUTION OF WORK

The Contractor(s) selected for this work shall provide written, "not to exceed" estimates as requested by the City for services. These estimates shall include: number of employees, job classifications, equipment, estimated material costs, and number of hours required for the waste cleanup job. All hours worked and paid under this contract shall be for productive hours at the job site. All commuting to and from the work site, and or mobilization of equipment shall not be charged directly. But, shall be considered overhead and include in the rate for labor. No additional compensation will be allowed.

It shall be the Contractor's responsibility to ensure they have all information deemed necessary to prepare accurate estimates. The contractor shall respond to City requests for estimates by end of business day. If multiple Contractors have been awarded a contract, the lowest responsive bid amongst the selected Contractors shall be awarded the corresponding job order. No work shall be allowed to proceed until authorized by the City.

VII. PREVAILING WAGE

The Director of the Department of Industrial Relations of the State of California has ascertained the prevailing rate of per diem wages in dollars, based on a working day of eight hours, for each craft or type of worker or mechanic needed to execute any construction or maintenance contract, which may be awarded by Public Works. The current prevailing wage rates as adopted by the Director of the Department of Industrial

Relations are incorporated herein by reference and may be accessed at <http://www.dir.ca.gov/>.

The Contractor is required to pay the prevailing wage rate referred to above and is responsible for selecting the classification of workers which will be required to perform this service in accordance with the Contractor's method of performing the work. Pursuant to Section 1775 of the Labor Code (State of California) Contractor shall forfeit \$50 for each calendar day, or portion thereof, for each worker paid less than the stipulated prevailing wage rates for any public work done under this Contract or by any subcontractor.

VIII. SAFETY & HEALTH REQUIREMENT

The Contractor shall comply with the applicable health and safety regulations and requirements from CAL/OSHA, State of California Construction Safety Orders and the City of Santa Ana.

IX. TRAFFIC CONTROL

1. Traffic control shall be the responsibility of the Contractor and shall conform to the Work Area Traffic Control Handbook (WATCH). Flashing arrow boards shall be used on arterial streets.
2. All vehicles and or towed equipment shall carry "City of Santa Ana Authorized Contractor" magnet sign affixed and visible.
3. The Contractor shall comply with all federal, state and local laws, rules, regulations, ordinances, and statutes, including but not limited to these contract documents.

X. PROTECTION OF PROPERTY

The Contractor shall perform all work and prevent damage to public and/or private property. In the event damage occurs, the contractor shall replace and/or repair the damaged property at no cost to the City. Any cost incurred by the City to repair damage caused by the contractor or their subcontractors and repaired by City staff shall be the responsibility of the Contractor and will be deducted from any outstanding balances.

XI. UNSATISFACTORY WORK

In the event that work performed by the Contractor is not satisfactory, the Contractor will be notified by the City and allowed (1) calendar day to correct the deficient work at no charge to the City.

ATTACHMENT 2: STANDARD AGREEMENT

CONSULTANT AGREEMENT CITY OF SANTA ANA

THIS AGREEMENT is made and entered into this _____ day of _____, 2016 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").

RECITALS

- A. The City desires to retain a consultant having special skill and knowledge in the field of:
- 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 [enter a "Start Date" or "the date first written above"] for a **number (#) year term** with the option for the City to grant up to a **number (#)-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:
 - 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

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:

Fred Mousavipour Executive Director, Public Works Agency City of Santa Ana 20 Civic Center Plaza (M-21) P.O. Box 1988 Santa Ana, California 92702 Fax: (714) 647-5635	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
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To Consultant:

Consultant Company Name Address City, State, Zip Fax: (000) 000-0000

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:

CITY OF SANTA ANA

Maria D. Huizar
Clerk of the Council

Cynthia Kurtz
City Manager

APPROVED AS TO FORM:

SONIA R. CARVALHO
City Attorney

CONSULTANT:
Consultant Company Name

By: _____
John Funk
Assistant City Attorney

(name)
(title)
Tax ID# _____

RECOMMENDED FOR APPROVAL:

FRED MOUSAVIPOUR
Executive Director
Public Works Agency

**EXHIBIT A
SCOPE OF SERVICES**

**EXHIBIT B
FEE PROPOSAL, including hourly rates**

**EXHIBIT C
CERTIFICATIONS
(from Attachment 3 of RFP)**

**EXHIBIT D
ADDITIONAL PROVISIONS**

APPENDIX
ATTACHMENT 3: CERTIFICATIONS

NON-COLLUSION AFFIDAVIT

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

In conformance 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 other 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. 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

NON-COLLUSION AFFIDAVIT

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

In conformance 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 other 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. 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

NON-LOBBYING CERTIFICATION

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

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in conformance with its instructions.

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

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

Signed: _____

Title: _____

Firm: _____

Date: _____

NON-DISCRIMINATION CERTIFICATION

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

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

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: _____

**APPENDIX
ATTACHMENT 4: ADDITIONAL PROVISIONS**

CERTIFICATION AND PROPOSAL FEE SCHEDULE

Certification - I certify that I have read, understand and agree to the terms and condition of this Request for Proposals. I have examined the Scope of Services (Appendix A) and am familiar with the scope of work. I am familiar with all the existing conditions and limitations that may impact work requests. I understand and agree that I am responsible for reporting any errors, omissions or discrepancies to the City for clarification prior to the submission of my proposal.

Proposal Item Price – Pricing shall be based on an (*hourly cost, time and materials basis – see narrative) for services described in Appendix A.* Fee must be inclusive of all costs, including, but not limited to, direct and indirect costs for labor, overhead, incidental supplies, travel, mileage, and fuel. Any special materials will be purchased by the contractor only after discussed and authorized by the City projects manager or designee in writing.

Proposer shall attach a separate hourly rate schedule with hourly rates for staff per job classification and equipment. If minimum fees are applicable, please include on your rate schedule.

ON-CALL EMERGENCY WATER AND SEWER CLEANUP SERVICES

FEE SCHEDULE

TO: CITY COUNCIL OF THE CITY OF SANTA ANA

FROM: _____

REQUIREMENT:

The undersigned declares that he/she has carefully examined the request for proposal, that he/she has examined the Proposed Scope of Services, and hereby proposes to furnish all material and do all the work required to complete the said work in accordance with said Proposed Scope of Services, for the unit price(s) set forth in the following schedule:

Item	Bid Item	Unit	Quantity	Unit Price	Total
1	Vacuum Truck - regular business hours Fully Staffed	HR	8	\$_____	\$_____
2	Vacuum Truck - after hours/weekends/holidays Fully Staffed	HR	8	\$_____	\$_____

Item	Bid Item	Unit	Quantity	Unit Price	Total
3	Pressure Washer Truck – regular business hours Fully Staffed	HR	8	\$ _____	\$ _____
4	Pressure Washer Truck - after hours/weekends/holidays Fully Staffed	HR	8	\$ _____	\$ _____

Legal Name of Company

Phone and Fax Numbers

Business Address

Name of authorized agent
(Printed)

Title

Signature of authorized agent

Date

E-mail Address

Federal ID number (if applicable)

Contractor license number (if applicable)

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