



Request For Proposal

for

Janitorial Services for  
Manteca Transit Center

RFP Issue Date: **Tuesday, February 26, 2020**

PROPOSALS DUE:  
**5:00 P.M. Tuesday, March 24, 2020**

City of Manteca Public Works Department  
1001 W. Center Street  
Manteca, CA 95337  
[www.MantecaTransit.com](http://www.MantecaTransit.com)

**City of Manteca**  
**Request for Proposal**  
**Janitorial Services for Manteca Transit Center**

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## SECTION I

### Introduction

The City of Manteca will be accepting proposals from experienced and qualified Janitorial Contractors to provide custodial and cleaning services at the Manteca Transit Center located at 220 Moffat Boulevard in the City of Manteca. It is the intent of the City of Manteca (hereinafter referred to as "City") to contract for said cleaning services from a qualified contractor for a term of three (3) years, with two (2) one-year.

#### A. SUMMARY SCOPE OF WORK

Proposals shall include all labor, supervision, appropriate equipment, necessary materials, and all other equipment/materials/supplies not specifically provided by the City to clean and maintain the total square footage of the building office areas, including restroom, entrances, hallways, meeting rooms, and other institutional office space in accordance with schedule outlined in this RFP. It shall be understood that, in addition to these services, all tasks incidental to cleaning functions not specifically listed, but normally included in general janitorial practices, also be provided.

#### B. LOCATION OF WORK TO BE PERFORMED

The Manteca Transit Center is an approximately 9,600 square foot building, with 8,800 square feet of floor space, located on the corner of Main Street and Moffat Boulevard in central Manteca at 220 Moffat Blvd. The building is occupied by the City's transit contractors whose normal operating hours are from 5:00 am to 7:30 pm Monday through Friday and 8:00 am to 4:30 pm Saturdays. The building is open to the public from 8:00 am to 5:00 pm Monday through Friday, and 8:00 am to 4:00 pm Saturday. The Transit Center is divided into two parts: a transit administrative side with offices, restrooms, break room and conference room; and a public rental side with community rooms, industrial kitchen, restrooms and storage room.

The community rooms are approximately 3,648 square feet (1,827 sq. ft. carpeted and 1,821 sq. ft. of wood flooring). The kitchen is approximately 713 square feet, and the lobby and hallway are comprised of 1,445 square feet of stained, polished concrete.

#### C. PROJECT INQUIRIES

Any inquiries or requests regarding this procurement shall be submitted in writing to the designated Transit Supervisor listed below. Inquiries and requests made to other City staff will not be responded to. All responses will be in writing and will be distributed to all potential Proposers who receive a copy of this Request for Proposal. The designated contact is:

Juan Portillo, Transit Supervisor  
City of Manteca Finance Department  
1001 W. Center Street, Manteca, CA 95337  
(209) 456-8775  
[jportillo@ci.manteca.ca.us](mailto:jportillo@ci.manteca.ca.us)

## **DEFINITION OF TERMINOLOGY**

This paragraph contains definitions that may be used throughout this Request for Proposal (RFP), including appropriate abbreviations:

1. **“AGREEMENT”** shall mean a duly executed and legally binding contract.
2. **“BUSINESS HOURS”** means 8:00 AM through 5:00 PM Pacific Standard Time.
3. **“CITY”** means City of Manteca, its officers, employees and City Council.
4. **“MINOR TECHNICAL IRREGULARITIES”** means anything in the proposal that does not affect the price, quality and quantity or any other mandatory requirement.
5. **“NOTICE OF AWARD”** shall mean a formal written notice of award of a contract to the Proposer by the City.
6. **“PROCUREMENT”** means the securing or purchase of services described in this RFP.
7. **“PROPOSER”** means any person, firm, business, corporation, or partnership that chooses to submit a proposal.
8. **“REQUEST FOR PROPOSAL”** or **“RFP”** means all documents, including those attached in the Appendices or incorporated by reference, used for soliciting proposals.
9. **“RESPONSIBLE PROPOSER”** means a Proposer who submits a responsive proposal and who has furnished, when required, information and data to prove that his/her financial resources, production or service facilities, personnel, service reputation and experience are adequate to make satisfactory delivery of the services described in the proposal.
10. **“RESPONSIVE PROPOSER”** or **“RESPONSIVE PROPOSAL”** means an offer or proposal, which conforms in all material respects to the requirements set forth in this RFP.

## **SECTION II**

### **Conditions Governing the Procurement**

This section outlines and describes the sequence of events and tentative schedule established for this RFP process. The City reserves the right to modify this schedule if it is in the best interest of the City to do so. All parties known to have received this RFP will be notified of any significant changes made to the sequence of events and schedule.

#### **A. SEQUENCE OF EVENTS**

	<b>Event/Action</b>	<b>Responsibility</b>	<b>Date</b>
1.	Release of RFP Document	City	February 26, 2020
2.	Pre-Proposal Meeting and Site Visit	City and Proposer	9:00 am – 10:00 am March 6, 2020
3.	Deadline to Submit Written Questions	Proposer	5:00 pm March 10, 2020
4.	Issue Written Response (Addenda) to Questions	City	March 17, 2020
5.	Submission of Proposal	Proposer	5:00 pm: March 24, 2020
6.	Proposal Review and Evaluation	City	March 30, 2020
7.	Notice of Award/Contract Documents	City	April 6, 2020
8.	Protest Deadline	Proposer	15 Days after Notice of Award
9.	Contract Work to Begin	City and Proposer	Tentatively May 1, 2020

**B. EXPLANATION OF EVENTS**

1. Release of RFP Document

This RFP is released for distribution on **Tuesday, February 26, 2020** by the City in accordance with the provisions of the City's Procurement Policy. The City Finance Department is the only organization authorized to make copies and/or distribute this RFP in any format. A distribution list of those who receive this RFP will be maintained throughout the procurement process and will become part of the procurement file.

2. Pre-Proposal Meeting and Site Visit

A Pre-proposal meeting and site visit will be held on **Friday, March 6 at 9:00 a.m.** Pacific Standard Time at the Manteca Transit Center, 220 Moffat Blvd., Manteca, CA 95337. Attendance at the pre-proposal meeting is not required for submission of a proposal, but is highly recommended. A tour of the facility will be conducted to provide proposers with a better understanding of the building layout and design as it relates to the services being requested.

3. Deadline to Submit Written Questions

Potential Proposers may submit questions in writing to the Transit Supervisor listed in Section I.C until **5:00 pm on Tuesday, March 10, 2020**. Questions shall be clearly labeled and shall cite the Section(s) and Item(s) in the RFP. All responses to written questions will be distributed via e-mail to the Proposer distribution list. Include the e-mail address for the individual appointed to receive responses to the questions. The identity of the organization submitting the question(s) will not be revealed. Additional written questions may be submitted at the Pre-Proposal Conference.

4. Issue Written Response to Questions

Written responses to written questions will be distributed on **Tuesday, March 17, 2020** to all potential Proposers whose organization name appears on the procurement distribution list. Responses will also be posted on the City's website at: [www.MantecaTransit.com](http://www.MantecaTransit.com).

5. Submission of Proposal

**PROPOSALS MUST BE HAND DELIVERED OR MAILED IN A SEALED ENVELOPE AND CLEARLY MARKED AS "RFP – JANITORIAL SERVICES" AND MUST BE RECEIVED BY THE TRANSIT SUPERVISOR OR DESIGNEE BY 5:00 P.M. LOCAL TIME TUESDAY, MARCH 24, 2020. Proposals received late or submitted by FAX or any other electronic method will not be accepted.** Each PROPOSER must submit one (1) original signed copy and three (3) duplicate copies of the complete proposal to:

CITY OF MANTECA Finance Department  
Juan Portillo, Transit Supervisor  
1001 W. Center Street  
Manteca, CA 95337

Price Proposals must be submitted on the PRICE PROPOSAL FORM provided. All prices and notations must be in ink or typewritten. Mistakes may be crossed out and corrections typed or written with ink adjacent thereto; and all corrections must be initialed in ink by the person signing the PROPOSAL FORM.

6. Proposal Review and Evaluation

The City will examine all proposals to ascertain responsiveness and responsibility to the provisions of this RFP. A proposal that does not contain the items specified herein shall be considered non-responsive and such proposal shall be rejected. Determination of Proposer responsibility shall be based upon evidence of adequate financial and technical capacity to undertake the project and satisfactory performance in previous contracts. The Transit Supervisor, or designee, may initiate discussions with Proposers who submit responsive or potentially responsive proposals for clarifying aspects of the proposal. However, proposals may be accepted and evaluated without such discussion. Discussions **SHALL NOT** be initiated by the Proposers.

7. Notice of Award/Contract Documents

The contract for Janitorial Services at the Manteca Transit Center will be executed as soon as practical after contract award is approved by City Manager. The Transit Supervisor or designee will notify successful proposer in writing after the contract is approved.

8. Protest Deadline

Any protest by a Proposer must be written and must contain the name and address of the protestant, the name of this RFP solicitation, and a statement of grounds for protest, including supporting exhibits, if applicable. The fifteen (15) day protest period for responsive Proposers shall begin on the day following the contract award and will end at 5:00 p.m. Standard Pacific Time on the 15<sup>th</sup> day. Protests received after this date will not be accepted. The protest must be addressed and delivered to:

CITY OF MANTECA Public Works Department  
Juan Portillo, Transit Supervisor  
1001 W. Center Street  
Manteca, CA 95337

9. Contract Work to Begin

Upon full execution of contract documents and verification of required licenses and certificates, the City and successful contractor shall work cooperatively to establish a start date and time that is mutually beneficial to both parties. It is the City's intent to enter into a contract with contractor for a term of three (3) years.

**C. GENERAL REQUIREMENTS**

The General Requirements section contains specific information about the process, general conditions and instructions that govern this procurement.

1. Acceptance of Conditions Governing the Procurement – Potential Proposers must indicate their acceptance of the Conditions Governing the Procurement section in the letter of transmittal.
2. Incurring Cost - Any costs incurred by the Proposer in preparation, transmittal, or presentation of any proposal or material submitted in response to this RFP shall be borne solely by the Proposer.
3. Prime Contractor Responsibility - Any contractual agreement that may result from this RFP shall specify that the prime contractor is solely responsible for fulfillment of all requirements of the contractual agreement with City.
4. Subcontractors/Consent – The use of subcontractors under certain circumstances will be permitted. The prime contractor shall be wholly responsible for the entire performance of the contractual agreement, whether or not subcontractors are used. Additionally, the prime contractor must receive approval in writing from the City before any subcontractor is used during the term of this agreement.
5. Amended Proposals - A Proposer may submit an amended proposal before the deadline for receipt of proposals. Such amended proposal must be complete replacements for a previously submitted proposal and must be clearly identified as such in the transmittal letter. City staff will not collate or assemble proposal materials.
6. Right to Reject Proposal – The City reserves the right to reject a proposal from any Proposer who has previously failed to perform properly, has caused the City to incur unreasonable costs or expense, failed to complete on time an agreement of a similar nature, or who is not in a position to perform the work outlined in this RFP.
7. Proposers Right to Withdraw Proposal – Proposer will be allowed to withdraw their proposal at any time, prior to the deadline for receipt of proposals. The Proposer must submit a written withdrawal request signed by the Proposer's duly authorized

representative and addressed to the Transit Supervisor previously listed in this RFP. The approval or denial of withdrawal requests received after the deadline for receipt of the proposals is at the discretion of the Transit Supervisor or designee.

8. Disclosure of Proposal Contents - Proposals will be kept confidential until award process is completed by the City. At that time, all proposals and documents pertaining to the proposals will be available to the public, except for material that is clearly marked proprietary or confidential. The City will not disclose or make public any pages of a proposal on which the potential Proposer has stamped or imprinted "proprietary" or "confidential," subject to the following requirements:
  - a. Proprietary or confidential data shall be readily separable from the proposal in order to facilitate eventual public inspection of the non-confidential portion of the proposal. Confidential data is restricted to:
    - i. confidential financial information concerning the Proposer's organization;
    - ii. data that qualifies as a trade secret in accordance with the Uniform Trade Act;
  - b. If a request is received for disclosure of data for which a Proposer has made a written request for confidentiality, the CITY shall examine the Proposer's request and make a written determination that specifies which portions of the proposal should be disclosed. Unless the Proposer takes legal action to prevent the disclosure, the proposal will be so disclosed. The proposal shall be open to public inspection subject to any continuing prohibition on the disclosure of confidential data.
  - c. PLEASE NOTE: The cost of services proposed shall not be designated as proprietary or confidential information.
9. No Obligation – This RFP in no manner obligates the CITY to the use of any Proposer's services until a valid written contract is awarded and approved.
10. Termination – This RFP may be canceled at any time and any and all proposals may be rejected in whole or in part when such action is deemed in the best interest of the City.
11. Legal Review – The CITY requires that all Proposers agree to be bound by the General Requirements contained in this RFP. Any Proposer's objections must be promptly submitted in writing to the attention of the Transit Supervisor.
12. Proposer Qualifications - The City may make such investigations as necessary to determine the ability of the Proposer to adhere to the requirements specified within this RFP. The City will reject the proposal of any Proposer who is not a responsible Proposer or fails to submit a responsive offer as defined in Section 1-D.
13. Right to Waive Minor Irregularities - The City reserves the right to waive minor irregularities. This right is at the sole discretion of the City.

14. Change in Contractor Representatives – The CITY reserves the right to require a change in contractor representatives, if the assigned representative(s) is (are) not, in the opinion of the CITY, adequately meeting the needs of the CITY.
15. Ownership of Documents – All documents submitted in response to this RFP shall become property of the CITY.

## SECTION III

### Proposal Submittal Requirements

This section explains the content, organization and format of the Proposers' response to this RFP.

#### **A. PROPOSAL FORMAT**

Proposers shall organize and submit their proposal package as follows:

1. Letter of Transmittal, which shall include the following information:
  - a. Name, address, telephone number, e-mail of proposer.
  - b. Name, telephone number and e-mail of primary contact.
  - c. Signature of the officer or employee with authority to bind proposer.
  - d. Date of the proposal.
  - e. A statement that proposer, if awarded the contract, will comply with all terms and conditions set forth in this RFP.
  - f. A statement that proposal is valid for ninety (90) days after the deadline for submission of proposals.
2. Approach to Scope of Services
  - a. One page narrative describing proposer's business philosophy and how the services will be provided or what tasks will be performed in response to the Scope of Work. The scope of work indicates "what" the proposer is required to do; the description of services should indicate "how" the offeror intends to perform the services.
3. Experience, Qualifications and References
  - a. One page narrative describing the history of proposer's company and the geographic areas served. Discuss prior experience and qualifications related to accomplishing the scope of work. This portion of the proposal should demonstrate the extent to which the proposer is qualified to perform the specific services contained in the RFP.
  - b. One page listing references of at least three (3) projects of similar size and scope of services as this RFP. Include organization name, primary contact name, address

and telephone number, time and date of services provided, specific services provided, and dollar values of contract.

4. Proposer's Staff
  - a. Identify the individuals who will be assigned to work specifically on this contract.
  - b. Provide background information on each of the individuals, including experience, training, etc.
  - c. Statement certifying that any employee assigned to work specifically at the Transit Center has or will pass a criminal background check. The Proposer will be responsible for payment of all security screenings.
  
5. Mandatory Forms
  - a. Proposer Information Form - Appendix C
  - b. Proposer Pricing Sheet – Appendix E

**B. CONTRACTOR REQUIREMENTS**

The successful Proposer (Contractor) must obtain the following bonds, licenses, insurance and other requirements:

1. Fidelity Bond

The Contractor shall obtain Fidelity Bonding for all employees performing work under this contract to protect City against the loss of money, equipment, supplies and personal belongings caused by dishonest acts of Contractor's employees and agents while on Agency's premises. Contractor shall provide a copy of the bond endorsement affecting such coverage or provide a letter from surety stating that Contractor is bondable for the limit required (minimum of \$50,000 per occurrence) if awarded the contract. Such bond shall either name the City of Manteca as the insured obligee, or include an endorsement naming the City as an additional obligee and providing for customary property coverage in favor of the City.

2. Insurance

The agreement for this procurement requires that the Contractor procure and maintain, during the life of this contract, insurance coverage of the kinds and in the amounts listed in Appendix D. The Certificates of Insurance must be issued by insurance companies authorized to do business in the State of California and shall cover all performance whether completed by the Contractor, the Contractor's employees, or by subcontractors.

3. Licenses

Any proposer awarded a contract under this solicitation must show proof of having the required Manteca Business License before the contract will be executed. Failure to show such proof within 10 business days of the Proposer being notified of contract award shall result in retraction of such award. There are no California State Contractors License Board license requirements for this solicitation.

4. Contractor Primary Single Point of Contact

Contractor shall provide a telephone number for reaching the primary contact in the event of an emergency. When the primary contact is unavailable for planned absences, contractor shall provide the name and means to contact the backup single point of contact. In all instances, the primary contact must be reachable after hours.

5. Contractor Hiring Standards

Given that the Contractor employees will have unmonitored access to, and be performing unmonitored services in City facilities, the Contractor is expected to implement comprehensive hiring and screening standards. At a minimum, Contractor shall impose the following hiring standards for any employee provided access to City property or performing any services under this RFP on City property:

- a. Legal right to work in the United States.
- b. Ability to speak, understand, read and write English.
- c. Adequate work and personal references for ability and character.
- d. Negative screening for illegal drugs including marijuana metabolites, cocaine metabolites, opiate metabolites, phencyclidine, and amphetamines.
- e. No convictions of unsuitable offenses (i.e., grand theft, burglary, etc.) determined by criminal background check for all felony and misdemeanor convictions.

6. Employee Dress & Identification

At all times while on City property in the performance of the duties under this contract, Contractor's employees shall adhere to the following uniform and attire standards:

- a. Wear a uniform, shirt or ID badge that identifies them as employees of the Contractor.
- b. Be appropriately and safely dressed (e.g., no sandals, tank tops, or shirt graphics except for the name or company logo of the contractor).
- c. Maintain a neat, well-groomed and hygienic appearance at all times.

7. Code of Conduct

Contractor employees shall conduct themselves in a professional and ethical manner at all times when providing services on City property. Certain conduct, including the following, is considered unacceptable and will result in such employee being banned from carrying out further services on City property:

- a. Theft or unauthorized removal of money or property from City, its employees, passengers or anyone else on City property.
- b. Embezzlement, bribery and other similar forms of dishonesty. Possession of any dangerous, unauthorized materials, such as explosives, firearms or other similar items on City property.
- c. Gross negligence, gross carelessness, or willful acts, which result in damage to City employees, its passengers, or City property or equipment.
- d. Violation of safety or health rules, or engaging in conduct that creates a safety or health hazard.

## SECTION IV

### Scope of Services

This section describes the scope of services requested in this RFP.

#### A. SCOPE OF SERVICES

Proposer will provide the following janitorial and cleaning services, in accordance with all commercial and industrial building standards, according to the schedule described below:

#### Daily Work Schedule Entire Facility (Monday through Saturday):

##### Daily Tasks (Monday through Saturday)

- All restrooms and administrative breakroom/kitchen:
  - Sweep, mop, and disinfect floors.
  - Clean, disinfect and polish all fixtures such as:
    - Commodes (inside and out), urinals, toilet seats (top and bottom).
    - Sinks, Countertops, Mirrors, Appliances, Baby Changing Station, Table.
    - Drinking Fountains
  - Pick up all trash from restroom floors & countertops.
  - Empty and clean all wastebaskets and replace liners as needed. Carry all trash to outside enclosure and place in dumpster.
  - Restock supplies in their appropriate dispensers (if needed):
    - Toilet paper, toilet seat covers, paper towels, hand soap.
- Clean and vacuum all carpeted floors in administrative area, including corners and under desks.
- Lobby and Halls:
  - Sweep and dust mop lobby and hallways on the days they are not mopped
  - Empty and clean all trash receptacles and replace liners as needed. Carry all trash to outside enclosure and place in dumpster.
- Monitor inventory supply and alert City staff of any needed items as listed in Section B.

#### Intermittent Tasks 1 (Every Monday, Wednesday and Friday):

##### Intermittent Tasks (Every Monday, Wednesday, and Friday)

- Lobby and Hallway:
  - Mop lobby and hallway with appropriate cleaner/disinfectant to maintain sheen including behind trash receptacles.
  - Empty garbage receptacles and replace garbage liners.
  - Clean wainscoting and doors in the lobby and hallway.
  - Clean interior of glass windows and doors in the lobby and hallway.
  - Clean counter and windows at reception counter, and the locked information kiosk.
  - Disinfect lobby benches.

## Intermittent Tasks 2 (Every Monday and Friday and upon request):

### Intermittent Tasks (Every Monday and Friday)

- Community Rooms
  - Clean countertops, sinks, and fixtures in wet bars.
  - Replace paper towels and soap (if needed).
  - Mop wood floor with appropriate cleaner to ensure sheen and non-tacky surface.
  - Vacuum carpeting, and clean all ten communication/AV covers on floor.
  - Clean wainscoting of dust and grime.
  - Clean interior of glass windows and doors in Community Rooms.
  - Pick up and remove all garbage from floors and countertops, if required.
  - Empty trash receptacles and replace liners.
  - Spot clean carpet as needed for small stains, grime, and other dirt.
- With advance notice, the City retains the right to make adjustments to the intermittent tasks, to include adding or subtracting days, and to switch scheduled days. This may include late evening hours, after events.

## Kitchen Tasks

The following tasks would be on an as-needed basis, not on a scheduled cleaning basis:

### Kitchen

- Clean and disinfect all countertops, sinks, and all stainless steel surfaces.
- Thoroughly clean and disinfect the interior and exterior of the following kitchen equipment:
  - Freezer – True brand, Model number T-23F
  - Refrigerator – True brand, Model number T-49
  - Montague warming oven
  - Microwave – Panasonic
  - Range with oven – Imperial, six burner
  - Bunn Coffee brewer, as needed after use
  - Bunn Ice tea brewer, as needed after use
  - Exterior of exhaust hood
  - Dishwasher food trap, emptied and cleaned
- Clean walls as needed to be free of food particles, grease and any other unwanted residue.
- Mop floor, including floor of utility closet in kitchen. Floor to be free of food residue, grease, and any slipping hazards.
- Empty garbage cans and replace garbage liners.
- Restock supplies in the eyewash sink (if needed), to include paper towels and soap.
- Sweep and mop areas under appliances to ensure they are clean and free of dust, debris and food residue.

## Quarterly Tasks

The following tasks would be required on a quarterly basis in accordance with City schedule:

### Quarterly Duties (Once every three months)

- Clean and disinfect the interiors of all trash and recycling receptacles in the lobby, kitchen, storage room, and restrooms. There are twelve trash receptacles in the facility.
- Clean lower and middle windowsills in the community rooms.
- Spot cleaning carpet.
- Shampoo carpets in community room.
- Shampoo hallways and offices of administrative area.

## B. SUPPLIES AND EQUIPMENT REQUIREMENT

1. The City will provide the following supplies:
  - Garbage can liners – both small and large
  - Paper products:
    - Paper hand towels
    - Toilet Paper
    - Toilet seat covers
    - Hand soap refills
2. The Janitorial Contractor is expected to provide all other items to properly fulfill the duties requested in the scope of services. Items to be provided include industry standard cleaning products and equipment appropriate for surfaces to be cleaned. No accelerated wear and tear on any of the City's property shall be attributable to the cleaning method utilized by the contractor. City will conduct visual and other sensory inspections to confirm that cleaning services have been provided in an effective manner. At the City's request, contractor shall return within 4 hours to re-clean any area found to be unsatisfactory based on the City's visual and sensory inspections.

## C. OTHER REQUIREMENTS

### 1. **Availability**

The Custodial Contractor must have flexibility to provide additional cleaning services on short notice and be available during non-regular business hours.

There may be private events held at the Transit Center for several consecutive days. Flexibility to the days the cleaning service is provided is a requirement of this scope of services. A calendar of events will be provided to the Custodial Contractor to assist with scheduling.

### 2. **Security**

The Contractor shall be responsible for maintaining the security of the Transit Center at all times during the performance of their duties.

- Only individual assigned to this job will be authorized access to the facility.

- Turn off lights upon completion of cleaning operations.
- Prior to leaving the building each night, the Contractor shall check to see that all outside doors are locked and the building is secure.
- Contractor may be required to set alarm after ensuring facility is secured.
- Emergency phone numbers will be provided to the Contractor.
- Notices and schedules of meetings will be provided by the City.

## Appendix A

### Transit Center Floor Plan/Layout

Color	Area	Tasking
Yellow	Lobby, Hallway, and Public Restrooms	Daily Tasks and Intermittent Tasks
Pink	Kitchen and Community Rooms	Intermittent and Kitchen Tasks
Blue	Administrative Area	Daily Tasks and Intermittent Tasks
White	Storage and AV Areas	Not Included in Tasks



## Appendix B

### Federal Provisions

1. Incorporation of FTA Terms - The following 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 4220.1F 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 Agency requests which would cause Agency to be in violation of the FTA terms and conditions.
2. Access to Records. The following access to records requirements apply to this Agreement:
  - a. Where the City 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 City, 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.
  - b. 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.
  - c. 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 Agency, 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).
3. Civil Rights.
  - a. *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.

- b. *Equal Employment Opportunity* - The following equal employment opportunity requirements apply to the Agreement:
- i. 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.
  - ii. 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.
  - iii. 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.
- c. 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. Disadvantaged Business Enterprises.

- a. This Agreement 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 City's overall goal for DBE participation is 0.42. A separate 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 Agreement. 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 Agreement, which may result in the termination of this Agreement or such other remedy as Agency deems appropriate. Each subcontract the contractor signs with a subcontractor must include the assurance in this paragraph (see 49 CFR 26.13(b)).

5. 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.
6. 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 Agency 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 Agreement.
7. No Obligation By The Federal Government
  - a. The Agency and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the Agreement, absent the express written consent by the Federal Government, the Federal Government is not a party to this Agreement and shall not be subject to any obligations or liabilities to the Agency, Contractor, or any other party (whether or not a party to that Agreement) pertaining to any matter resulting from the Agreement.
  - b. 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.
8. Program Fraud and False or Fraudulent Statements or Related Acts.
  - a. 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 Agreement, 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 Agreement or the FTA assisted project for which the Services are 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.
  - b. 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.

- c. 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.

9. Suspension and Debarment

- a. This Agreement 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.
- b. 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.
- c. By signing this Agreement, the Contractor certifies as follows: The certification in this clause is a material representation of fact relied upon by Agency. If it is later determined that the Contractor knowingly rendered an erroneous certification, in addition to remedies available to Agency, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The Contractor agrees to comply with the requirements of 49 CFR 29, Subpart C while this offer is valid and throughout the term of this Agreement. The Contractor further agrees to include a provision requiring such compliance in its lower tier covered transactions.

# APPENDIX C

## Proposer Information Form

### General Information

Business Name: \_\_\_\_\_

Business Type:  Corporation (State of Incorporation: \_\_\_\_\_ )  Partnership  
 Sole Proprietorship  Other: \_\_\_\_\_

Business Federal Tax ID Number: \_\_\_\_\_

### Corporate Headquarters

Address: \_\_\_\_\_

### Local Office (If Applicable)

Address: \_\_\_\_\_

### Authorizing Contact

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

Email: \_\_\_\_\_

### Primary Contact

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_

Email: \_\_\_\_\_

## APPENDIX D

### Insurance Requirements

Prior to execution of the contract, all contractors, and service providers shall procure and maintain, at their own cost and expense for the duration of their contract with the City, appropriate insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work or services. Any insurance proceeds available to city in excess of the limits and coverage required in this Agreement and which is applicable to a given loss, will be available to the City.

Proof of compliance with these insurance requirements, consisting of certificates of insurance evidencing all the coverages required and an additional insured endorsement to the contract are required. In the event such proof of any insurance is not delivered as required, or in the event such insurance is canceled at any time and no replacement coverage is provided, City has the right, but not the duty, to obtain any insurance it deems necessary to protect its interests under the contract and to pay the premium. Any premium so paid by City shall be charged to and promptly paid by the contractor or service provider or deducted from sums due the contractor, or service provider, at the City's option.

**Minimum Limits of Insurance:** The Contractor shall maintain limits no less than:

#### Commercial General Liability

- Commercial General Liability Insurance with \$2,000,000 minimum limit per occurrence.
- If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
- Commercial General Liability Additional Insured Endorsement naming the following as insured **on 2001 or earlier issued endorsement forms:**  
*“City of Manteca, its officers, officials, employees, agents, and volunteers”.*

#### Automobile Liability

- If the vehicles are brought onto city facilities, covering any auto, or if Contractor has no owned autos, hired, and non-owned autos, the Contractor shall maintain automobile liability with limits no less than:
- Automobile Liability Insurance with \$1,000,000 minimum limit per accident for bodily injury and property damage.
- Automobile Liability Additional Insured Endorsement naming the following as additional insured:  
*“City of Manteca, its officers, officials, employees, agents, and volunteers”.*

#### Worker's Compensation

As required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.

**Professional Liability (Errors and Omissions)**

Insurance appropriate to the Contractor's profession, with limit no less than \$1,000,000 per occurrence or claim, \$2,000,000 aggregate

**Other Insurance Provisions:**

The insurance 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 insured's as respect to: liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts, or equipment furnished in connection with such work operations. General liability coverage can be provided in the form of an endorsement to the Contractor's insurance at least as broad as CG 20 10 and CG 20 37 if completed operations coverage is required.
2. For any claims related to this contract, the Contractor's insurance coverage shall be primary insurance as respects the City, its officers, officials, employees, agents and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, agents or volunteers, shall be excess of the Contractor's insurance and shall not contribute with it.
3. The applicant'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.
4. 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.

**Verification of Coverage**

Successful Proposer shall furnish the City with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the City before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Proposer's obligation to provide them. The City of Manteca reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

**Notice of Cancellation**

Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the City.

**Acceptability of Insurers**

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the City of Manteca.

**Waiver of Subrogation**

Contractor hereby grants to The City of Manteca a waiver of any right to subrogation which any insurer of said Contractor may acquire against the Entity by virtue of the payment of any loss under such insurance. Contractor agrees to obtain any endorsement that may be necessary to affect this

waiver of subrogation, but this provision applies regardless of whether or not the Entity has received a waiver of subrogation endorsement from the insurer.

**Subcontractors**

Contractor shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Contractor shall ensure that The City of Manteca is an additional insured on insurance required from subcontractors.

**SPECIAL RISKS OR CIRCUMSTANCES**

The City of Manteca reserves the right to modify these requirements based on the nature of the risk, prior events, insurance coverage, or other special circumstances.

**APPENDIX E**

**Proposal Pricing Sheet**

- |                            |                                 |                |                 |
|----------------------------|---------------------------------|----------------|-----------------|
| 1.                         | ALL DAILY TASKS (Sunday-Friday) | Monthly Rate   | \$ _____        |
| 2.                         | ALL INTERMITTENT TASKS 1        | Monthly Rate   | \$ _____        |
| 3.                         | ALL INTERMITTENT TASKS 2        | Monthly Rate   | \$ _____        |
| <b>TOTAL MONTHLY RATE:</b> |                                 |                | <b>\$ _____</b> |
| 4.                         | ALL KITCHEN TASKS               | As Needed Rate | \$ _____        |
| 5.                         | INTERMITTENT TASKS 2            | As Needed Rate | \$ _____        |
| 6.                         | ALL QUARTERLY TASKS             | Quarterly Rate | \$ _____        |

**City License Number (if Obtained):** \_\_\_\_\_

**Company Name:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**E-Mail:** \_\_\_\_\_

\_\_\_\_\_ **Phone Number**

**Submitted By:**

\_\_\_\_\_ **Signature**

\_\_\_\_\_ **Print Name**

**Title:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**PLEASE LIST ANY SERVICES THAT WOULD INVOLVE EXTRA CHARGES**

<b>SERVICE</b>	<b>EXTRA CHARGE</b>
_____	\$ _____
_____	\$ _____
_____	\$ _____

**Appendix F – Required Form**

**ADDENDUM RECEIPT**

\_\_\_\_\_ (PROPOSER) acknowledges it has received and  
read all of the following Addenda:

for Manteca Transit Center:

Addendum # \_\_\_\_\_

Signature \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_

Title \_\_\_\_\_

Company Name \_\_\_\_\_

## GENERAL SERVICE AGREEMENT

This Agreement is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, 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 Attachment 1 that is incorporated by this reference, and pursuant to the Proposal submitted by **Consultant** dated \_\_\_\_\_, and attached hereto as Attachment 2. **Consultant** shall provide these services at the time, place, and in the manner specified in Attachment 1, 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 Attachment 3. 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. Full payment of each task will only be made at such time as each task is completed.

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. Indemnification and Hold Harmless. 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 Consultant's 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 active negligence or willful misconduct of the City, its officers, agents, employees, or volunteers.

16. Insurance Requirements.

A. Job specific insurance requirements can be found on the attached Attachment 4. Other insurance provisions can be found below:

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.
- (7) The City will not accept any endorsements that were issued in 2004. Acceptable endorsement forms are CG 20 10 11 85 or both CG 20 10 10 01 and CG 20 37 10 01.

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: \_\_\_\_\_

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 take place in the Superior Court, 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.

30. Precedence. In case of conflict between **Consultant's** Proposal dated \_\_\_\_ and this Agreement (which includes Attachment 1 and Attachment 3) this Agreement and its attachments shall take precedence over **Consultant's** proposal.

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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:**

**CONSULTANT:**

\_\_\_\_\_  
Miranda Lutzow, Interim City Manager

\_\_\_\_\_  
*(Type name of Consultant/form of organization)\**

**ATTEST:**

By: \_\_\_\_\_  
*(Signature)*

\_\_\_\_\_  
Cassandra Tilton, Acting City Clerk

\_\_\_\_\_  
*(Type name and title)*

**COUNTERSIGNED:**

By: \_\_\_\_\_  
*(Signature)*

\_\_\_\_\_  
Stephan Christensen, Acting Finance Dir.

\_\_\_\_\_  
*(Type name and title)*

**COUNTERSIGNED:**

Address: \_\_\_\_\_

\_\_\_\_\_  
Dawn Lichti, Acting Administrative Services Dir.

Telephone: \_\_\_\_\_

**APPROVED AS TO FORM:**

\_\_\_\_\_  
John Brinton, City Attorney

**ATTACHMENT 1**  
**REQUEST FOR PROPOSAL**

**ATTACHMENT 2**  
**CONSULTANT'S PROPOSAL**

**ATTACHMENT 3**  
**SCHEDULE OF ACTIVITIES**