

**CITY OF MANTECA  
FINANCE DEPARTMENT**



**MANTECA TRANSIT PASSENGER AMENITIES  
PROJECT #10014Q**

**BID OPENING: 2:00 PM, May 11, 2011**

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## Section 1. Notice to Contractors

Notice is hereby given that SEALED PROPOSALS, on behalf of the City of Manteca, will be received at the office of the City Clerk of the City of Manteca, City Hall, 1001 West Center Street, Manteca, California, until **2:00 PM, May 11, 2011**, at which time they will be publicly opened and read aloud for:

### MANTECA TRANSIT PASSENGER AMENITIES

#### 1.1. GENERAL CONDITIONS

- (A) INTENT: The intent of this solicitation is to award a contract to the lowest responsible bidder(s) to furnish passenger bus shelters, passenger benches, trash receptacles and decorative sign posts for the City's public transit system. Proposers may bid on all, some, or one of the requested amenities contained in this solicitation.
- (B) PRE-BID CONFERENCE: NO pre-bid meeting is scheduled for this project.
- (C) QUESTIONS: Questions regarding the project contract documents and bidding should be submitted in writing to:  
Johanna Ferriera  
City of Manteca  
Finance Department  
Fax: (209) 923-8930  
Email: [jferriera@ci.manteca.ca.us](mailto:jferriera@ci.manteca.ca.us)  
The city will post all bid-related questions and answers on the Manteca Transit website at: <http://www.mantecatransit.com>.  
Refer to this web address periodically as it will be updated with bid-related questions and answers until **4:00 PM on April 28, 2011**. The questions and answers posted at the web address above shall form part of the Contract Documents.
- (D) BID WITHDRAWAL: Any bidder may withdraw his bid, either personally or by written request, at any time prior to scheduled time for opening bids. No bidder may withdraw his bid for a period of 60 days after the date set for opening thereof, and all bids shall be subject to acceptance by the Owner during this period.
- (E) BID FORMS: No bid will be considered unless it is made on the proposal forms (Section 5). Bidders must submit bids on a hard copy.
- (F) The City of Manteca reserves the right to waive minor irregularities or informalities in any bonds or Contract Proposal, and reserves the right to reject any or all bids received. Each bid must be signed by or on behalf of the bidder and must be enclosed in a **SEALED ENVELOPE** with the following information on the outside:

#### 1. NAME AND ADDRESS OF BIDDER

**2. PROJECT FOR WHICH THE BID IS BEING SUBMITTED**

**3. DATE AND TIME OF BID OPENING**

The envelope shall be addressed to the City of Manteca, City Clerk, 1001 W. Center Street, Manteca, California 95337

**1.2. CODES AND STANDARDS**

- (A) With a view to obtaining the best results and the most acceptable passenger amenities for Manteca Transit, the specifications contained in Section 2 cover only the general requirements as to the type of construction and tests to which the apparatus must conform, together with certain details as to finish that the successful bidder must conform. Minor details of construction and materials where not otherwise specified are left to the discretion of the vendor, who shall be solely responsible for the design and construction of all features.
- (B) Amenities to be standard proven model of manufacturer's latest current production and include all standard materials as advertised with additional optional equipment as outlined in Section 2: Technical Specifications.

**1.3. BIDDER QUALIFICATIONS**

- (A) Bids shall only be considered from manufacturers who have an established reputation in the field of bus shelter construction.
- (B) Each bidder shall furnish satisfactory evidence of his ability to construct the amenities, and shall state the location of the factory where the shelters are to be built. The bidder shall also show the company is in position to render prompt service and to furnish replacement parts for the amenities.
- (C) Each bidder shall submit a statement of certification that materials meet or exceed the specifications.

**1.4. CONSIDERATIONS**

- (A) This project is subject to the "Buy America" provisions of the Surface Transportation Assistance Act of 1982 as amended by the Surface Transportation Efficiency Act of 1991.
- (B) A portion of this project will be funded by American Recovery and Reinvestment Act funds. Successful bidder will be required to submit the number of jobs created/sustained as a result of this solicitation and job hours created/sustained.

DATED: April 20, 2011 CITY OF MANTECA

  
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STEVE PINKERTON, CITY MANAGER

## Section 2. General Bid Provisions

- 2.1. **ACCEPTANCE AND BID VALIDITY** – All bids shall be valid for 90 calendar days from the date bids are opened. The City may accept any bid within such period by written contract, purchase order or any other method it deems appropriate. No exceptions, deviations or modifications to the terms of this solicitation shall be deemed acceptable other than those explicitly stated in written contract, purchase order or other acceptable document. Should award in whole or part be delayed beyond the period of 90 days, such award shall be conditioned upon bidder's acceptance.
- 2.2. **CONFLICT OF INTEREST** – No member of or delegate to the Congress of the United States shall be admitted to any share or part of this contract or to any benefit arising therefrom.
- Bidder agrees that to his knowledge no board member, officer or employee of the City has any interest, whether contractual, non-contractual, financial or otherwise, in this transaction, or in the business of the contracting party and that if any such interest comes to the knowledge of either party at any time, a full and complete disclosure of all such information will be made in writing to the other parties, even if such interest would not be considered a conflict of interest under Article 4 of chapter 1 of division 4 of Title 1 (commencing with Section 1090) on Title 9, Chapter 7 (commencing with Section 87100) of the Government code of the State of California.
- 2.3. **DELIVERY** – All equipment will be Delivered, **F.O.B. Destination** to:  
Manteca Transit  
648 Industrial Park Dr.  
Manteca, CA 95337
- 2.4. **TAXES** – Public Agencies are exempt from the payment of Federal Excise and Transportation taxes, so such taxes must not be included in bid prices to these purchasers. Items delivered under this bid are subject to state and local sales taxes, which shall be shown on the quotes. The current tax rate for the City of Manteca is 9.25%.
- 2.5. **TERMINATION FOR FAILURE TO DELIVER PRODUCT WITHIN REQUIRED TIME SPECIFIED** – Failure of a Contractor to deliver acceptable material within the time specified or within reasonable time as interpreted by the City, will constitute authority for the City to cancel contract. On all such purchases, the contractor agrees to promptly reimburse the purchasing authority for excess cost occasioned by such purchases.
- 2.6. **INVOICING AND PAYMENT** – The successful bidder will invoice the City for each delivery. Invoices shall have unique invoice numbers and shall show delivery dates, location(s), quantities and packing slip numbers. Invoices shall also prominently display the Project number.

The City shall make payment on all correct invoices within 30 days of receipt of correct invoice unless otherwise agreed in writing.

- 2.7. **EXCEPTIONS** – Bid must comply in all material respects with the Invitation for Bid. Any exception taken to the provisions of the IFB may result in the bid being rejected as non-responsive. No form provisions of any bidder will be considered as part of the bid.
- 2.8. **NONRESTRICTIVE CLAUSES** – Wherever brand, manufacturer or product names are indicated in these specifications, they are included for the purpose of establishing identification a general description of the item. Wherever such names appear, the term “**OR APPROVED EQUAL**” is considered to follow. The decision of the approved equal will be rendered by the City.

It should be understood that specifying a brand name, components and/or equipment in this specification shall not relieve the supplier from his responsibility to produce the product in accordance with the performance warranty and contractual requirements. The supplier is responsible for notifying the City of any inappropriate brand name, component and/or equipment that may be called for in the specifications, and to propose a suitable substitute for consideration.

- 2.9. **RESPONSIBILITY CRITERIA** – Bidders must be able to demonstrate that it is responsible and qualified to perform pursuant to the specifications. The standard for evaluating responsibility will be based on the following criteria:
- a. Have adequate financial resources to perform the contract. Proposer to provide financial statement and correspondence from independent CPA verifying these.
  - b. Be able to comply with the required or proposed delivery or performance schedule.
  - c. Have a satisfactory record of integrity and business ethics, not on declined or suspended listings.
  - d. Have the necessary organization, manufacturing and/or distribution facilities, experience, accounting/operational controls and technical skills necessary to perform the contract. At its election, the City may require a satisfactory demonstration of these factors as a condition for contract award.
  - e. Proposers must have manufacturing capability that meets the requirements of the Buy America Act and be able to demonstrate this at inspection at any time during the term of contract.

2.10. **PROTEST PROCEDURES**

- a. **Protest Prior to Bid Opening:** Protests regarding any aspect of the attached materials and CITY selection procedures must be submitted in writing (via mail, email, or FAX) to Johanna Ferriera, 1001 W. Center St., Manteca, CA, 95337, (email: jferriera@ci.manteca.ca.us), (fax: 209-923-8930), by 5:00 p.m. PDT, May 3, 2011. The Project Manager will respond to these protests by M with an addendum to this RFP, by express mail, email and/or fax. This action completes the pre-opening administrative protest remedy at the CITY level.
- b. **Protest After Bid Opening/Announcement of Award:** Protest regarding the CITY’S proposed selection of a bid after proposal opening and award announcement must be submitted in writing (via, email, or FAX) to the Johanna Ferriera, 1001 W. Center St., Manteca, CA, 95337, (email: jferriera@ci.manteca.ca.us), (fax: 209-923-8930), by 5:00 p.m. PDT, May 17, 2011. The Project Manager will respond to these protests by May 24, 2011 by email and/or fax. This action completes the opening/award announcement administrative protest remedy at the CITY level.

**2.11. CALIFORNIA DEBARRED CONTRACTORS AND SUBCONTRACTORS (JUNE 2000)**

Sections 1720 et.seq. of the Labor Code and Section 6109 of the Public Contract Code apply to the Contract, and each potential Contractor and Subcontractor is responsible to be in full compliance with those laws.

If a potential contractor or subcontractor has been found by the California Labor Commissioner to be in violation of Section 1720 et. seq. of the Labor Code, in accordance with Section 1777.1 of the Labor Code the potential contractor shall be ineligible to bid or be awarded a contract or to perform work on any public works project. In accordance with Section 6109 of Public Contract Code any subcontractor who is ineligible for perform work on a public works project pursuant to Section 1777.1 or 1777.7 of the labor Code is prohibited from performing work on any public works project.

Pursuant to Section 6109 (b) of the Public Contract Code, any contract on a public works project entered into between a contractor and a debarred subcontractor is void as a matter of law. A debarred subcontractor may not receive any City money for performing work as a subcontractor on any City public works contract, and any City money that may have been paid to a debarred subcontractor by a contractor on the project shall be returned to the City. The contractor shall be responsible for the payment of wages to workers of a debarred subcontractor who has been allowed to work on the City project.

**2.12. LIQUIDATED DAMAGES** – In case all the work called for under the Contract is not completed before or upon 60 working days, damage will be sustained by the purchasing agency. The Contractor will pay the purchasing agency the sum of \$50.00 for each and every working day that the project is delayed beyond the 60 working days, subject to extensions granted thereto in writing. The Contractor agrees to pay such liquidated damages herein provided and, in case the same are not paid, agrees that the agency may deduct the amount from any money due or to become due the Contractor under the Contract.

The Contractor will be granted an extension of time and will not be assessed with liquidated damages or the cost of engineering and inspection for any portion of the delay in completion of the work beyond the time and names and these specifications caused by acts of God, or of the public enemy, fire, floods, epidemics quarantine, restrictions, strikes, labor disputes, shortage of materials and freight embargoes, or other causes beyond his reasonable control, provided that the Contractor shall notify the City in writing of the causes of delay within 15 days from the beginning of any such delay. The Project Manager shall ascertain the facts and extent of the delay, and his findings thereon shall be final and conclusive. Contractor has the burden of proof that the delay was beyond his control.

**2.13. OWNERSHIP OF REPORTS AND DOCUMENTS** – Originals of all documents pertaining to the work performed under this agreement shall become the property of the City of Manteca.

**2.14. WARRANTY** – Refer to technical specifications.

**2.15. GUARANTY** – The Vendor shall guarantee that all the materials used under the contract shall fully comply with the requirements of the specifications and the instructions of the City.

All expenses covering return or replacement of defective or improper merchandise will be assumed by the Vendor. In no instance shall the Vendor refer the City to any distributor or manufacturer for settlement of any claim arising from defective or improper merchandise. If the Vendor shall fail to replace or repair any defective or improper merchandise within thirty (30) days from date of notice, the City may make necessary corrective arrangements and charge the cost to money due the Vendor or bill the Vendor. The Vendor agrees to reimburse the city in such instance.

- 2.16. NOTICE TO PROCEED** – Following all required approvals, a “Notice to Proceed” shall be issued by the City. No work or expenses shall be incurred prior to receipt of the “Notice to Proceed” and/or a signed Purchase Order.

## Section 3. Technical Specifications

### 1. 13' Passenger Shelter (5' x 13', hip roof)

1. See Section 6: Design Specifications, pg. 6-1 and 6-2.
2. Roof dimensions: 12' 7 7/8" x 4'8", Height: 7' to bottom of roof perimeter.
3. Roof shall be a standing seam hip roof. Drainage shall be directed to rear of shelter and away from shelter walls.
4. Wall Panels:
  - a. Alternative A: Powder coated perforated metal panels in steel frames at the rear and ½ end walls, are constructed from 16 ga galvanized steel sheets with ¼" diameter holes on 3/8" centers and attached to square steel tube frames with drive rivets. Walls shall be supported with adjustable stainless steel assemblies, which anchor to the concrete pad or sidewalk.
  - b. Alternative B: Glass panels in steel frames at the rear and ½ end walls, are constructed from 3/8" tempered glass and attached to square steel tube frames. Walls shall be supported with adjustable stainless steel assemblies, which anchor to the concrete pad or sidewalk.
5. Two 3" steel pipe legs support the roof at each end of the structure. Four adjustable shoes allow for up to 12" grade variation.
6. All materials shall be top quality – only ASTM A-36 grade 3" schedule 40 pipe for structural steel members and 6063-T6 grade aluminum extrusion with a minimum thickness of 1/8".
7. Steel welding shall conform to American welding society standard D1. 1-80. Electrodes conform to ASTM A233, class E70S-6. All aluminum components shall be welded in accordance with AWS/SFA 5.10 CLASS ER4043. All welding shall be performed by certified welders.
8. All of the structure's metal surfaces shall feature a durable baked polyester powder coat finish. The powder coating process produces no volatile organic compounds (VOCs). Powder coat finish was created for durability in outdoor use and to withstand graffiti removal solvents. Shelter finish shall consist of a minimum of the following:
  - a. Sand blast.
  - b. Two to three (2-3) mil. Zinc Rich Epoxy primer followed with a durable baked-on polyester powder coat finish.
  - c. Power coat shall be a minimum of 4-5 ml. thickness.
  - d. Color is to be a black gloss Black Tiger Drylac TCIC RAL 549/8888 Bengal Black or as approved by the City's Authorized Representative.
9. Shelter shall be constructed of modular, interchangeable components to allow for ease of installation and parts replacement. Shelters shall be shipped knock-down (k.d.) for ease of handling and installation. This also allows for easy site adaptation.
10. The shelter shall be supplied with all hardware and ground anchors necessary for site installation.
11. All detail shop drawings, details of materials, fabrication, assembly and framing details, erection drawings, parts list and field installation instructions shall be included.
12. Stamped and sealed engineering calculations from a certified engineer confirming with local building codes including wind and snow loads shall be provided.
13. The shelter shall be fabricated by a manufacturer with a minimum of 10 years experience designing and fabricating transit shelters or approved equal.
14. The shelter shall carry a minimum three-year warranty.

**The solar lighting proposed should include:**

1. Provide dusk to dawn illumination.
2. NEC Article 690 compliant.
3. 40-80 watt solar collector
4. Sealed light bar under the shelter roof containing batteries, controller and two LD lamp fixtures that provide approximately 3 foot candle at the ground level and 7 ft candle at the bench height.
5. All exposed metal parts to be powder coated to match the shelter.
6. All wiring concealed.
7. 5-day battery back-up.
8. Solar lighting should be centered in the shelter and have even light distribution.
9. A 110V hard wire solution shall be offered.

**Options:**

1. Flat back-to-back advertising kiosk on end wall
  - a. Alternative A: backlit
  - b. Alternative B: not illuminated
2. Rear wall map case
3. Transit schedule holder

**Delivery Options:**

Proposer shall propose base pricing and delivery on releases of shelters at the quantities listed in Section 5, Pricing Form. Proposer to charge delivery costs of shelters and price without markup for freight, documentation to be provided to purchasing agency.

**Submittals upon delivery:**

- Shop drawings and documentation that indicate wall and roof panels, details of materials, fabrication and assembly, framing profiles, fastener types and locations, flashing and seal details.
- Erection drawings providing instruction, erection drawings and methods to allow field installation or repair of shelter.
- Data for wall and roof panels including literature from manufacturer.

**2. Passenger Bench with Back**

1. Bench shall be as shown in the plans and as specified in Section 6: Design Specifications, pg. 6-3.
2. Bench shall be six (6') feet in length and shall be steel cast iron with backrest.
  - a. Cast sides shall be minimum of ASTM A 536 DI 65-45-1.
  - b. Seat/slats shall be a minimum of 1/4" x 2 FB slats ASTM A 36 Mild Steel.
3. Bench finish shall feature a durable baked polyester powder coat finish. The powder coating process produces no volatile organic compounds (VOCs). Powder coat finish was created for durability in outdoor use and to withstand graffiti removal solvents. Shelter finish shall consist of a minimum of the following:
  - a. Sand blast.
  - b. Two to three (2-3) mil. Zinc Rich Epoxy primer followed with a durable baked-on polyester powder coat finish.
  - c. Powder coat shall be a minimum of two to three (2-3) mil. Thickness.
  - d. Color shall be a black gloss Black Tiger Drylac TCIC RAL 549/8888 Bengal Black or as approved by the City's Authorized Representative.

4. Bench shall be Model #DPB-100 Series (with or without back rest) as distributed and manufactured by South Bay Foundry or approved equal of similar style as shown in the plan details.
5. The bench shall be supplied with all hardware and ground anchors necessary for site installation.
6. All detail shop drawings, details of materials, fabrication, assembly and framing details, erection drawings, parts list and field installation instructions shall be included.

**Delivery Options:**

Proposer shall propose base pricing and delivery on releases of benches at the quantities listed in Section 5, Pricing Form. Proposer to charge delivery costs of benches and price without markup for freight, documentation to be provided to purchasing agency.

**Submittals upon delivery:**

- Shop drawings and documentation that indicate details of materials, fabrication and assembly, framing profiles, and fastener types and locations.
- Erection drawings providing instruction, erection drawings and methods to allow field installation or repair of benches.

**3. Passenger Bench with No Back**

1. Bench shall be as shown in the plans and as specified in Section 6: Design Specifications, pg. 6-4.
2. Bench shall be six (6') feet in length and shall be steel cast iron with backrest.
  - a. Cast sides shall be minimum of ASTM A 536 DI 65-45-1.
  - b. Seat/slats shall be a minimum of 1/4" x 2 FB slats ASTM A 36 Mild Steel.
3. Bench finish shall feature a durable baked polyester powder coat finish. The powder coating process produces no volatile organic compounds (VOCs). Powder coat finish was created for durability in outdoor use and to withstand graffiti removal solvents. Shelter finish shall consist of a minimum of the following:
  - a. Sand blast.
  - b. Two to three (2-3) mil. Zinc Rich Epoxy primer followed with a durable baked-on polyester powder coat finish.
  - c. Powder coat shall be a minimum of two to three (2-3) mil. Thickness.
  - d. Color shall be a black gloss Black Tiger Drylac TCIC RAL 549/8888 Bengal Black or as approved by the City's Authorized Representative.
4. Bench shall be Model #DPB-100 Series (with or without back rest) as distributed and manufactured by South Bay Foundry or approved equal of similar style as shown in the plan details.
5. The bench shall be supplied with all hardware and ground anchors necessary for site installation.
6. All detail shop drawings, details of materials, fabrication, assembly and framing details, erection drawings, parts list and field installation instructions shall be included.

**Delivery Options:**

Proposer shall propose base pricing and delivery on releases of benches at the quantities listed in Section 5, Pricing Form. Proposer to charge delivery costs of benches and price without markup for freight, documentation to be provided to purchasing agency.

**Submittals upon delivery:**

- Shop drawings and documentation that indicate details of materials, fabrication and assembly, framing profiles, and fastener types and locations.
- Erection drawings providing instruction, erection drawings and methods to allow field installation or repair of benches.

**4. Trash Receptacle**

1. Trash receptacle rack shall be as shown in the plans and as specified in Section 6: Design Specifications, pg. 6-5.
2. Trash receptacle shall be large enough to accommodate a 32-gallon rubber trash can for an inner liner. Rubber trash can shall be provided as part of the unit. Trash receptacle shall have a top lid opening that is permanently secured in place to the unit. Trash receptacle shall have a hinged, side-opening door for access. Hardware shall be stainless steel with visible surfaces finished to match that of receptacle. Door shall be lockable by means of a padlock loop.
3. Receptacle material shall be a minimum of ASTM A 36 Mild Steel.
4. Receptacle shall be surface mounted.
5. Receptacle finish shall feature a durable baked polyester powder coat finish. The powder coating process produces no volatile organic compounds (VOCs). Powder coat finish was created for durability in outdoor use and to withstand graffiti removal solvents. Receptacle finish shall consist of a minimum of the following:
  - a. Sand blast.
  - b. Two to three (2-3) mil. Zinc Rich Epoxy primer followed with a durable baked-on polyester powder coat finish.
  - c. Powder coat shall be a minimum of two to three (2-3) mil. Thickness. Color shall be a black glass Black Tiger Drylac TCIC RAL 549/8888 Bengal Black or as approved by the City's Representative.
6. Receptacle shall be Model # DTRL-100 Hinged as distributed and manufactured by South Bay Foundry or approved equal of similar style as shown in the plan details.
7. The bench shall be supplied with all hardware and ground anchors necessary for site installation.
8. All detail shop drawings, details of materials, fabrication, assembly and framing details, erection drawings, parts list and field installation instructions shall be included.

**Delivery Options:**

Proposer shall propose base pricing and delivery on releases of trash receptacles at the quantities listed in Section 5, Pricing Form. Proposer to charge delivery costs of trash receptacles and price without markup for freight, documentation to be provided to purchasing agency.

**Submittals upon delivery:**

- Shop drawings and documentation that indicate details of materials, fabrication and assembly, framing profiles, and fastener types and locations.
- Erection drawings providing instruction, erection drawings and methods to allow field installation or repair of trash receptacle.

## 5. Decorative Bus Stop Sign Pole

### Pole

1. Pole Dimensions: 3" x 10', poles shall have a minimum .090" wall thickness
2. Pole Style: Fluted sign pole with black powder coated finish.
3. Pole shall fit over a standard 1 3/4 steel square post.
4. All of the structure's metal surfaces shall feature a durable baked polyester powder coat finish. The powder coating process produces no volatile organic compounds (VOCs). Powder coat finish was created for durability in outdoor use and to withstand graffiti removal solvents.
5. The pole shall be supplied with all hardware necessary for site installation.
6. All detail shop drawings, details of materials, fabrication, assembly, erection drawings, parts list and field installation instructions shall be included.

### Finial

1. Finial Style: "acorn" style finial to fit a 3" fluted pole.
2. Finish shall be black to match pole.
3. The finial shall be supplied with all hardware necessary for site installation.
4. All detail shop drawings, details of materials, fabrication, assembly, erection drawings, parts list and field installation instructions shall be included.

### Base

1. Base Dimensions: no greater than 9" x 8" (width x height). Must fit a 3" fluted pole.
2. Finish shall be black to match pole.
3. The finial shall be supplied with all hardware necessary for site installation.
4. All detail shop drawings, details of materials, fabrication, assembly, erection drawings, parts list and field installation instructions shall be included.

### Delivery Options:

Proposer shall propose base pricing and delivery. Proposer to charge delivery costs and price of poles, finials and bases without markup for freight, documentation to be provided to purchasing agency.

### Submittals upon delivery:

- Shop drawings and documentation that indicate details of materials, fabrication and assembly, framing profiles, and fastener types and locations.
- Erection drawings providing instruction, erection drawings and methods to allow field installation or repair of poles, finials, and bases.

## **Section 4. Federal Transit Required Bid Provisions**

### **4.1. FLY AMERICA REQUIREMENTS**

The Contractor agrees to comply with 49 U.S.C. 40118 (the "Fly America" Act) in accordance with the General Services Administration's regulations at 41 CFR Part 301-10, which provide that recipients and subrecipients of Federal funds and their contractors are required to use U.S. Flag air carriers for U.S Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. The Contractor shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S. flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements. The Contractor agrees to include the requirements of this section in all subcontracts that may involve international air transportation.

### **4.2. CARGO PREFERENCE REQUIREMENTS**

1. To utilize privately owned United States-Flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping and equipment, materials or commodities pursuant to this section, to the extent such vessels are available at fair and reasonable rates for the United States-Flag commercial vessels.
2. To furnish within 30 days following the date of loading for shipments originating within the United States, or within 30 working days following the date of loading for shipment originated outside the United States, a legible copy of a rated, "on-board" commercial ocean bill-of-lading, in English, for each shipment of cargo described in Paragraph (1) above to the Recipient (through the prime contractor in the case of subcontractor bills-of-lading) and to the division of National Cargo, Office of Market Development , Maritime Administration, Washington, D.C. 20230, marked with appropriate identification of the Project.

### **4.3. SEISMIC SAFETY REQUIREMENTS**

To furnish within 30 days following the date of loading for shipments originating within the United States, or within 30 working days following the date of loading for shipment originated outside the United States, a legible copy of a rated, "on-board" commercial ocean bill-of-lading, in English, for each shipment of cargo described in Paragraph (1) above to the Recipient (through the prime contractor in the case of subcontractor bills-of-lading) and to the division of National Cargo, Office of Market Development , Maritime Administration, Washington, D.C. 20230, marked with appropriate identification of the Project.

### **4.4. ENERGY CONSERVATION REQUIREMENTS**

The contractor agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

### **4.5. CLEAN WATER REQUIREMENTS**

The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251

et seq . The Contractor agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office. The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

#### **4.6. LOBBYING**

Contractors who apply or bid for an award of \$100,000 or more shall file the certification required by 49 CFR Part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient.

#### **4.7. ACCESS TO RECORDS AND REPORTS**

Where the Purchaser is not a State but a local government and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C. F. R. 18.36(i), the Contractor agrees to provide the Purchaser, the FTA Administrator, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions. Contractor also agrees, pursuant to 49 C. F. R. 633.17 to provide the FTA Administrator or his authorized representatives including any PMO Contractor access to Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311.

The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

The Contractor agrees to maintain all books, records, accounts and reports required under this contract for a period of not less than three years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case Contractor agrees to maintain same until the Purchaser, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Reference 49 CFR 18.39(i)(11).

FTA does not require the inclusion of these requirements in subcontracts.

#### **4.8. FEDERAL CHANGES**

Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between Purchaser and FTA, as they may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

#### **4.9. CLEAN AIR**

1. The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq . The Contractor agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.
2. The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

#### **4.10. RECYCLED PRODUCTS**

The contractor agrees to comply with all the requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C. 6962), including but not limited to the regulatory provisions of 40 CFR Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 CFR Part 247.

#### **4.11. DAVIS-BACON AND COPELAND ANTI-KICKBACK ACTS**

- (1) Minimum wages - (i) All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.  
Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR Part 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classifications and wage rates conformed under paragraph (1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.
- (ii)(A) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage

determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

- (1) Except with respect to helpers as defined as 29 CFR 5.2(n)(4), the work to be performed by the classification requested is not performed by a classification in the wage determination; and
  - (2) The classification is utilized in the area by the construction industry; and
  - (3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination; and
  - (4) With respect to helpers as defined in 29 CFR 5.2(n)(4), such a classification prevails in the area in which the work is performed.
- (B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.
- (C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.
- (D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii) (B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.
- (iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.
- (iv) If the contractor does not make payments to trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program. Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.
- (v)(A) The contracting officer shall require that any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

- (1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and
  - (2) The classification is utilized in the area by the construction industry; and
  - (3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.
- (B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.
- (C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination with 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.
- (D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(v) (B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.
- (2) **Withholding**-The Purchasing Authority shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract, the City may, after written notice to the contractor, sponsor, applicant, or owner, take such action as maybe necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.
- (3) **Payrolls and basic records**-(i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall

contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

- (ii)(A) The contractor shall submit weekly for each week in which any contract work is performed a copy of payrolls to the City for transmission to the Federal Transit Administration. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under section 5.5(a)(3)(i) of Regulations, 29 CFR part 5. This information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and may be purchased from the Superintendent of Documents (Federal Stock Number 029-005-00014-1), U.S. Government Printing Office, Washington, DC 20402. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors.
- (B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:
  - (1) That the payroll for the payroll period contains the information required to be maintained under section 5.5(a)(3)(i) of Regulations, 29 CFR part 5 and that such information is correct and complete;
  - (2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;
  - (3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.
- (C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (a)(3)(ii)(B) of this section.
- (D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

- (iii) The contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the Federal Transit Administration or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.
- (4) **Apprentices and trainees**-(i) Apprentices-Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator of the Wage and Hour Division of the U.S. Department of Labor determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Bureau of Apprenticeship and Training, or a State Apprenticeship Agency recognized by the Bureau, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentice at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

- (ii) Trainees-Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.
- (iii) Equal employment opportunity-The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.
- (5)**Compliance with Copeland Act requirements**-The contractor shall comply with the requirements of 29 CFR Part 3, which are incorporated by reference in this contract.
- (6)**Subcontracts**-The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the Federal Transit Administration may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.
- (7) **Contract termination: debarment** - A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.
- (8) **Compliance with Davis-Bacon and Related Act requirements** - All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.
- (9) **Disputes concerning labor standards** - Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

- (10) **Certification of eligibility** - (i) By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).
- (ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).
- (iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001

#### **4.12. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT**

- 1. Overtime requirements - No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
- 2. **Violation; liability for unpaid wages; liquidated damages** – In the event of any violation of the clause set forth in paragraph (1) of this section the contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required for permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.
- 3. **Withholding for unpaid wages and liquidated damages** – The City shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) o this section.
- 4. **Subcontracts** – The contractor subcontractor shall insert in any subcontracts the clauses set forth in paragraphs (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.

#### **4.13. NO GOVERNMENT OBLIGATION TO THIRD PARTIES**

- 1. The Purchaser and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to the Purchaser, Contractor, or any other party

(whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

2. The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

#### **4.14. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS**

1. The Contractor acknowledges that the provisions of the Program fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. §§ 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.
2. The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 537, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 530 (n)(1) on the Contractor, to the extent the Federal Government deems appropriate.
3. The Contractor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

#### **4.15. TERMINATION**

**Termination for Convenience.** The City may terminate this contract, in whole or in part, at any time by written notice to Contractor when it is in the City's best interest.

**Termination for Default (services).** If the Contractor does not deliver supplies in accordance with the contract delivery schedule, or, if the contract is for services, the Contractor fails to perform in the manner called for in the contract, or if the Contractor fails to comply with any other provisions of the contract, the City of Manteca may terminate this contract for default. Termination shall be effected by serving a notice of termination on the contractor setting forth the manner in which the Contractor is in default. The contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract.

If it is later determined by the City of Manteca that the Contractor had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of the Contractor, the City of Manteca, after setting up a new delivery of performance schedule, may allow the Contractor to continue work, or treat the termination as a termination for convenience.

(c) **Opportunity to Cure (General Provision)** The City of Manteca in its sole discretion may, in the case of a termination for breach or default, allow the Contractor [an appropriately short period of time] in which to cure the defect. In such case, the notice of termination will state the time period in which cure is permitted and other appropriate conditions

If Contractor fails to remedy to the City of Manteca's satisfaction the breach or default of any of the terms, covenants, or conditions of this Contract within [ten (10) days] after receipt by Contractor of written notice from the City of Manteca setting forth the nature of said breach or default, the City of Manteca shall have the right to terminate the Contract without any further obligation to Contractor. Any such termination for default shall not in any way operate to preclude the City of Manteca from also pursuing all available remedies against Contractor and its sureties for said breach or default.

(d) **Waiver of Remedies for any Breach** In the event that the City of Manteca elects to waive its remedies for any breach by Contractor of any covenant, term or condition of this Contract, such waiver by the City of Manteca shall not limit the City of Manteca's remedies for any succeeding breach of that or of any other term, covenant, or condition of this Contract.

(e) **Termination for Convenience (Professional or Transit Service Contracts)** The City of Manteca by written notice, may terminate this contract, in whole or in part, when it is in the Government's interest. If this contract is terminated, the Recipient shall be liable only for payment under the payment provisions of this contract for services rendered before the effective date of termination.

(f) **Termination for Default (Supplies and Service)** If the Contractor fails to deliver supplies or to perform the services within the time specified in this contract or any extension or if the Contractor fails to comply with any other provisions of this contract, the City of Manteca may terminate this contract for default. The City of Manteca shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. The Contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner or performance set forth in this contract.

(g) **Termination for Convenience or Default (Architect and Engineering)** The City may terminate this contract in whole or in part, for the Recipient's convenience or because of the failure of the Contractor to fulfill the contract obligations. The City shall terminate by delivering to the Contractor a Notice of Termination specifying the nature, extent, and effective date of the termination. Upon receipt of the notice, the Contractor shall (1) immediately discontinue all services affected (unless the notice directs otherwise), and (2) deliver to the Contracting Officer all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this contract, whether completed or in process.

If the termination is for the convenience of the Recipient, the Contracting Officer shall make an equitable adjustment in the contract price but shall allow no anticipated profit on unperformed services.

If the termination is for failure of the Contractor to fulfill the contract obligations, the Recipient may complete the work by contract or otherwise and the Contractor shall be liable for any additional cost incurred by the Recipient.

(h) **Termination for Convenience or Default (Cost-Type Contracts)** The City may terminate this contract, or any portion of it, by serving a notice of termination on the Contractor. The notice shall state whether the termination is for convenience of the City or for the default of the Contractor. If the termination is for default, the notice shall state the manner in which the contractor has failed to perform the requirements of the contract. The Contractor shall account for any property in its possession paid for from

funds received from the City, or property supplied to the Contractor by the City. If the termination is for default, the City may fix the fee, if the contract provides for a fee, to be paid the contractor in proportion to the value, if any, of work performed up to the time of termination. The Contractor shall promptly submit its termination claim to the City and the parties shall negotiate the termination settlement to be paid the Contractor.

If the termination is for the convenience of the City, the Contractor shall be paid its contract close-out costs, and a fee, if the contract provided for payment of a fee, in proportion to the work performed up to the time of termination.

If, after serving a notice of termination for default, the City determines that the Contractor has an excusable reason for not performing, such as strike, fire, flood, events which are not the fault of and are beyond the control of the contractor, the City, after setting up a new work schedule, may allow the Contractor to continue work, or treat the termination as a termination for convenience.

#### **4.16. GOVERNMENT-WIDE DEBARMENT AND SUSPENSION**

The contractor is required to comply with 49 CFR 29, Subpart C and must include the requirement to comply with 49 CFR 29, Subpart C in any lower tier covered transaction it enters into.

By signing and submitting its bid or proposal, the bidder or proposer certifies as follows: The certification in this clause is a material representation of fact relied upon by the City. If it is later determined that the bidder or proposer knowingly rendered an erroneous certification in addition to remedies available to the City, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 49 CFR 29, Subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

#### **4.17. PRIVACY ACT**

The following requirements apply to the Contractor and its employees that administer any system of records on behalf of the Federal Government under any contract:

1. The Contractor agrees to comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974, 5 U.S.C. § 552a. Among other things, the Contractor agrees to obtain the express consent of the Federal Government before the Contractor or its employees operate a system of records on behalf of the Federal Government. The Contractor understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying contract.
2. The Contractor also agrees to include these requirements in each subcontract to administer any system of records on behalf of the Federal Government financed in whole or in part with Federal assistance provided by FTA.

#### **4.18. CIVIL RIGHTS REQUIREMENTS**

- (1) Nondiscrimination - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the

Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

- (2) Equal Employment Opportunity - The following equal employment opportunity requirements apply to the underlying contract:
  - (a) Race, Color, Creed, National Origin, Sex - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. 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. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
  - (b) Age - In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. §§ 623 and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
  - (c) Disabilities - In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
- (3) The Contractor also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.

#### **4.19. BREACHES AND DISPUTE RESOLUTION**

**Disputes** - Disputes arising in the performance of this Contract which are not resolved by agreement of the parties shall be decided in writing by the authorized representative of (Recipient)'s [title of employee]. This decision shall be final and conclusive unless within [ten (10)] days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to the [title of employee]. In connection with any such appeal, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the [title of employee] shall be binding upon the Contractor and the Contractor shall abide by the decision.

**Performance During Dispute** - Unless otherwise directed by (Recipient), Contractor shall continue performance under this Contract while matters in dispute are being resolved.

**Claims for Damages** - Should either party to the Contract suffer injury or damage to person or property because of any act or omission of the party or of any of his

employees, agents or others for whose acts he is legally liable, a claim for damages therefor shall be made in writing to such other party within a reasonable time after the first observance of such injury of damage.

**Remedies** - Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between the (Recipient) and the Contractor arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the State in which the (Recipient) is located.

**Rights and Remedies** - The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the (Recipient), (Architect) or Contractor shall constitute a waiver of any right or duty afforded any of them under the Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing

#### **4.20. DISADVANTAGED BUSINESS ENTERPRISES (DBE)**

- a. This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs. The national goal for participation of Disadvantaged Business Enterprises (DBE) is 10%. The agency's overall Anticipated DBE Level of Participation is 10%. A separate contract goal **has not** been established for this procurement.
- b. The contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this DOT-assisted contract. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the City of Manteca deems appropriate. Each subcontract the contractor signs with a subcontractor must include the assurance in this paragraph (see 49 CFR 26.13(b)).
- c. The successful bidder/offeror will be required to report its DBE participation obtained through race-neutral means throughout the period of performance.
- d. The agency shall hold retainage from the prime contractor and shall make prompt and regular incremental acceptances of portions, as determined by the agency of the contract work and pay retainage to the prime contractor based on these acceptances. The prime contractor or subcontractor shall return all monies withheld in retention from all subcontractors within 30 days after receiving payment for work satisfactorily completed and accepted including incremental acceptances of portions of the contract work by the agency. Any delay or postponement of payment may take place only for good cause and with the agency's prior written approval. Any violation of these provisions shall subject the violating prime contractor to the penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business and Professions Code. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies otherwise available to the contractor or subcontractor in the event of: a dispute involving late payment or nonpayment by the contractor; deficient subcontractor performance and/or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.
- e. The contractor must promptly notify the City of Manteca, whenever a DBE subcontractor performing work related to this contract is terminated or fails to complete its work, and must make good faith efforts to engage another DBE

subcontractor to perform at least the same amount of work. The contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of the City of Manteca.

**4.21. INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS**

The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1E, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any (name of grantee) requests which would cause (name of grantee) to be in violation of the FTA terms and conditions.

**4.22. REGISTRATION REQUIREMENTS**

The CONTRACTOR and all subcontractors must obtain a Dun and Bradstreet Data Universal Number (DUNS), (<http://www.dnb.com>), or update the existing DUNS record, and register with the Central Contractor Registration (CCR) (<http://www.ccr.gov>). The CONTRACTOR shall ensure that all third party contractors and subcontractors have a DUNS number and are registered in the Central Contractor Registration (CCR).

**4.23. AMERICAN RECOVERY AND REINVESTMENT ACT – REPORTING REQUIREMENTS**

(a) *Definitions.* As used in this clause—

“Contract”, as defined in FAR 2.101, means a mutually binding legal relationship obligating the seller to furnish the supplies or services (including construction) and the buyer to pay for them. It includes all types of commitments that obligate the Government to an expenditure of appropriated funds and that, except as otherwise authorized, are in writing. In addition to bilateral instruments, contracts include (but are not limited to) awards and notices of awards; job orders or task letters issued under basic ordering agreements; letter contracts; orders, such as purchase orders, under which the contract becomes effective by written acceptance or performance; and bilateral contract modifications. Contracts do not include grants and cooperative agreements covered by 31 U.S.C. 6301, *et seq.* For discussion of various types of contracts, see FAR Part 16.

“First-tier subcontract” means a subcontract awarded directly by a Federal Government prime contractor whose contract is funded by the Recovery Act.

“Jobs created” means an estimate of those new positions created and filled, or previously existing unfilled positions that are filled, as a result of funding by the American Recovery and Reinvestment Act of 2009 (Recovery Act). This definition covers only prime contractor positions established in the United States and outlying areas (see definition in FAR 2.101). The number shall be expressed as “full-time equivalent” (FTE), calculated cumulatively as all hours worked divided by the total number of hours in a full-time schedule, as defined by the contractor. For instance, two full-time employees and one part-time employee working half days would be reported as 2.5 FTE in each calendar quarter.

“Jobs retained” means an estimate of those previously existing filled positions that are retained as a result of funding by the American Recovery and Reinvestment Act of 2009 (Recovery Act). This definition covers only prime contractor positions established in the United States and outlying areas (see definition in FAR 2.101). The number shall be expressed as “full-time equivalent” (FTE), calculated cumulatively as all hours worked divided by the total number of hours in a full-time schedule, as defined by the contractor.

For instance, two full-time employees and one part-time employee working half days would be reported as 2.5 FTE in each calendar quarter.

“Total compensation” means the cash and noncash dollar value earned by the executive during the contractor’s past fiscal year of the following (for more information see 17 CFR 229.402(c)(2)):

(1) *Salary and bonus.*

(2) *Awards of stock, stock options, and stock appreciation rights.* Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments.

(3) *Earnings for services under non-equity incentive plans.* Does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.

(4) *Change in pension value.* This is the change in present value of defined benefit and actuarial pension plans.

(5) *Above-market earnings on deferred compensation which is not tax-qualified.*

(6) *Other compensation.* For example, severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property if the value for the executive exceeds \$10,000.

(b) This contract requires the contractor to provide products and/or services that are funded under the American Recovery and Reinvestment Act of 2009 (Recovery Act). Section 1512(c) of the Recovery Act requires each contractor to report on its use of Recovery Act funds under this contract. These reports will be made available to the public.

(c) Reports from contractors for all work funded, in whole or in part, by the Recovery Act, and for which an invoice is submitted prior to June 30, 2009, are due no later than July 10, 2009. Thereafter, reports shall be submitted no later than the 10th day after the end of each calendar quarter.

(d) The Contractor shall report the following information, using the online reporting tool available at [www.FederalReporting.gov](http://www.FederalReporting.gov).

(1) The Government contract and order number, as applicable.

(2) The amount of Recovery Act funds invoiced by the contractor for the reporting period. A cumulative amount from all the reports submitted for this action will be maintained by the government’s on-line reporting tool.

(3) A list of all significant services performed or supplies delivered, including construction, for which the contractor invoiced in this calendar quarter.

(4) Program or project title, if any.

(5) A description of the overall purpose and expected outcomes or results of the contract, including significant deliverables and, if appropriate, associated units of measure.

(6) An assessment of the contractor’s progress towards the completion of the overall purpose and expected outcomes or results of the contract (*i.e.*, not started, less than 50 percent completed, completed 50 percent or more, or fully completed). This covers the contract (or portion thereof) funded by the Recovery Act.

(7) A narrative description of the employment impact of work funded by the Recovery Act. This narrative should be cumulative for each calendar quarter and only address the impact on the contractor’s workforce. At a minimum, the contractor shall provide—

(i) A brief description of the types of jobs created and jobs retained in the United States and outlying areas (see definition in FAR 2.101). This description may rely on job titles, broader labor categories, or the contractor’s existing practice for describing jobs as long

as the terms used are widely understood and describe the general nature of the work;  
and

(ii) An estimate of the number of jobs created and jobs retained by the prime contractor, in the United States and outlying areas. A job cannot be reported as both created and retained.

(8) Names and total compensation of each of the five most highly compensated officers of the Contractor for the calendar year in which the contract is awarded if—

(i) In the Contractor's preceding fiscal year, the Contractor received—

(A) 80 percent or more of its annual gross revenues from Federal contracts (and subcontracts), loans, grants (and subgrants) and cooperative agreements; and

(B) \$25,000,000 or more in annual gross revenues from Federal contracts (and subcontracts), loans, grants (and subgrants) and cooperative agreements; and

(ii) The public does not have access to information about the compensation of the senior executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986.

(9) For subcontracts valued at less than \$25,000 or any subcontracts awarded to an individual, or subcontracts awarded to a subcontractor that in the previous tax year had gross income under \$300,000, the Contractor shall only report the aggregate number of such first tier subcontracts awarded in the quarter and their aggregate total dollar amount.

(10) For any first-tier subcontract funded in whole or in part under the Recovery Act, that is over \$25,000 and not subject to reporting under paragraph 9, the contractor shall require the subcontractor to provide the information described in (i), (ix), (x), and (xi) below to the contractor for the purposes of the quarterly report. The contractor shall advise the subcontractor that the information will be made available to the public as required by section 1512 of the Recovery Act. The contractor shall provide detailed information on these first-tier subcontracts as follows:

(i) Unique identifier (DUNS Number) for the subcontractor receiving the award and for the subcontractor's parent company, if the subcontractor has a parent company.

(ii) Name of the subcontractor.

(iii) Amount of the subcontract award.

(iv) Date of the subcontract award.

(v) The applicable North American Industry Classification System (NAICS) code.

(vi) Funding agency.

(vii) A description of the products or services (including construction) being provided under the subcontract, including the overall purpose and expected outcomes or results of the subcontract.

(viii) Subcontract number (the contract number assigned by the prime contractor).

(ix) Subcontractor's physical address including street address, city, state, and country. Also include the nine-digit zip code and congressional district if applicable.

(x) Subcontract primary performance location including street address, city, state, and country. Also include the nine-digit zip code and congressional district if applicable.

(xi) Names and total compensation of each of the subcontractor's five most highly compensated officers, for the calendar year in which the subcontract is awarded if—

(A) In the subcontractor's preceding fiscal year, the subcontractor received—

(1) 80 percent or more of its annual gross revenues in Federal contracts (and subcontracts), loans, grants (and subgrants), and cooperative agreements; and

(2) \$25,000,000 or more in annual gross revenues from Federal contracts (and subcontracts), loans, grants (and subgrants), and cooperative agreements; and

(B) The public does not have access to information about the compensation of the senior executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986.

## **Section 5. Required Documents**

**The following forms are required to be signed and submitted at the time of bid submittal. Failure to do so will result in bid not being considered.**

- Bidder's Statement**
- Contractor's Background**
- Bid Form**
- Buy America Certificate**
- Certification of Compliance with Federal Lobbying Statue**
- Insurance Acknowledgement**

## **Bidder's Statement**

OUR OFFER IS AFFIRMED HERETO. It is understood that your specifications and conditions set forth on bid sheets form part of our offer.

By signing this form we certify:

1. The prices offered are valid for the total contract or any portion thereof.
2. All materials meet or exceed the specifications set forth in this bid.
3. Have read and will abide by all federal clauses for this solicitation.

We specifically agree to keep this offer open for ninety days.

---

Bidder

---

Signature of Authorized Representative

---

Printed Name of Authorized Representative

---

Title

---

Date

## **Contractor's Background**

1. Contractor name, city, state, and prior name of contractor, if applicable.
2. Location of factory where the amenities are to be built.
3. Is contractor in a position to furnish replacement parts for the amenities?
4. How many years in business?
5. Description of major areas of business or expertise for this contractor.
6. Has proposing firm ever defaulted or had a contract cancelled for failure to perform per the terms and conditions of a contract? If yes, please outline and explain on a separate document.
7. Include, in a separate document, your company's most recent financial statement. This should demonstrate the contractor's financial ability to perform this contract.

**MANTECA TRANSIT PASSENGER AMENITIES  
PROJECT #10014Q**

**Bid Form**

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

**1A. 13' Passenger Shelter, Alternative A, with illuminated Ad Kiosk**

Qty	Unit	Unit Cost	Freight	Tax	Total Cost
1-4	EA				
5-9	EA				
10-14	EA				
15-20	EA				

**1B. 13' Passenger Shelter, Alternative B, with illuminated Ad Kiosk**

Qty	Unit	Unit Cost	Freight	Tax	Total Cost
1-4	EA				
5-9	EA				
10-14	EA				
15-20	EA				

Cost of replacement glass panel (Qty: 1): \_\_\_\_\_

**1A&B. Options**

Assume a quantity of 1 for each option item

Item Description	Unit Cost
Advertising Kiosk, Illuminated, Delete (show credit)	
Advertising Kiosk, Not Illuminated	
Map Case	
Schedule Holder (describe)	
Full End Wall Panels	
Solar Light Delete (show credit)	
Stand-Alone Solar Bus Stop Light & Pole (describe)	

Delivery Schedule: turnaround time for delivery from time of order? \_\_\_\_\_

**2. Passenger Bench with Back**

Qty	Unit	Unit Cost	Freight	Tax	Total Cost
1	EA				
30-39	EA				
40-49	EA				
50-59	EA				

Delivery Schedule: turnaround time for delivery from time of order? \_\_\_\_\_

Do benches come assembled or is assembly required on site? \_\_\_\_\_

**3. Passenger Bench with No Back**

Qty	Unit	Unit Cost	Freight	Tax	Total Cost
1-4	EA				
5-9	EA				
10-14	EA				
15-20	EA				

Delivery Schedule: turnaround time for delivery from time of order? \_\_\_\_\_

Do benches come assembled or is assembly required on site? \_\_\_\_\_

**4. Trash Receptacle**

Qty	Unit	Unit Cost	Freight	Tax	Total Cost
1	EA				
40-49	EA				
50-59	EA				
60-69	EA				

Delivery Schedule: turnaround time for delivery from time of order? \_\_\_\_\_

Do receptacles come assembled or is assembly required on site? \_\_\_\_\_

**5. Decorative Sign Post**

Item	Qty	Unit	Unit Cost	Freight	Tax	Total Cost
Post	100	EA				
Finial	100	EA				
Base	100	EA				

Delivery Schedule: turnaround time for delivery from time of order? \_\_\_\_\_

## Buy America Certificate

The bidder hereby certifies that it will comply with the requirements of 49 U.S.C. 5323(j)(2)(c) and the applicable regulations at 49 CFR Part 661.

Executed on \_\_\_\_\_, 20\_\_ at \_\_\_\_\_, \_\_\_\_\_.

Date

City

State

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Signature of Authorized Officer

\_\_\_\_\_  
Title

*or:*

The Bidder hereby certifies that it cannot comply with the requirements of 49 U.S.C. 5323(j)(2)(C), but may qualify for an exception pursuant to 49 U.S.C. 5323(j)(2)(B) or (j)(2)(D) and the regulations in 49 CFR 661.7.

Executed on \_\_\_\_\_, 20\_\_ at \_\_\_\_\_, \_\_\_\_\_.

Date

City

State

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Signature of Authorized Officer

\_\_\_\_\_  
Title

## Certification of Compliance with Federal Lobbying Statute

The undersigned [Contractor] certifies, 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 an 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 making lobbying contacts to an officer or employee of any 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 Form to Report Lobbying," in accordance with its instructions [as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, *et seq.*)]

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

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 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). 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.

[Note: Pursuant to 31 U.S.C. § 1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure or failure.]

The Contractor, \_\_\_\_\_, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. A 3801, *et seq.*, apply to this certification and disclosure, if any.

\_\_\_\_\_ Signature of Contractor's Authorized Official

\_\_\_\_\_ Name and Title of Contractor's Authorized Official

\_\_\_\_\_ Date

## **Insurance Acknowledgment**

I have reviewed the City of Manteca's insurance requirements and I am aware of the types and amounts of insurance coverages that are required. I am also aware that my insurance company is required to use the Certificate of Insurance Form, and General Liability Special Endorsement, Automobile Liability Special Endorsement, and Worker's Compensation and Employer's Liability Special Endorsement Forms, provided herein. I have reviewed the City of Manteca's insurance requirements with my insurance carrier and I will be able to provide the required insurance coverages on the specified forms if awarded this project.

Bidder's Signature \_\_\_\_\_

Date \_\_\_\_\_

## Section 6. Contract Drawing, Plans and Specifications

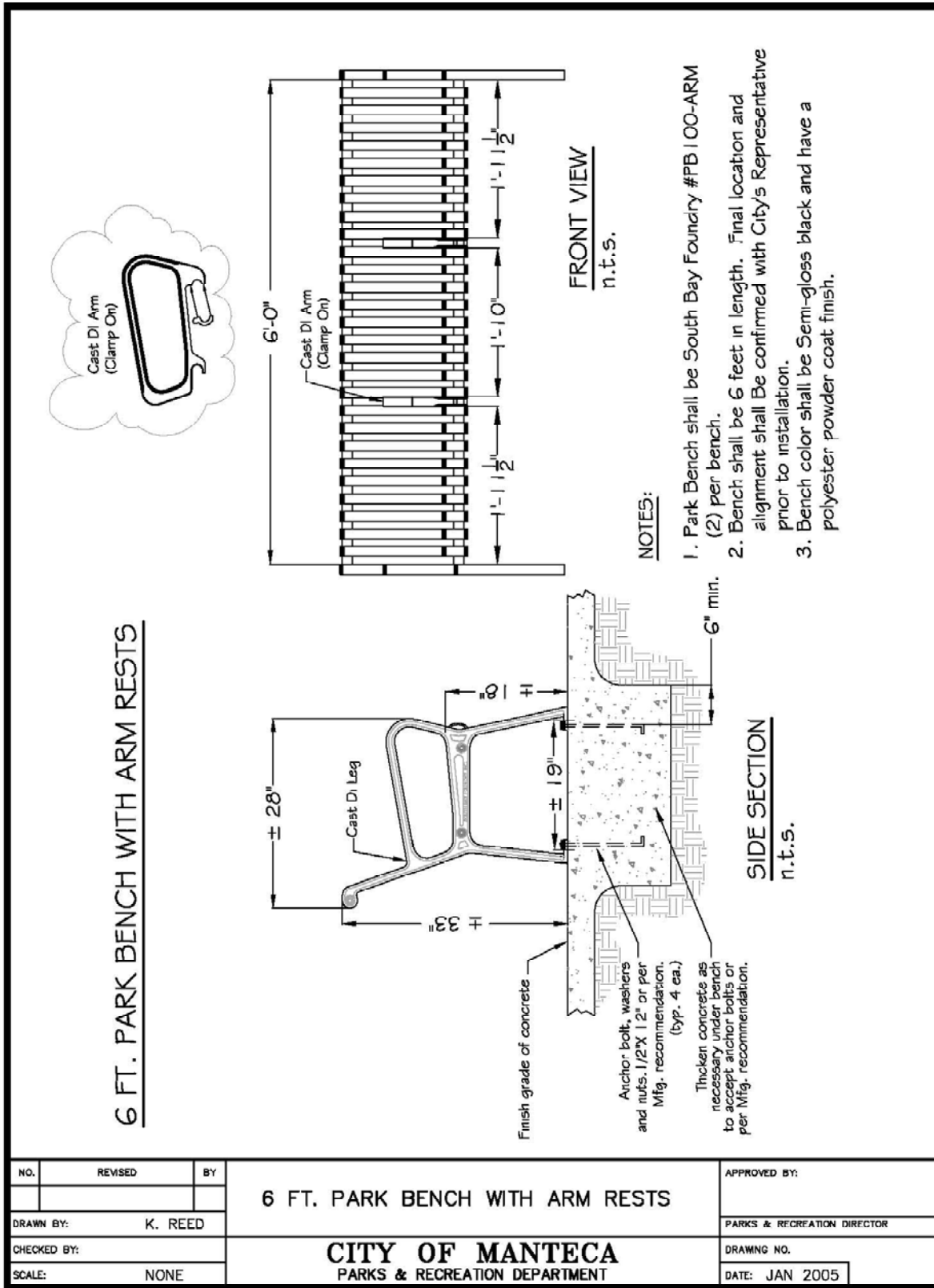
Passenger Shelter – Alternative A



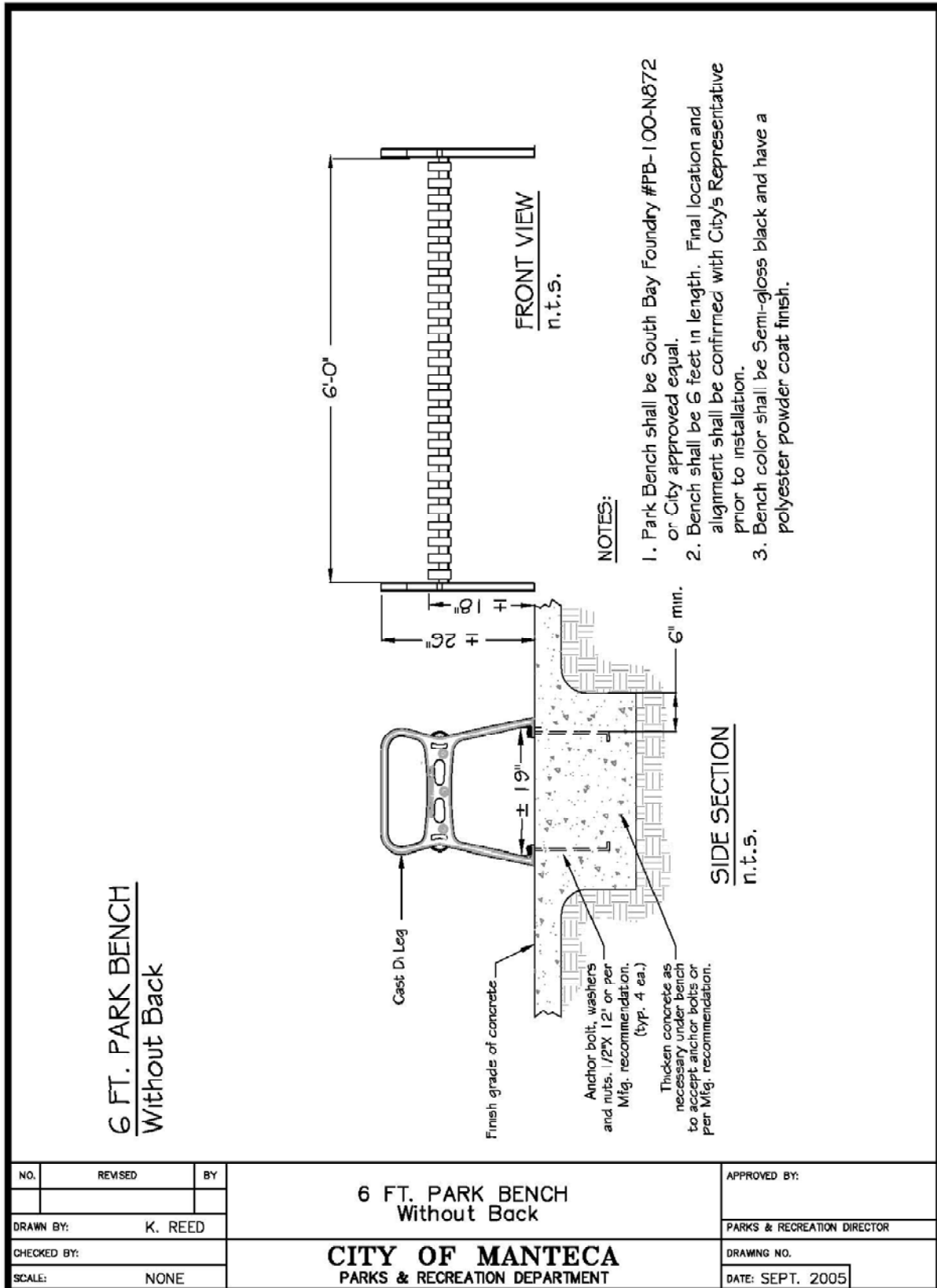
Passenger Shelter – Alternative B



Passenger Bench with back



Passenger Bench with no back



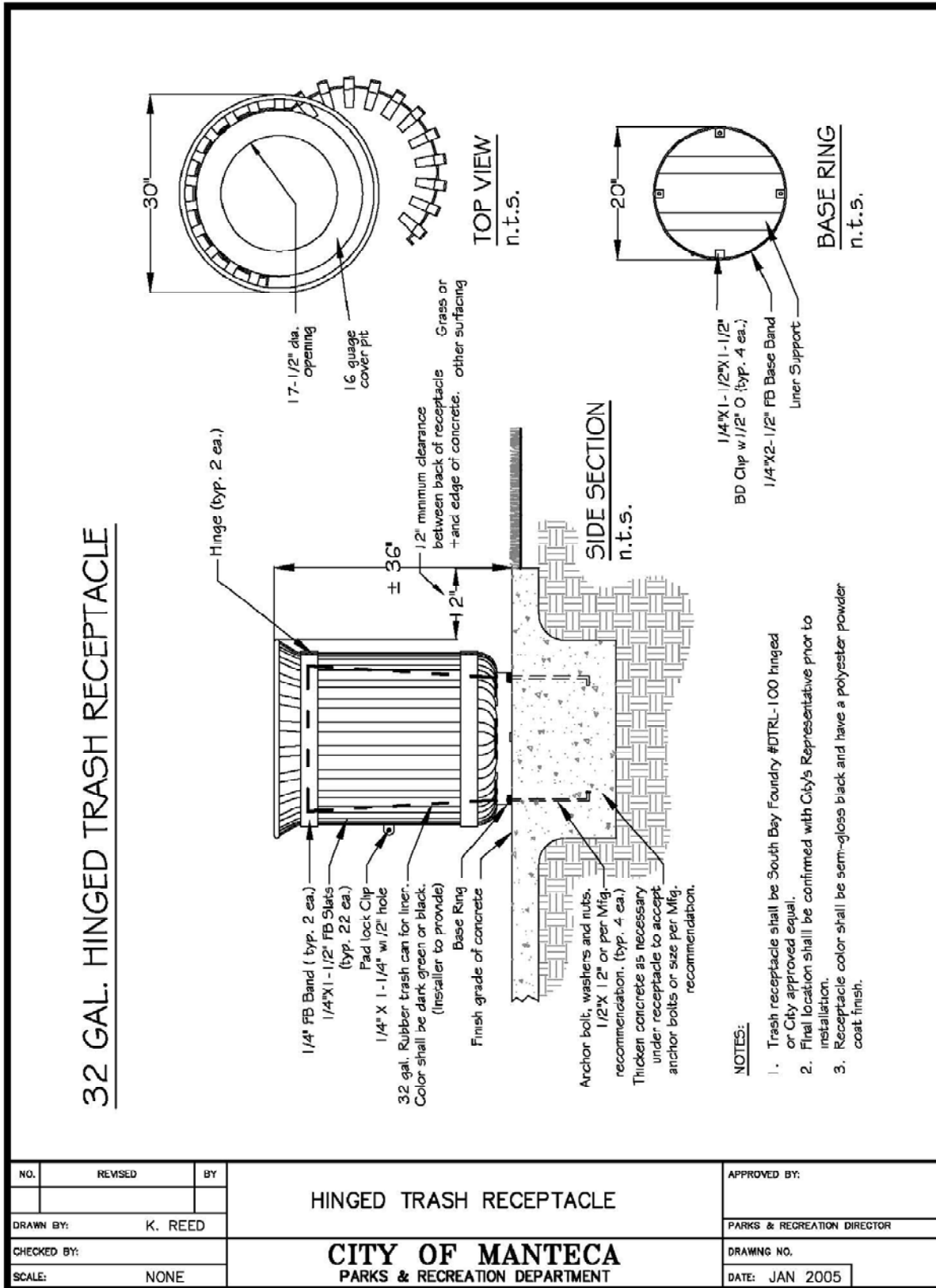
NO.	REVISED	BY
DRAWN BY:		K. REED
CHECKED BY:		
SCALE:		NONE

**6 FT. PARK BENCH**  
**Without Back**

**CITY OF MANTECA**  
**PARKS & RECREATION DEPARTMENT**

APPROVED BY:
PARKS & RECREATION DIRECTOR
DRAWING NO.
DATE: SEPT. 2005

Trash Receptacle



NO.	REVISED	BY
DRAWN BY: K. REED		
CHECKED BY:		
SCALE: NONE		

**HINGED TRASH RECEPTACLE**

**CITY OF MANTECA**  
PARKS & RECREATION DEPARTMENT

APPROVED BY:
PARKS & RECREATION DIRECTOR
DRAWING NO.
DATE: JAN 2005

## Section 7. Contract

CITY OF MANTECA  
STATE OF CALIFORNIA

### **CONTRACT FOR MANTECA TRANSIT PASSENGER AMENITIES PROJECT 10014Q**

THIS CONTRACT, made this \_\_\_\_\_ day of \_\_\_\_\_, 2011, by and between the City of Manteca, Manteca, California, hereinafter called "City" and \_\_\_\_\_, hereinafter called "Contractor".

WITNESSETH:

WHEREAS, the City has caused to be prepared in accordance with law, specifications and other contract documents for the work herein described and shown and has approved and adopted these contract documents, specifications and drawings and has caused to be published in the manner and for the time required by law, a notice to bidders inviting sealed proposals for doing the work in accordance with the terms of this contract; and

WHEREAS, the Contractor, in response to the notice to Contractors, has submitted to the City a sealed proposal for the proposed work in accordance with the terms of this contract; and

WHEREAS, the City, in manner prescribed by law, has publicly opened, examined and canvassed the proposals submitted, and as a result has determined and declared the Contractor to be the lowest and best regular responsible bidder for contract, and has duly awarded to the Contractor a contract for the work and for the sums named in the proposal.

NOW, THEREFORE, THIS CONTRACT WITNESSETH:

#### **Article I. Work to be Done**

That the Contractor shall provide all necessary machinery, tools, apparatus and other means of construction; shall furnish all materials, superintendence, overhead expenses, all labor and expenses of whatever nature necessary for:

### **MANTECA TRANSIT PASSENGER AMENITIES PROJECT 10014Q**

for the City of Manteca, California in conformity with the specifications and drawings and other contract documents hereto attached and according to such instructions as may be given by the Engineer.

## **Article II. Contract Prices**

City hereby promises and agrees with Contractor to employ, and does hereby employ, Contractor to provide the materials and to do the work according to the terms and conditions herein contained and referred to, for the sum of \$\_\_\_\_\_ subject to additions and deductions as provided therein, and hereby contracts to pay the same at the time, in the manner and upon the conditions herein set forth; and the said parties for themselves, their heirs, executors, administrators, successors and assigns, do hereby agree to the full performance of the covenants herein contained.

## **Article III. Parts of the Contract**

That the complete contract consists of the following documents, all of which shall be considered as parts of this agreement.

1. Notice to Contractors
2. General Bid Provisions
3. Technical Specifications
4. Federal Transit Required Bid Provisions
5. Required Documents
6. Contract Drawings, Plans and Specifications

All of the documents above are contained herein.

## **Article IV.**

By my signature hereunder, as Contractor, I certify that I am aware of the provisions of Section 3700 of the Labor Code which requires every employer to be insured against liability for workmen's compensation or to undertake self-insurance in accordance with the provisions of the code, and I will comply with such provisions before commencing the performance of the work of this contract.

## **Article V.**

The statement of prevailing wages is hereby specifically referred to and by this reference is made part of this contract. It is further expressly agreed by and between the parties hereto that should there be any conflict between the terms of this instrument and the bid or proposal of said Contractor, then this instrument shall control and nothing herein shall be considered as an acceptance of said terms of the said proposal conflicting herewith.

**Article VI.**

The Contractor agrees to receive and accept the sum of \$ \_\_\_\_\_ subject to additions and deductions as provided herein, as full compensation for furnishing all materials and for doing all the work contemplated and embraced in this agreement; also for all loss or damage, arising out of the nature of the work aforesaid, or from the action of the elements, or from any unforeseen difficulties or obstructions which may arise or be encountered in the prosecution of the work until its acceptance by the City, and for all risks of every description connected with the work, also for all expenses incurred by or in consequence of the suspension or discontinuance of work for well and faithfully completing the work, and the whole thereof, in the manner and according to the plans and specifications, and the requirements of the Engineer.

IN WITNESS WHEREOF, the parties to these presents have hereunto set their hands the year and date first above written.

Federal Employer Identification  
No. \_\_\_\_\_

CITY OF MANTECA

\_\_\_\_\_  
CONTRACTOR/FIRM

\_\_\_\_\_  
WILLIE W. WEATHERFORD  
MAYOR

\_\_\_\_\_  
BY

ATTEST:

\_\_\_\_\_  
JOANN L. TILTON, MMC  
CITY CLERK

\_\_\_\_\_  
ADDRESS

APPROVED AS TO FORM  
AND EXECUTION:

\_\_\_\_\_  
PHONE NO.

\_\_\_\_\_  
JOHN D. BRINTON, CITY ATTORNEY

## Appendix A. Insurance Requirements

### CITY OF MANTECA INSURANCE REQUIREMENTS FOR CONTRACTORS

Contractor shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Contractor, his agents, representatives, employees or subcontractors.

#### Minimum Scope of Insurance

Coverage shall be at least as broad as:

1. Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001).
2. Insurance Services Office form number CA 0001 (Ed. 1/87) covering Automobile Liability code 1 (any auto).
3. Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.
4. Course of Construction insurance form providing coverage for "all risks" of loss.

#### Minimum Limits of Insurance

Contractor shall maintain limits no less than:

1. General Liability: Must be written on an "occurrence" basis; \$5,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
2. Automobile Liability: \$5,000,000 per accident for bodily injury and property damage.
3. Employer's Liability: \$5,000,000 per accident for bodily injury or disease.
4. Course of Construction: Completed value of the project.

#### Deductible and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by the City of Manteca. At the option of the City of Manteca, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City of Manteca, its officers, officials, employees, agents and volunteers or the Contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

#### Other Insurance Provisions

**The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:**

1. The City of Manteca, its officers, officials, employees, agents and volunteers are to be covered as additional insureds as respects: liability arising out of activities performed by or on behalf of the Contractor; products and completed operations of the Contractors; premises owned, occupied or used by the Contractor; or automobiles owned, leased, hired or borrowed by the Contractor. The coverage shall contain no special limitations on the scope of protection afforded to the City of Manteca, its officers, officials, employees, agents or volunteers.
2. For any claims related to this project, the Contractor's insurance coverage shall be primary insurance as respects the City of Manteca, its officers, officials, employees, agents and volunteers. Any

insurance self-insurance maintained by the City of Manteca, its officers, officials, employees, agents or volunteers shall be in excess of the Contractor's insurance and shall not contribute with it.

3. Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to the City of Manteca, its officers, officials, employees, agents or volunteers.
4. The Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
5. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the City of Manteca.

Course of construction policies shall contain the following provisions:

1. The City of Manteca shall be named as loss payee.
2. The insurer shall waive all rights of subrogation against City of Manteca.

#### Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII.

#### Verification of Coverage

Contractor shall furnish the City of Manteca with original endorsements effecting coverage required by this clause. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. The endorsements are to be on forms provided by the City of Manteca. All endorsements are to be received and approved by the City before work commences. As an alternative to the City's forms, the Contractor's insurer may provide complete, certified copies of all required insurance policies, including endorsements effecting the coverage required by these specifications.

#### Subcontractors

Contractor shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

#### Insurance Forms

The City of Manteca will accept the ACORD 25-S Certificate of Liability Insurance Form accompanied by a Commercial General Liability Endorsement Form No. CG 20 10 11 85 and Automobile Liability Endorsement Form. The City will accept the Certificate of Worker's Compensation Insurance Form provided by the "State Compensation Insurance Fund".

Examples of the following forms, accepted by the City are attached.

- Page 8-4 ACORD 25-S Certificate of Liability Insurance
- Page 8-5 General Liability Special Endorsement (Form No. CG 20 10 11 85)
- Page 8-6 Automobile Liability Special Endorsement

**Note: The General Liability and Automobile Liability endorsements must contain the provisions listed in the section above titled "Other Insurance Provisions".**

**Submittal of any forms other than the above listed preapproved forms, failure to submit forms, failure to submit forms with required provisions may delay award of contract until all requirements are met in accordance with this Section.**

# ACORD™ CERTIFICATE OF LIABILITY INSURANCE

DATE(MM/DD/YYYY)

PRODUCER

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

INSURERS AFFORDING COVERAGE	NAIC#
INSURER A:	
INSURER B:	
INSURER C:	
INSURER D:	
INSURER E:	

INSURED

## COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSION AND CONDITIONS OF SUCH POLICIES, AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	ADD'L INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE	POLICY EXPIRATION DATE	LIMITS			
		<b>GENERAL LIABILITY</b> <input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> OCCUR  GENERAL AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC				EACH OCCURANCE	\$		
						DAMAGE TO RENTED PREMISES (EA OCCURANCE)	\$		
						MED EXP (ANY ONE PERSON)	\$		
						PERSONAL & ADV INJURY	\$		
						GENERAL AGGREGATE	\$		
						PRODUCTS - COMP/OP AGG	\$		
		<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS				COMBINED SINGLE LIMIT (Ea accident)	\$		
						BODILY INJURY (Per person)	\$		
						BODILY INJURY (Per accident)	\$		
						PROPERTY DAMAGE (Per accident)	\$		
		<b>GARAGE LIABILITY</b> <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT	\$		
						OTHER THAN AUTO. ONLY: EA ACC	\$		
						AGG	\$		
		<b>EXCESS/UMBRELLA LIABILITY</b> <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE  <input type="checkbox"/> DEDUCTIBLE <input type="checkbox"/> RETENTION \$				EACH OCCURANCE	\$		
						AGGREGATE	\$		
							\$		
							\$		
		<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below				<table border="1"> <tr> <td>WC STATUTORY LIMITS</td> <td>OTH -ER</td> </tr> </table>	WC STATUTORY LIMITS	OTH -ER	
WC STATUTORY LIMITS	OTH -ER								
						E.L. EACH ACCIDENT	\$		
						E.L. DISEASE - EA EMPLOYEE	\$		
						E.L. DISEASE - POLICY LIMIT	\$		
		OTHER							

DESCRIPTION OF OPERATIONS / LOCATION / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

## CERTIFICATE HOLDER

## CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL \_\_\_\_\_ DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

**Policy Number:**

**COMMERCIAL GENERAL LIABILITY**

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**ADDITIONAL INSURED – OWNERS, LESSEES OR  
CONTRACTORS (FORM B)**

This endorsement modifies Insurance provided under the following:

**COMMERCIAL GENERAL LIABILITY COVERAGE PART.**

**SCHEDULE**

Name of Person or Organization:

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

WHO IS AN INSURED (Section II) is amended to include as an insured person or organization shown in the Schedule, but only with respect to liability arising out of "your work" for that insured by or for you.

**CG 20 10 11 85 Copyright, Insurance Services Office, Inc., 1982**

