



REQUEST FOR PROPOSAL

Manteca Transit Bus Stop Improvement Design

Released on Tuesday, July 6, 2010

Proposals Due: 4:00 PM, Tuesday, August 10, 2009

City of Manteca
1001 West Center Street
Manteca, CA 95337
(209) 239-0635

www.ci.manteca.ca.us

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Section 1 General Information

1.1 Introduction

The City of Manteca is issuing this Request for Proposals (RFP) to select a firm for the design of the City's bus stops.

The CITY has prepared a Scope of Work (Appendix A) and an Agreement (Appendix D) that define the scope of services, performance standards, term, compensation mechanism, insurance requirements, and other contractual issues.

The City anticipates work to commence on, or about September 13, 2010 and be completed by December 31, 2010.

The City of Manteca is hereinafter referred to as the "CITY". Those responding to this RFP are hereinafter referred to as the "PROPOSER" or "PROPOSERS".

1.2 Organization of the RFP

The RFP is organized into six (6) sections and includes Appendices A through D.

Section 1 consists of information regarding the introduction and purpose, RFP organization, CITY rights, PROPOSER responsibilities, contact restrictions, consequence of proposal submission, etc.

Section 2 contains background information, including relevant CITY demographics, current services provided and other related information.

Section 3 identifies the procurement schedule and proposal submittal instructions.

Section 4 provides instructions on the required content of the proposals.

Section 5 describes the evaluation process and criteria.

The appendices contain additional information required for proposal preparation, including the Scope of Work, Federal Clauses and Other Requirements, Required Forms, and the Service Agreement.

1.3 CITY'S Rights

The CITY'S rights include, but are not limited to, the following:

- Issuing addenda to the RFP, including extending or revising the time line for submittals.
- Withdrawing, reissuing, or modifying the RFP.
- Requesting clarification and/or additional information from any PROPOSER at any point in the procurement process.

- Executing an Agreement with a PROPOSER on the basis of the original proposal and/or any other information submitted by the PROPOSER during the procurement process.
- Rejecting any or all proposals, waiving irregularities in any proposals, accepting or rejecting all or any part of any proposals, waiving any requirement of the RFP, as may be deemed to be in the best interest of the CITY.
- The CITY may, but is not bound to, commence negotiations with a selected PROPOSER.
- Discontinuing its negotiations after commencing negotiations with a selected PROPOSER, if progress is unsatisfactory in the sole judgment of the CITY, and commencing discussions with another qualified PROPOSER.
- CITY reserves the right to audio and video record any and all live meetings, including conferences and interviews, with potential and actual PROPOSERS and staff during any and all phases of this RFP process. With the exception of open public meetings, all recordings shall be deemed confidential until after the award of the contract by the City Council.

1.4 PROPOSER'S Responsibilities

It is the responsibility of each PROPOSER to:

- Examine this RFP, including all appendices and attachments, thoroughly.
- Become familiar with local conditions that may affect cost, permitting, progress, performance, or services described in this RFP.
- Consider all federal, state and local laws, statutes, ordinances, regulations and other applicable laws that may affect costs, permitting, progress, performance, or services.
- Clarify with the CITY any conflicts, errors, or discrepancies in this RFP in accordance with the deadlines specified herein.
- Agree not to collaborate or discuss with other PROPOSERS the content of the proposal or service fees proposed.
- Prior to submitting a proposal, each PROPOSER will, at his/her own expense, make or obtain any additional examinations, investigations, and studies; and obtain any additional information and data that may affect costs, permitting, progress, performance or furnishing of the project and that PROPOSER deems necessary to determine its proposal.
- Each PROPOSER shall use mail, fax, email or other delivery mechanism at its own risk, and the CITY shall not be obligated to accept or respond to any submission that is delayed due to delivery failures.

1.5 Consequence of Submission of Proposal

The submission of a proposal will constitute a binding representation and warranty by the PROPOSER that the PROPOSER has investigated all aspects of the RFP and its own proposal; that the PROPOSER is aware of the applicable facts pertaining to the RFP process, its procedures and requirement; that the PROPOSER has read and understands the RFP and has complied with every requirement; that without exception the proposal is premised upon performing and furnishing the services required by this RFP and the attached Agreement and such means, methods, techniques, sequences of procedures as may be indicated in or required by this RFP and the Agreement; and that the RFP is sufficient in scope and detail to indicate and convey understanding of all terms and conditions for performance and furnishing of the requested services.

The submission of a proposal shall not be deemed an agreement between the PROPOSER and the CITY. The proposal is a contractual offer by the PROPOSER to perform services in accord with the proposal. Specifically, the following provisions apply:

- The CITY shall not be obligated to respond to any proposal submitted nor be bound in any manner by the submission of a proposal.
- Acceptance of a proposal by the CITY obligates the PROPOSER to enter into any Agreement with the CITY for the performance of the services chosen by the CITY at its sole discretion.
- The Agreement shall not be binding or valid against the CITY unless and until it is executed by the CITY and the selected PROPOSER, and the PROPOSER'S performance bond, insurance, and/or other surety guarantee have been accepted by the CITY.

The proposals received shall become the exclusive property of the CITY. At such time as the Agreement award is recommended to the Manteca City Council, all proposals submitted in response to this RFP shall become a matter of public record and shall be regarded as public records.

1.6 Cost of Submitting Proposals

The cost of investigations, preparing, and submitting a proposal is the sole responsibility of the PROPOSER and shall not be chargeable in any manner to the CITY. The CITY will not reimburse any PROPOSER for any costs associated with the preparation and submission of a proposal, including but not limited to, expenses incurred in making an oral presentation, participating in an interview, or negotiating an Agreement with the CITY.

Section 2 Background

This section includes background information regarding the City's transit services. Please note that the data provided is for informational purposes only. The CITY does not certify the accuracy of the information provided.

2.1 Demographics and Population Growth

The City of Manteca, which constitutes the basic service area, is an urbanized area located in the San Joaquin Valley in the central portion of the State of California. The population of the CITY is approximately 67,500.

The CITY provides public transit services within its city limits, approximately a 16 square mile service area.

2.2 Current Bus Stops

The City of Manteca currently has approximately 80 bus stops, one of which has a shelter. An inventory of the current bus stops (located throughout the City's three bus routes) has been made to analyze locations, to assess the current conditions and indicate desired amenities at each location. The project is for a total of approximately 80 bus stops.

Section 3 Schedule & Submittal Instructions

3.1 Schedule

The CITY intends to adhere to the schedule provided in Table 3-1 for the award of bid for the Design of the Manteca Transit Bus Stops. This schedule may change at the CITY'S sole discretion.

Table 3-1 Procurement Schedule	
Activity	Date
Issue RFP	July 6, 2010
Questions/clarifications submission deadline	July 20, 2010
City response to questions/clarification deadline	July 27, 2010
Proposal submission deadline	August 10, 2010
Interviews (if necessary)	August 18 & 19, 2010
Presentation of staff recommendation to Council and award Agreement	September 7, 2009

3.2 Proposal Submission

Sealed proposals must be received by the Office of the City Clerk at the address below, no later than 4:00 p.m., Tuesday, August 10, 2010.

City of Manteca
Attn: Johanna Ferriera, Project Manager
1001 W. Center St.
Manteca, CA 95337

- **Technical and Price Proposal**

One (1) original and four (4) copies of proposal must be provided to the CITY. Proposals must be sealed and marked "Manteca Transit Bus Stop Improvement Design Proposal". Proposals received after this specified date and time shall be considered late and shall not be considered for award.

3.3 Pre-Proposal Conference

A pre-proposal conference will not be held for this solicitation.

3.4 Written Questions

PROPOSER must submit written questions and requests for clarification or additional information regarding the meaning or intent of the RFP content, its process and enclosures by 4:00 p.m. on July 20, 2010 to:

City of Manteca
Attn: Johanna Ferriera, Project Manager

1001 W. Center St.
Manteca, CA 95337
Fax: (209) 825-2530
Email address: jferriera@ci.manteca.ca.us

The CITY will not respond to questions received after 5:00 p.m., July 20, 2010. The CITY will respond to PROPOSER'S questions in writing no later than 5:00 p.m., July 27, 2010. All communications between the CITY and individual PROPOSERS will be documented and transmitted simultaneously to all PROPOSERS.

3.5 Clarification/Interviews

PROPOSER may be asked to clarify proposal information through writing or interviews. The clarification period will begin when the proposals are submitted. PROPOSER may be required and shall be prepared to attend an interview with the Selection Committee. The CITY may choose, at its sole option, not to interview all PROPOSERS. The CITY may reject any or all proposals submitted, or at its sole discretion, award the Agreement to the best PROPOSER without any interviews.

The interviews, if necessary, are tentatively scheduled for August 18 and 19, 2010. If an interview is requested, the PROPOSER will be advised of the specific time and location of the interview.

3.6 Accuracy in Reporting Requested Information

Information submitted as part of the proposal will be subject to verification. Inaccurate information or information that is misleading will be, at the CITY'S sole discretion grounds for removal of a proposal from further consideration. In the event a PROPOSER is awarded an Agreement as a result of this RFP, any inaccurate or misleading information subsequently discovered by CITY to be a part of the proposal will be, at the CITY'S sole discretion, grounds for PROPOSER'S termination by default under the terms of the Agreement.

Section 4 Proposal Requirements

4.1 Performance Requirement

The PROPOSER will be required, at all times during the terms of the Agreement, to perform all services diligently, carefully, and in a professional manner; and to furnish all labor, supervision, machinery, equipment, material, and supplies necessary therefore, as required under the Agreement. The Contractor shall conduct all work in the Contractor's own name and as an independent contractor and not in the name of, or as an agent for the CITY.

4.2 Content of Technical Proposals

The following items must be included in the PROPOSER'S proposal for it to be considered complete and responsive.

- **Introduction**

A discussion of the general project approach, including the Proposer's interpretation of the scope of work and demonstration of the consultant's understanding of the project requirements.

- **Experience**

A list of the most recent projects for which the Proposer has performed similar services of similar size, scope and complexity. This list shall include the name, contact person, address, and phone number of each party for whom the service was provided, as well as a description of the service performed, the dollar amount of the contract, and the date of performance.

- **Proposed Scope of Work**

A detailed description of the methods by which the Proposer intends to perform the work set forth in the Scope of Services. The description shall include, at a minimum, the following items:

- A performance schedule for all services necessary to complete this Project.
- The proposal should specify the major components and the expected time of completion for each component based on the Scope of Services.

- **Project Personnel**

A list of Proposer's principals, employees, agents, and subconsultants which the proposer anticipates assigning to the Project. This list shall include a summary of the qualifications, licenses, and experience of each individual; the approximate number of hours each will devote to the Project; and the type of work to be performed by each individual.

- **Project Schedule**

A timetable for accomplishing each task outlined in the proposed Scope of Work.

- **Required Certifications**

PROPSER shall sign and complete the following forms:

1. Addendum Receipt
2. Non-Collusion Affidavit for Contractor
3. Certification of Eligibility (Labor Standards)
4. Certification Regarding Debarment, Suspension, and other Responsibility Matters
5. Certification of Restrictions on Lobbying
6. PROPOSER'S Bond
7. RFP Process Integrity Rules
8. Acknowledgement of Best Value Selection Process

4.3 Content of Price Proposal

A price proposal must be submitted in a sealed envelope and marked, "Price Proposal". A total proposed "Not to Exceed" costs of the services, in addition to a standard line item budget consistent with the tasks identified in the Scope of Work. The price proposals should assign time (hours) and costs (by work task), along with percent of time assigned to the project and hourly rates for all project personnel.

4.4 Insurance

PROPOSER at its own expense, shall procure, and maintain for the duration of the Agreement, the following insurance policies and endorsements with insurer licensed in the State of California possessing a Best's rating of no less than A:VII and shall provide evidence of such insurance to CITY as may be required by the Risk Manager of the City. The policies or certificates thereof shall provide that, thirty (30) days prior to cancellation or material change in the policy, notices of same shall be given to the Risk Manager of the City by registered mail, return receipt requested, for all of the following stated insurance policies:

- Worker's Compensation. Worker's Compensation Insurance and Employer's Liability Insurance for employees in accordance with the laws of the State of California (including requiring any authorized subcontractor to obtain such insurance for its employees).
- General Liability policy to provide not less than Ten Million (\$10,000,000) dollars combined single limit bodily injury and property damage per occurrence. Said policy or policies shall include, but not be limited to, coverage for:
 - Commercial general liability including premises and operations, personal injury, blanket contractual, independent contractors, and
 - Commercial automobile liability including owned, hired or leased and non-owned automobiles.

Any combination of primary and umbrella excess policies may be utilized to provide the \$10,000,000 limit. In no case shall the umbrella excess policy coverage be more limited in scope than the primary policy(ies).

- Automobile Physical Damage coverage providing comprehensive and collision coverage for actual cash values cost with maximum deductible of Ten Thousand (\$10,000) dollars per occurrence.
- Policy Endorsements. Each general liability, professional liability and automobile liability insurance policy shall be endorsed with the following specific provisions:
 - The City, its elected or appointed officers, officials, employees, agents and volunteers are to be covered as additional insureds (“The City of Manteca additional insureds”).
 - This policy shall be considered, and include a provision it is, primary as respects the City additional insureds, and shall not include any special limitations to coverage provided to the City additional insureds. Any insurance maintained by the City, including any self-insured retention the City may have shall be considered excess insurance only and shall not contribute with it.
 - This insurance shall act for each insured and additional insured as though a separate policy had been written for each, except with respect to the limits of liability of the insuring company.
 - The insurer waives all rights of subrogation against the City additional insureds.
 - Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the City additional insureds.
 - The insurance policy and endorsements shall not be suspended, voided, canceled or reduced in coverage or in limits except after thirty (30) days written notice has been given to the Risk Manager by registered mail, return receipt requested, at the City Administrative Services Office, 1001 West Center Street, Manteca, CA, 95337.
- Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by the Risk Manager. At the City’s options, CONTRACTOR shall demonstrate financial capability for payment of such deductibles or self-insured retentions.
- Evidence of Insurance. CONTRACTOR shall provide policies and certificates of insurance with original endorsements or other evidence of insurance coverage as required by the Risk Manager. Required evidence of insurance shall be filed with the Risk Manager on or before commencement of performance of this Agreement. Current evidence of insurance shall be kept on file with the Risk Manager at all times during the term of this Agreement. If CONTRACTOR changes or modifies insurance carrier, proof of coverage from the new carrier for the entire contract period, shall be provided to the Risk Manager for approval.
- Unsatisfactory Policies. If at any time any of the policies or endorsements be unsatisfactory as to form or substance, or if an issuing company shall be unsatisfactory, to the Risk Manager, a new policy or endorsement shall be promptly obtained and evidence submitted to the Risk Manager for approval.

- Failure to Comply. Upon failure to comply with any of these insurance requirements, this Agreement may be forthwith declared suspended or terminated. Failure to obtain and/or maintain any required insurance shall not relieve any liability under this Agreement, nor shall the insurance requirements be construed to conflict with or otherwise limit the indemnification obligations.
- Indemnity. PROPOSER agrees to defend, indemnify, and hold harmless the City, its officers, officials, agents, employees, and volunteers, from and against any and all claims, demands, actions, losses, damages, injuries, and liability, direct or indirect (including any and all costs and expenses in connection therewith), arising out of and to the extent caused by Consultant's negligent acts, errors, or omissions in the performance of this Agreement, or Consultant's failure to comply with any of its obligations contained in this Agreement; excluding, however, any claim arising out of the sole negligence or misconduct of the City, its officers, agents, employees, or volunteers.

4.5 Performance Bond

The selected Contractor will be required to procure, at its expense, and keep in effect at all time during the term of the Agreement, a \$20,000 surety bond. Each PROPOSER shall include in its proposal a letter from an admitted surety insurer stating PROPOSER'S ability to be bonded.

4.6 Willingness to Accept Proposed Arrangements

Submission of a proposal constitutes an offer to enter into a binding legal contract with the CITY on all of the terms specified in this RFP (including Appendix A: Scope of Work, Appendix B: Federal Clauses and Requirements, Appendix C: Required Forms, and Appendix D: Agreement for Professional Services).

Section 5 Evaluation and Selection

5.1 Evaluation and Selection Process

Proposals submitted in response to this RFP will be evaluated in accordance with the criteria set forth in Section 5.2 below. The Evaluation Committee shall score the proposals and make a recommendation to the Project Manager as to which PROPOSERS are within the competitive range.

- Interviews may be held by the Project Manager and/or her representatives with PROPOSERS determined to be in the competitive range. The Project Manager and/or their representatives shall have the right to conduct a cost/price analysis, to review and audit all business records and related documents of any and all PROPOSERS (including any affiliate or parent company, partner, or joint venture member) to determine the fairness and reasonableness of the proposal, to contact any and all client references, and to conduct site visits and investigations. An interview and presentation may be required.
- **City Council Makes Final Determination**

After the review and scoring, the Project Manager shall submit a recommendation for award of the Agreement to the City Council. After review and consideration of this recommendation, the City Council shall have the discretion to: 1) award the Agreement to the PROPOSER whose proposal is most advantageous to the CITY, price and other evaluation factors specified in Section 5.2 of this RFP considered, or 2) reject any and all proposals. The City Council is not bound by the recommendation of the Evaluation Committee.

Notwithstanding the above, the CITY reserves the right to make the award under this RFP based upon the initial proposals submitted.

5.2 Evaluation Criteria

Evaluation Criteria	Weight	Criterion Scoring
Experience and past performance with similar work	4	0 – 100
"Not to Exceed" costs and personnel hours allocated to each task	3	0 – 100
Quality of personnel dedicated to this project	3	0 – 100
Ability to perform within the desired project schedule	2	0 – 100

5.3 Notification to Unsuccessful PROPOSERS

Unsuccessful PROPOSERS shall be notified of CITY'S award of the Agreement to the successful PROPOSER within ten (10) working days of said decision.

Appendix A – Scope of Work

The scope of services as set forth in this Request for Proposals, represent an outline of the services which the CITY anticipates the successful proposer to perform, and is presented for the primary purpose of allowing the CITY to compare proposals. The precise scope of services in the Professional Services Agreement shall be negotiated between the CITY and the successful proposer. Rather than present an all-inclusive scope of services for the consultant to perform, interested firms should develop their own specific scope of work following the most up to date industry practices. However as a minimum, the following professional scopes of services are anticipated to be needed, but not limited to:

1. General Project Approach

- 1.1 The Consultant shall design the project to enable the City to advertise construction of several bus stops and shelters at one time (or in phases), subject to availability of funds.

2. Establish Standards and Guidelines

- 2.1 Bus stops must meet federal guidelines as outlined in the Access Board's ADA Accessibility Guideline for Buildings and Facilities (ADAAG 4.0 and 10.0). In addition, curb ramps shall meet the latest Caltrans design.
- 2.2 The project is federally funded and is subject to the requirements set forth in "Contract Provisions for Federal Aid Construction Contracts". The Consultant shall comply with applicable requirements of latest editions of FTA Circular C 4220.1F and FTA Master Agreement FTA MA (16), available at the Federal Transit Administration website http://www.fta.dot.gov/documents/FTA_Circular_4220.1F_-_Finalpub1.pdf and <http://www.fta.dot.gov/documents/16-Master.pdf> In case of conflict between FTA requirements and the specifications, the more stringent requirements shall apply.

3. Review of completed Inventory Database and Site Visit

- 3.1 Kick-off meeting with City Staff. The meeting will address project requirements.
- 3.2 The Consultant shall review the attached Inventory Database report and conduct a site visit of each stop to ensure all requirements are met.

4. Preliminary Design and Cost Estimate

- 4.1 The Consultant shall review all existing conditions, project criteria, Inventory Database and Route Maps. Utilizing the above data, the Consultant will prepare preliminary layouts and cost estimates of each bus stop. The layout shall show the location of accessible pad, nearest access to the bus stop, turnouts, curb ramps, sidewalks, signs and poles, location of benches, bench pads, garbage cans, tree removal, design of relocation of irrigation sprinklers, and relocation/installation of "No Parking" signs and painted curb areas of appropriate color.
- 4.2 The Consultant will prepare design statements of negative declaration in a format that will facilitate the application of grant funding.
- 4.3 Costs shall include estimated cost to acquire land, if necessary, through purchase or lease and recommended structure of agreements.
- 4.4 A bus shelter design has already been approved by City Council and specifications will be given to the successful PROPOSER. Therefore, design will be needed to install the pre-approved bus shelters. The City will determine which bus stops will have a shelter installed.

5. Submittal of the Preliminary Design

- 5.1 The Consultant shall submit the preliminary layouts and design to City staff. The Consultant shall present the layouts at a meeting with staff to address any concerns. City staff will review the layouts in detail.

6. Project Design

- 6.1 Once the City is satisfied with the preliminary layouts and design, the Consultant shall proceed with the design stage. Submittal for the staff review will occur at the 90% and final stage. The Consultant shall submit detailed plans, specifications, and cost estimates at each submittal stage.

7. Construction Assistance

- 7.1 Prepare all construction documents for bidding.
- 7.2 Provide design support during construction, including, but not limited to site visits, submittal review and comment on design clarification on an as needed basis during construction.
- 7.3 All responses for clarification to design elements shall be made within five (5) working days from submittal.

Appendix B – Federal Clauses and Requirements

FLY AMERICA REQUIREMENTS

49 U.S.C. § 40118
41 CFR Part 301-10

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.

ENERGY CONSERVATION REQUIREMENTS

42 U.S.C. 6321 et seq.
49 CFR Part 18

Energy Conservation - 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.

CLEAN WATER REQUIREMENTS

33 U.S.C. 1251

Clean Water - (1) 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.

(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.

LOBBYING

31 U.S.C. 1352
49 CFR Part 19
49 CFR Part 20

Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying

Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 1601, et seq.] -

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.

ACCESS TO RECORDS AND REPORTS

49 U.S.C. 5325
18 CFR 18.36 (i)
49 CFR 633.17

The following access to records requirements apply to this Contract:

1. 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.
 2. 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.
 3. 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).
 4. FTA does not require the inclusion of these requirements in subcontracts.
-

FEDERAL CHANGES
49 CFR Part 18

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.

**CLEAN AIR
42 U.S.C. 7401 et seq
40 CFR 15.61
49 CFR Part 18**

(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.

**RECYCLED PRODUCTS
42 U.S.C. 6962
40 CFR Part 247
Executive Order 12873**

Recovered Materials - 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.

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 or 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 of Manteca 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) of this section.

(4) **Subcontracts** - The contractor or 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.

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.

PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS

**31 U.S.C. 3801 et seq.
49 CFR Part 31 18 U.S.C. 1001
49 U.S.C. 5307**

Program Fraud and False or Fraudulent Statements or 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. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(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.

**Termination
49 U.S.C. Part 18
FTA Circular 4220.1E**

(a) **Termination for Convenience (General Provision)** The City of Manteca may terminate this contract, in whole or in part, at any time by written notice to the Contractor when it is in the Government's best interest. The Contractor shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. The Contractor shall promptly submit its termination claim to the City of Manteca to be paid the Contractor. If the Contractor has any property in its possession belonging to the City of Manteca, the Contractor will account for the same, and dispose of it in the manner the City of Manteca directs.

(b) **Termination for Default [Breach or Cause] (General Provision)** 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 (Recipient) 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 (Recipient) 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 of Default (Cost-Type Contracts)** The (Recipient) may terminate this contract, or any portion of it, by serving a notice or termination on the Contractor. The notice shall state whether the termination is for convenience of the (Recipient) 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 (Recipient), or property supplied to the Contractor by the (Recipient). If the termination is for default, the (Recipient) 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 (Recipient) and the parties shall negotiate the termination settlement to be paid the Contractor.

If the termination is for the convenience of the (Recipient), 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 (Recipient) 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 (Recipient), after setting up a new work schedule, may allow the Contractor to continue work, or treat the termination as a termination for convenience.

GOVERNMENT-WIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)

This contract is a covered transaction for purposes of 49 CFR Part 29. As such, the contractor is required to verify that none of the contractor, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945.

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.

CIVIL RIGHTS REQUIREMENTS 29 U.S.C. § 623, 42 U.S.C. § 2000 42 U.S.C. § 6102, 42 U.S.C. § 12112 42 U.S.C. § 12132, 49 U.S.C. § 5332 29 CFR Part 1630, 41 CFR Parts 60 et seq.

Civil Rights - The following requirements apply to the underlying contract:

(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.

BREACHES AND DISPUTE RESOLUTION

49 CFR Part 18

FTA Circular 4220.1E

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 or 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

**DISADVANTAGED BUSINESS ENTERPRISE (DBE)
49 CFR Part 26**

Disadvantaged Business Enterprises

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.

**INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION TERMS
FTA Circular 4220.1E**

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.

Appendix C – Required Forms

Form A

ADDENDUM RECEIPT

_____ (CONTRACTOR) acknowledges it has received an read the following Addenda:

Addendum # _____

Signature _____

Addendum # _____

Signature _____

Addendum # _____

Signature _____

Addendum # _____

Signature _____

Addendum # _____

Signature _____

Addendum # _____

Signature _____

Signature _____

Date _____

Title _____

Company Name _____

Form B

NON-COLLUSION AFFIDAVIT FOR PROPOSER

STATE OF CALIFORNIA
COUNTY OF _____

_____ declares and says:

1. That he/she is the (owner, partner, representative, or agent) of _____, hereinafter referred to as (CONTRACTOR) or (subcontractor).
2. That he/she is fully informed regarding the preparation and contents of this proposal for certain work in the City of Manteca, State of California.
3. That his/her proposal is genuine and is not collusive or a sham proposal.
4. That any of its officers, owners, agents, representatives, employees, or parties in interest, including this affiliate, has not in any way colluded, conspired, connived or agreed, directly or indirectly, with any other proposer, firm, or person to submit a collusive or sham proposal in connection with such contract or to refrain to submitting a proposal in connection with such contract, or has in any manner, directly or indirectly, sought by unlawful Contract or connivance with any other proposer, firm, or person to fix the price or prices in said proposal, or to secure through collusion, conspiracy, connivance, or unlawful Contract any advantage against the City of Vallejo or any person interested in the proposed contract; and,
5. That the price or prices quoted in the proposal are fair and proper and are not tainted by any collusion, conspiracy, connivance, or unlawful Contract on the part of the proposer or any of its agents, owners, representatives, employees, or parties in interest, including this affiliate.

I certify (or declare) under penalty of perjury, that the foregoing is true and correct.

Dated this _____ day of _____, 200__, at _____, California.

Signed: _____

Title: _____

Form C

CERTIFICATION OF ELIGIBILITY (LABOR STANDARDS)

The _____ (Name of Proposer) hereby certifies that it is not included on the United States Comptroller General's Consolidated List of Persons or Firms currently Debarred for Violations of Various Public Contracts Incorporating Labor Standard Provisions.

Signed _____

Title _____

Date _____

Form D

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

1. By signing and submitting this bid or proposal, the prospective lower tier participant is providing the signed certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, City of Manteca may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to City of Manteca if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "persons," "lower tier covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549 [49 CFR Part 29]. You may contact City of Manteca for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized in writing by City of Manteca.
6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction", without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List issued by U.S. General Service Administration.
8. Nothing contained in the foregoing shall be construed to require establishment of system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

Debarment, Suspension, and Other Responsibility Matters
Page 2

9. Except for transactions authorized under Paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to all remedies available to the Federal Government, City of Manteca may pursue available remedies including suspension and/or debarment.
10. The prospective lower tier participant certifies, by submission of this bid or proposal, that neither it nor its "principals" [as defined at 49 C.F.R. § 29.105(p)] is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
11. When the prospective lower tier participant is unable to certify to the statements in this certification, such prospective participant shall attach an explanation to this proposal.

I certify (or declare) under penalty of perjury, that the foregoing is true and correct.

SIGNATURE _____ DATE _____

TITLE _____ COMPANY NAME _____

Form E

CERTIFICATION OF RESTRICTIONS ON LOBBYING

I, _____, hereby certify on behalf of
_____, that:

1. No Federal appropriated funds have been paid or will be paid, by on or behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative Contract, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan or cooperative Contract.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative Contract, the undersigned shall complete and submit Standard Form LLL--Disclosure Form to Report Lobbying, in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all sub awards at all tiers (including sub grants, loans, and cooperative Contracts) which exceed \$100,000, and that all such 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.

Executed this _____ day of _____, of 200__.

Signature of Authorized Official _____

Title of Authorized Official _____

Form F

RFP Process Integrity Rules

The CITY pledge is for the procurement process for public transit operations services to be open, objective, carefully monitored, and understandable to all. The following rules will be adhered to and enforced.

BEGINNING ON THE DATE OF THE ISSUANCE OF THE RFP FOR PUBLIC TRANSIT OPERATIONS SERVICES, AND ENDING ON THE DATE OF THE AWARD OF AGREEMENT FOR PUBLIC TRANSIT OPERATIONS SERVICES, ALL COMMUNICATION INITIATED BY PROPOSERS OR REPRESENTATIVES OF PROPOSERS AND THE CITY SHALL BE THROUGH JOHANNA FERRIERA OF THE FINANCE DEPARTMENT AND SHALL BE IN WRITING (BY FAX, EMAIL OR LETTER). THE CONTACT INFORMATION IS AS FOLLOWS:

City of Manteca
Finance Department
Attn: Johanna Ferriera, Project Manager
1001 W. Center St.
Manteca, CA 95337
Email: jferriera@ci.manteca.ca.us
Fax: (209) 825-2530

ANY ATTEMPT TO CONTACT OR INTERACT WITH ANY ELECTED OR APPOINTED OFFICIAL FOR THE PURPOSE OF INFLUENCING THE SELECTION PROCESS WILL RESULT IN DISQUALIFICATION FROM THE SELECTION PROCESS.

ALL COMMUNICATIONS BETWEEN THE CITY AND INDIVIDUAL PROPOSERS WILL BE DOCUMENTED AND MAY BE TRANSMITTED SIMULTANEOUSLY TO ALL PROPOSERS.

ANY PROPOSER WHO FAILS TO RECOGNIZE OR UTILIZE THIS PROCESS OF COMMUNICATION WILL BE NOTIFIED OF ITS VIOLATION AND MAY BE SUBJECT TO DISQUALIFICATION.

PROPOSER must acknowledge and sign this statement as part of the RFP process. PROPOSER must return a signed copy of this statement with the RFP submittal.

On behalf of the entity I am authorized to represent, I understand and accept the rules established as set forth above.

Company Name: _____

Date: _____

Company Representative: _____

Title: _____

Form G

ACKNOWLEDGEMENT OF “BEST VALUE” SELECTION PROCESS

PROPOSER hereby acknowledges that the selection process under this RFP will evaluate Proposals on a “Best Value” basis, which the Federal Transit Administration’s (FTA) Best Practices Manual defines as follows:

“Best Value” is a selection process in which proposals contain both price and qualitative components, and award is based upon a combination of price and qualitative considerations. Qualitative considerations may include technical design, technical approach, quality of proposed personnel, and/or management plan. The award selection is based upon consideration of a combination of technical and price factors to determine (or derive) the offer deemed most advantageous and of the greatest value to the procuring agency.

As a result, PROPOSER further acknowledges that pricing will not be the sole basis upon which Proposals are evaluated.

An individual authorized to bind the PROPOSER to this Agreement must sign below acknowledging and understanding of the foregoing.

Signature _____

Name _____

Title _____

Date _____

Company Name _____



AGREEMENT FOR PROFESSIONAL SERVICES

This Agreement is made and entered into this ____ day of _____, 200_, by and between the **CITY OF MANTECA**, a public body, corporate and politic ("City") and _____, a _____ corporation ("Consultant").

RECITALS

- A. Consultant is specially trained, experienced, and competent to perform the professional services required by this Agreement.
- B. Consultant possesses the skill, experience, ability, background, certification, and knowledge to provide the services described in this Agreement on the terms and conditions specified herein.
- C. City desires to retain Consultant to render the professional services set forth in this Agreement.

AGREEMENT

1. Scope of Services. Consultant shall perform the _____ services described in the attached Exhibit A that is incorporated by this reference, and pursuant to the Proposal submitted by Consultant dated _____, and attached hereto as Exhibit B. Consultant shall provide these services at the time, place, and in the manner specified in Exhibit A, subject to the direction of the City through its staff that may be provided from time to time. Performance of the _____ services is sometimes referred to herein as “the Project.”
2. Work Through City Staff. Consultant shall perform its services pursuant to this Agreement solely through City staff. No communications, information or documentations shall be made directly to any applicant to the City without the prior written consent of the City. This shall not apply to the sole request of information or clarification of information by Consultant from the applicant. All requests shall be noted to City in an expeditious manner.
3. Time of Performance. Consultant’s services will commence upon execution of this Agreement and shall be completed in accordance with the Schedule of Activities, attached hereto as Exhibit C. All work shall be completed no later than _____. Failure to submit work products in accordance with the Schedule of Activities may result in the City withholding progress payments. Repeated failure to complete work products in accordance with the Schedule of Activities may result in a reduction of the total compensation provided for in Section 4 herein.
4. Compensation. Without additional authorization from the City, compensation to be paid to Consultant shall not exceed _____ DOLLARS (\$_____). Payment by

City under this Agreement shall not be deemed a waiver of any defects, even if those defects were known to the City at the time of payment.

5. Method of Payment. Consultant shall submit monthly billings to City specifying and describing the work performed during the preceding month. Consultant's bills shall include a brief description of the services performed, the date the services were performed, the number of hours expended and by whom, and a description of any reimbursable expenditures. City shall retain ten percent (10%) of each invoiced amount as retention against satisfactory completion of this Agreement. One-half (1/2) of the retained amount shall be paid upon completion of the Draft final report. The balance of the retained amount shall be paid upon successful completion of the project.

City shall pay Consultant no later than 30 days after approval of the monthly invoice by City staff. Payments may be delayed by City if Consultant fails to provide services in accordance with the Schedule of Activities, unless the City has provided prior written consent to any delay in the schedule.

6. Extra Work. At any time during the term of this Agreement, City may request that Consultant perform Extra Work. As used herein, the term "Extra Work" means any work that is determined by City to be necessary for the proper completion of the Project, but which the parties did not reasonably anticipate would be necessary at the time of execution of this Agreement. Consultant shall not perform, nor be compensated for, Extra Work without the City's prior written authorization.

7. Termination. This Agreement may be terminated by the City immediately for cause, or by either party without cause upon 15 days' prior written notice of termination. Upon termination, Consultant shall be entitled to compensation for services performed up to the effective date of termination upon submittal of an invoice for same.

8. Ownership of Documents; Confidentiality.

A. All plans, studies, documents, and other writings prepared by and for Consultant, its officers, employees, agents, and subcontractors in the course of implementing this Agreement, except working notes and internal documents, shall become the property of City upon payment to Consultant for such work. City shall have the sole right to use such materials in its discretion without further compensation to Consultant or to any other party. Consultant shall, at Consultant's expense, provide such reports, plans, studies, documents and other writings to City upon written request by City. Consultant shall not be responsible for any unauthorized modification or use of such information for other than its intended purpose.

B. All memoranda, specifications, plans, procedures, drawings, descriptions, computer program data, input record data, written information, and other documents and data, either created by or provided to Consultant in connection with the performance of this Agreement, shall be held confidential by Consultant. These materials shall not, without the City's prior written consent, be used by Consultant for any purposes other than the performance of the services under this Agreement. Nor shall these materials be disclosed to any person or entity not connected with the performance of services under this Agreement. Nothing furnished

to Consultant that is otherwise known to Consultant, or is generally known, or has become known to the related profession shall be deemed confidential. Consultant shall not use City's name or insignia, photographs relating to the Project for which Consultant's services are rendered, or any publicity pertaining to the Consultant's services under this Agreement in any magazine, trade paper, newspaper, television or radio production, or other similar medium without the City's prior written consent.

9. Consultant's Books and Records.

A. Consultant shall maintain all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services, or expenditures and disbursements charged to City, for a minimum period of three years, or for any longer period required by law, from the date of final payment to Consultant under this Agreement.

B. Consultant shall maintain all records that document performance under this Agreement for a minimum period of three years, or for any longer period required by law, from the date of termination or completion of this Agreement.

C. Any records or documents required to be maintained pursuant to this Agreement shall be made available for inspection or audit at any time during regular business hours, upon written request by the City Manager, City Attorney, City Auditor, or a designated representative of any of these officers. Copies of such documents shall be provided to City for inspection at City Hall when it is practical to do so. Otherwise, unless an alternative is mutually agreed upon, the records shall be available at Consultant's address specified in Section 16 of this Agreement.

D. Where City has reason to believe that records or documents may be lost or discarded due to the dissolution or termination of Consultant's business, City may, by written request, require that custody of the records be given to the City and that the records and documents be maintained in City Hall. Access to these records and documents shall be granted to any party authorized by Consultant, Consultant's representatives, or Consultant's successor-in-interest.

10. Independent Contractor. In the performance of the work and services required by this Agreement, Consultant shall act as and be an independent contractor and not an agent, or employee of the City. Consultant shall obtain no rights to retirement or other benefits that accrue to City's employees, and Consultant expressly waives any claim it may have to any such rights.

11. Interest of Consultant.

A. Consultant represents that neither it nor any employee has any investment or interest in real property, and shall not acquire any such interest, direct or indirect, within the area covered by this Agreement, or any other source of income, interest in real property, or investment that would be affected in any manner or degree by the performance of Consultant's services hereunder. Consultant further represents that, in the performance of its duties hereunder, no person having any such interest shall perform any services under this Agreement.

B. Consultant is not a designated employee within the meaning of the Political Reform Act because Consultant:

- (1) will conduct research and arrive at conclusions with respect to its rendition of information, advice, recommendation, or counsel independent of the control and direction of the City, or of any City official, other than normal Agreement monitoring; and
- (2) possesses no authority with respect to any City decision beyond the rendition of information, advice, recommendation, or counsel. (FPPC Reg. 18700(a)(2).)

12. Professional Ability of Consultant.

A. City is relying upon the professional training and ability of Consultant to perform the services hereunder as a material inducement to enter into this Agreement. Consultant shall therefore provide skilled professional and technical personnel to perform all services under this Agreement. All work performed by Consultant shall be in accordance with applicable legal requirements and shall meet the standard of quality ordinarily to be expected of competent professionals in Consultant's field of expertise.

B. The primary provider of the services required by this Agreement shall be _____. A list of other individuals assigned to the Project will be provided to City for its review and approval, and these individuals shall not be replaced without the City's prior written consent.

13. Compliance with Laws. Consultant shall use the customary standard of care in its profession to comply with all applicable federal, state, and local statutes, codes, ordinances, and regulations.

14. Licenses. Consultant represents and warrants to City that it has all licenses, permits, qualifications, insurance, and approvals that are legally required of Consultant to practice its profession. Consultant represents and warrants to City that Consultant shall, at its sole cost and expense, keep in effect or obtain at all times during the term of this Agreement, any licenses, permits, insurance, and approvals that are legally required of Consultant to practice its profession.

15. Indemnity. Consultant agrees to defend, indemnify, and hold harmless the City, its officers, officials, agents, employees, and volunteers, from and against any and all claims, demands, actions, losses, damages, injuries, and liability, direct or indirect (including any and all costs and expenses in connection therewith), arising out of and to the extent caused by Consultant's negligent acts, errors, or omissions in the performance of this Agreement, or Consultant's failure to comply with any of its obligations contained in this Agreement; excluding, however, any claim arising out of the sole negligence or misconduct of the City, its officers, agents, employees, or volunteers.

16. Insurance Requirements.

A. Consultant shall, at its own cost and expense, procure and maintain, for the duration of this Agreement, the following insurance policies:

- (1) Workers' Compensation Coverage. Consultant shall maintain Workers' Compensation Insurance and Employer's Liability Insurance for its employees in accordance with the laws of the State of California. In addition, Consultant shall require each subcontractor to similarly maintain Workers' Compensation Insurance and Employer's Liability Insurance in accordance with the laws of the State of California for all of the subcontractor's employees. Any notice of cancellation or non-renewal of Workers' Compensation policies must be received by City at least 30 days prior to such change. The insurer shall agree to waive all rights of subrogation against City, its officers, agents, employees and volunteers for losses arising from work performed by Consultant for City.
- (2) General Liability Coverage. Consultant shall maintain commercial general liability insurance in an amount not less than two million dollars (\$2,000,000) per occurrence for bodily injury, personal injury and property damage. If a commercial general liability insurance form or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the work to be performed under this Agreement or the general aggregate limit shall be at least twice the required occurrence limit.
- (3) Automobile Liability Coverage. Consultant shall maintain automobile liability insurance covering bodily injury and property damage for all activities of Consultant arising out of or in connection with the work to be performed under this Agreement, including coverage for owned, hired and non-owned vehicles, in an amount of not less than one million dollars (\$1,000,000) combined single limit for each occurrence.
- (4) Professional Liability Coverage. Consultant shall maintain professional errors and omissions liability insurance for protection against claims alleging negligent acts, errors, or omissions that may arise from Consultant's operations under this Agreement, whether such operations be by Consultant or by its employees, subcontractors, or subconsultants. The amount of this insurance shall not be less than one million dollars (\$1,000,000) on a claims-made annual aggregate basis, or a combined single limit per occurrence basis.

B. Endorsements. Each general liability and automobile liability insurance policy shall be with insurers possessing an A.M. Best's rating of no less than A:VII and shall be endorsed with language substantially as follows:

- (1) The City, its elected and appointed officers, officials, employees, agents and volunteers are to be covered as additional insureds with respect to liability arising out of work performed by or on behalf of the Consultant, including materials, parts, or equipment furnished in connection with such work.
- (2) The policy shall be considered primary insurance as respects the City, its elected and appointed officers, officials, employees, agents and volunteers. Any insurance maintained by the City, including any self-insured retention the City may have, shall be considered excess insurance only and shall not contribute with it.
- (3) The insurance shall apply to each insured and additional insured as though a separate policy had been written for each, except with respect to the limits of liability of the insuring company.
- (4) The insurer waives all rights of subrogation against the City, its elected and appointed officers, officials, employees, and agents.
- (5) Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the City, its elected and appointed officers, officials, employees, agents, or volunteers.
- (6) The insurance provided by the policy shall not be suspended, voided, canceled, or reduced in coverage or in limits except after 30 days written notice has been received by the City.

C. Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by the City. At the City's option, Consultant shall demonstrate financial capability for payment of those deductibles or self-insured retentions.

D. Certificates of Insurance. Consultant shall provide to City certificates of insurance with original endorsements as evidence of the required insurance coverage. Certificates of insurance shall be filed with the City on or before commencement of performance of this Agreement. Current certification of insurance shall be kept on file with the City at all times during the term of this Agreement.

17. Notices. Any notice required to be given under this Agreement shall be in writing and either served personally or sent prepaid, first class mail. Any such notice shall be addressed to the other party at the address set forth below. Notice shall be deemed communicated within 48 hours from the time of mailing if mailed as provided in this section.

If to City:	City of Manteca 1001 W. Center Street Manteca, CA 95337 Attention: _____
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If to Consultant: _____

Attention: _____

18. Entire Agreement. This Agreement constitutes the complete and exclusive statement of Agreement between the City and Consultant. All prior written and oral communications, including correspondence, drafts, memoranda, and representations, are superseded in their entirety by this Agreement.

19. Amendments. This Agreement may be amended only by a written document executed by both Consultant and City and approved as to form by the City Attorney.

20. Assignment and Subcontracting. The parties recognize that a substantial inducement to City for entering into this Agreement is the professional reputation, experience, and competence of Consultant. Assignments of any or all rights, duties, or obligations of the Consultant under this Agreement will be permitted only with the express written consent of the City. Consultant shall not subcontract any portion of the work to be performed under this Agreement without the written authorization of the City. If City consents to such subcontract, Consultant shall be fully responsible to City for all acts or omissions of the subcontractor. Nothing in this Agreement shall create any contractual relationship between City and subcontractor nor shall it create any obligation on the part of the City to pay any monies due to any such subcontractor other than as may be required by law.

21. Waiver. Waiver of any breach or default under this Agreement shall not constitute a continuing waiver of a subsequent breach or default of the same or any other provision under this Agreement.

22. Severability. If any provision of this Agreement is held to be invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions of this Agreement shall continue in full force and effect.

23. Controlling Law; Venue. This Agreement and all matters relating to it shall be governed by the laws of the State of California, and any legal action relating to this Agreement shall be brought in a state or federal court in the County of San Joaquin.

24. Litigation Expenses and Attorneys' Fees. If either party to this Agreement commences any legal action against the other party arising out of this Agreement, the prevailing party shall be entitled to recover its reasonable litigation expenses, including court costs, expert witness fees, discovery expenses, and attorneys' fees.

25. Mediation. The parties agree to make a good faith attempt to resolve any disputes arising out of this Agreement through mediation prior to commencing litigation. The parties shall mutually agree upon the mediator and shall divide the costs of mediation equally. If the parties are unable to agree upon a mediator, the dispute shall be submitted to JAMS/ENDISPUTE ("JAMS") or its successor in interest. JAMS shall provide the parties with the names of five qualified mediators. Each party shall have the option to strike two of the five

mediators selected by JAMS, and thereafter the mediator remaining shall hear the dispute. If the dispute remains unresolved after mediation, either party may commence litigation.

26. Execution. This Agreement may be executed in several counterparts, each of which shall constitute one and the same instrument and shall become binding upon the parties when at least one copy has been signed by both parties.

27. Authority to Enter Agreement. Consultant warrants that it has all requisite power and authority to conduct its business and to execute, deliver, and perform this Agreement. Each party warrants to the other that the signatories to this Agreement have the legal power, right, and authority to enter into this Agreement and to bind each party.

28. Prohibited Interests.

A. Consultant warrants that it has not employed or retained any person, other than a bona fide employee working solely for Consultant, to solicit or secure this Agreement. Further, Consultant warrants that it has neither paid nor agreed to pay any person, other than a bona fide employee working solely for Consultant, any fee, commission, percentage, brokerage fee, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. For any breach or violation of this warranty, City shall have the right to rescind this Agreement without liability.

B. For the term of this Agreement, no member, officer, or employee of City, during the period of his or her service with City, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

29. Equal Opportunity Employment. Consultant represents that it is an equal opportunity employer, and it shall not discriminate against any subcontractor, employee, or applicant for employment because of race, religion, color, national origin, handicap, ancestry, sex, or age. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination. Consultant shall comply with all relevant provisions of City's Minority Business Enterprise program, Affirmative Action Plan, or other related programs or guidelines currently in effect or later enacted.

30. Precedence. In case of conflict between Consultant's Proposal dated ____ and this Agreement (which includes Exhibit A and Exhibit C) this Agreement and its exhibits shall take precedence over Consultant's proposal.

This Space Purposely Left Blank

TO EFFECTUATE THIS AGREEMENT, each of the parties has caused this Agreement to be executed by its duly authorized representative as of the date set forth in the introductory paragraph on page 1 above.

CITY OF MANTECA,
a public body, corporate and politic

CONSULTANT:

a _____ corporation

By: _____
Name: _____
Title: Mayor

By: _____
Name: _____
Title: _____

ATTEST:

_____, City Clerk

APPROVED AS TO FORM:

City Attorney