

CITY OF MANTECA

Request for Proposals (RFP)

for

On Call

Construction Management & Inspection Services



Issued: August 8, 2024

Electronic Proposals Due: September 3, 2024 @ 5:00 p.m.

Request For Proposal
On-Call Construction Management and Inspection Services

I. INTRODUCTION

The City of Manteca (City) is soliciting proposals from consulting firms for construction management and inspection services. The City is seeking to select and contract with a single prime consulting firm (Consultant) that demonstrates experience and success in providing construction management and inspection services for public works projects involving water, wastewater, and transportation systems.

The solicitation is not for specific projects, but for specific services. The services are to be rendered for the duration of the contract. The on-call contract is expected to be maintained for a period of three (3) years. Task Orders will be issued for specific projects as needed by the City. The selected consultant shall only perform work under an assigned Task Order. The City does not guarantee a specific dollar amount or number of projects to be awarded under this on-call contract.

II. PROJECT TYPES

The City of Manteca Engineering Department coordinates the design, administration, and construction of numerous capital improvement projects. The potential projects may vary in scope and size, and may encompass any type of improvement for the following:

- Transportation system – including, but not limited to, roadway rehabilitation, traffic control devices, widening and/or realignment of existing facilities, relocation of existing facilities, and construction of new facilities
- Water system – including, but not limited to, potable water utility lines, municipal water wells, treatment from arsenic, 1,2,3-Trichloropropane, etc.
- Wastewater collection system – including, but not limited to, sanitary sewer utility lines and structures, lift stations, rehabilitation/upgrades to the City’s wastewater treatment facilities (barscreens, influent pump station, grit tanks, primary sedimentation basins, aeration basins, secondary clarifiers, waste activated sludge/return activated sludge pump stations, sludge thickening and dewatering facilities, digesters, tertiary filtration, ultraviolet (UV) disinfectant facilities, effluent storage pond, effluent pump station, etc.)

III. SPECIFIC QUALIFICATIONS REQUIRED

Submit a detailed proposal which includes, at a minimum, the following qualifications: For a Proposal to be accepted the following experience and qualifications shall be demonstrated:

1. Construction management and inspection
2. Plans & Specifications review
3. Submittals review
4. Request for information (RFIs) review
5. Contract change order (CCO) review
6. Construction scheduling
7. Striping layout
8. Railroad coordination
9. Americans with Disabilities Act (ADA) requirements

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10. Utility relocation and adjustments
11. Knowledge of Federal/State/City and Caltrans Local Assistance Procedures Manual
12. Relevant experience shall include original construction contract amount, total change orders, an explanation for change orders for the firms six (6) most recent public works related projects – two (2) water system related projects, two (2) wastewater process treatment system related projects, and two (2) transportation system related projects

IV. POTENTIAL PROJECTS

The following is a list of active construction projects that this RFP would be applicable for:

1. Waste Activated Sludge (WAS) & Return Activated Sludge (RAS) Pump Replacement Project CIP 22061 & 22063

The following is a list of prospective projects that this RFP would be applicable for:

1. Reference City of Manteca 2024 Water Master Plan Capital Improvement Plan (<https://www.manteca.gov/departments/engineering/water-system>)
2. Reference City of Manteca 2024 Wastewater Master Plan Capital Improvement Program (<https://www.manteca.gov/departments/engineering/sanitary-sewer-system>)
3. Future Pavement Rehabilitation/Maintenance Projects

V. PROJECT SCOPE

The following are typical scope and services that the selected Consultant will be required to provide via an approved and negotiated Task Order if the contract is awarded, and it should be addressed in each proposal.

The following is a list of the City's expectations and shall be incorporated into the Consultant's contract.

1. Be on site to observe whenever the contractor is working. 100% field coverage is expected.
2. Know the project plans and specifications. The CM should know the documents better than the contractor. Understand the work as designed or know where to research the documents for information.
3. Respond to all contractor's questions/claims no matter how small they may seem.
4. Talk with the contractor's superintendent/foreman about the day's planned activities and what his goals are for the next day. Follow up on any outstanding issues, submittals, etc.
5. Think ahead of the contractor and anticipate his work in the upcoming weeks. Remind the contractor to complete submittals, SOSRs, etc. in advance of the work. No last-minute requests for shutdowns or City assistance, unless it's an emergency.

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6. Do not do the work for the contractor. City is not going to have its consultants take on this liability. City understands the need to keep the contractor on schedule but not by taking shortcuts.
7. Recognize the need for specialized inspection and schedule inspection/testing.
8. Observe the field activities and discuss with superintendent/foreman any discrepancies. Repeat frequently throughout the day.
9. Review document logs and check on status of RFIs, submittals, etc. in review and follow up with the appropriate parties.
10. Review new RFIs and submittals from the contractor and determine if the document should be forwarded to City and/or the design consultant or whether the CM can provide response. Also, check for completeness of information before forwarding. If incomplete, either return the document to the contractor or hold and wait for supplemental information from the contractor (the received date doesn't start until the supplemental information is received); if the working relationship with the contractor is not good, return it immediately.
11. All RFI and submittal responses must be reviewed by City before being issued to the contractor.
12. When receiving resubmittals from the contractor, review the previous comments and determine if the contractor has addressed all comments. The CM will need to review these at some point in order to properly inspect the installation in the field. If the resubmittals are not complete, return them to the contractor.
13. Prepare a daily log electronically and email a copy to City for review every 1 to 2 days. Provide photos and videos as necessary to document the field activities.
14. Obtain written approval from City for all field orders, RFQs and change orders before issuing to contractor.
15. When issues arise, take the position that provides the greatest benefit to the City.
16. Review all proposals for RFQs received from the contractor before start of negotiations. City gets the final approval of the negotiated price before any CCOs are formalized.
17. Review all backups for field order work before the CCOs are formalized.
18. Review initial draft of the progress billing request prior to submittal to City's project manager. Review the CM's comments with the project manager prior to returning them to the contractor.
19. Review the contractor's record drawings on a monthly basis and use the same timing as the schedule updates. If the drawings are not complete, recommend to the project manager an appropriate withhold amount.
20. Return all phone calls from project management staff on the same business day.
21. Provide City with all known scheduled time off during the project duration. Review time off impacts to project and project coverage with City at least one weeks in advance, or as soon as practicable.

Task 1 – Project Management

Expectations: The Consultant shall furnish a Project Manager to coordinate all Consultant operations with the City, including but not limited to, tracking progress of the work and administering subcontracts. The Consultant Project Manager shall provide overall project management, coordination, and supervision of project staff to facilitate the

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performance of the work in accordance with standards and requirements of the City and other applicable standards and requirements. The Consultant's Project Manager shall prepare and submit monthly project progress reports to the City Project Manager.

Task 2 – Construction Management & Inspection Services

Expectations: Experience in providing construction management and construction observation services throughout construction. Specifically, experience in convening a pre-construction meeting with City, contractors, utility company representatives, etc., perform construction staking, construction observation during construction, daily field reports, prepare and maintain detailed documentation including photographs and/or video if warranted, conduct regular construction progress meetings as required, review contractor pay requests, review and respond to contractor submittals and requests for information, review proposed change orders, review and recommend final acceptance of project by City.

Task 3 – Materials Testing

Expectations: Experience in performing field exploration and prepare geotechnical engineering investigation reports, field sampling and acceptance testing, analysis, calculations and reports, independent assurance, plant inspection, equipment calibration, certified field and laboratory testing, construction inspection and other services as deemed necessary by the City. The Consultant's laboratory facilities and testing personnel must be certified.

VI. MATERIALS FURNISHED BY CITY

All software, data, reports, surveys, drawings, and other documents furnished to the Consultant by City for the Consultant's use in the performance of services shall be made available only for use in performing the assignment and shall remain the property of City. All such materials shall be returned to City upon completion of services, termination of the Agreement, or other such time as City may determine.

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VII. CONTRACT TYPE

A. A Time and Materials, with a maximum Not-To-Exceed fee Agreement will be issued for services provided. Any services provided by the Consultant, which are not specifically covered by the Contract, will not be reimbursed unless authorized in writing in advance by the city. It will be the Consultant's responsibility to recognize and notify City when services not covered under the Contract have been requested.

B. Task Orders

All work performed under this contract will require approval by the City Contract Administrator and issued through a Task Order. A task order shall be requested from the consultant to identify and refine the scope of services prior to the City issuing the task order. The task order shall identify and refine the scope of services for any specific project. The task order shall detail the tasks required for particular projects, schedule, DBE Commitment (if any), and projected costs. The costs will be based on the hourly rates in the contract. The Contract Administrator shall confer with the consultant to establish the maximum fee, including expenses, for the specific project and the completion date.

The project location, project limits, purpose, expected results, project deliverables, period of performance, project schedule, and scope of work to be performed shall be described in each Task Order.

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VIII. PROPOSAL INSTRUCTIONS

Electronic Proposals will be accepted until 5:00 p.m., Pacific Time, on the due date. Electronic submittals shall be sent via email to the following:

Kyzen Nicolas
Assistant Engineer
City of Manteca – Engineering Department
1001 West Center Street, Suite E
Manteca, CA 95337
knicolas@manteca.gov

All proposals received after the deadline may be rejected. No extensions will be granted.

Proposers shall include the following information in their proposals:

A. Cover Letter & Memoranda

Provide the following information:

- A. A statement requesting City to evaluate the submitted proposal based upon the Scope of Services for the Project.
- B. Identification of all proposed sub-consultants including description of the work to be performed by firm and each sub-consultant firm proposed for the project and an estimate of the percentage of work to be performed by each firm.
- C. Indicate the location of the office from which the work will be performed.
- D. Acknowledgement of any and all addenda.
- E. A signed statement by an officer of the firm authorized to bind the consultant contractually attesting that all information in the proposal is true and correct.
- F. A memorandum from a principal from each sub-consultant firm indicating the specific portion of services the sub-consultant will be performing.
- G. Shall contain a statement that proposals are firm offers for a 180 (one hundred eighty) day period.

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B. Contract Termination Circumstances:

- A. Provide a response to the following question: Has your firm ever been terminated from a contract?
- B. If Consultant has been terminated from a contract, describe the facts and circumstances in detail, on a separate sheet.

C. Technical Proposal Content:

A. Qualifications, Related Experience, and References

This section of the proposal should establish the ability of the proposed team to satisfactorily perform the required work by reasons of: experience in performing work of the same or similar nature; demonstrated experience working with local agencies and cities directly involved in this project; staffing capability; work load; record of meeting schedules on similar projects; and supportive client references. Specifically:

- i. Provide a brief profile of the firm, including the types of services offered; the year founded; form of the organization (corporation, partnership, sole proprietorship); number, size and location of offices; number of employees.
- ii. Provide a general description of the firm's current financial condition; identify any conditions (e.g., bankruptcy, pending litigation, planned office closures, impending merger) that may impede ability to complete the project.
 - 1. Proposers shall include the most recent US Securities and Exchange Commission (SEC) Form 10-K, Form 10-Q or equivalent document that would allow the City to assess the proposers financial condition. The form shall be included in the appendix
- iii. Describe the firm's experience in performing work of a similar nature to that solicited in this RFP, and the participation in such work by the key personnel proposed for assignment to this project. Highlight the firm's and key personnel experience with federal aid construction management.
 - 1. Proposers shall include electronic copies of previous work on the appendix that the proposer thinks best demonstrates their firm's previous experience as specified in this RFP.
- iv. Describe experience in working with the various government agencies that may have jurisdiction over the approval of the work specified in this RFP. Please include specialized experience and professional competence in areas directly related to this RFP.
- v. Provide a list of past work by the proposer and each sub-consultant, if applicable. The list should clearly identify the project and provide a

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summary of the roles and responsibilities of each party. A minimum of six (6) relevant references shall be given – two (2) water system related projects, two (2) wastewater process treatment system related projects, and two (2) transportation system related projects. Furnish **verified** name, title, address, telephone number of the person(s) at the client organization who is most knowledgeable about the work performed and a brief description of services that have been provided similar to those described by the City for this project. References may also be supplied from other work not cited in this section as related experience.

B. Proposed Staffing and Project Organization

This section of the proposal should establish the method that will be used to manage the project as well as identify key personnel assigned. Specifically:

- i. Provide a brief profile of the firm, including the types of services offered; the year founded; Provide education, experience and applicable professional credentials of project staff. Identify the person who is a registered Professional Engineer (PE) in the State of California that will approve and stamp the plans and/or reports and include a copy of the license.
- ii. Furnish brief resumes [not more than two (2) pages each] for the proposed Project Manager and other key personnel.
- iii. Identify key personnel proposed to perform the work in the specified tasks and include major areas of subcontract work. Include the person's name, current location, proposed position for this project, current assignment, level of commitment to that assignment, availability for this assignment, and how long each person has been with the firm.
- iv. Include a project organization chart that clearly delineates communication/reporting relationships among the project staff, including subconsultants.
- v. Include a statement that key personnel will be available to the extent proposed for the duration of the project, acknowledging that no person designated as "key" to the project shall be removed or replaced without the prior written concurrence of City.

D. Hourly Rates:

A copy of the Consultants current hourly rates shall be included with each submittal. Rate Schedules must indicate that they are valid for the term of the agreement or must provide an escalation factor that applies for the term of agreement.

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E. Contract Comments:

A sample contract is included in Attachment A and will be the basis for the contract between City and Consultant. Insurance requirements for professional services is included in Attachment B. The City will not guarantee to entertain any request to modify the contract.

A contract will not be awarded to a consultant without an adequate financial management and accounting system as required by 48 CFR 16.301-3, 2 CFR 200, and 48 CFR 31.

F. Entire Proposal Package:

- A. The Consultant's proposal package is limited to 15 (8 ½" x 11") pages single-sided. Charts and schedules may be included in 11" x 17" format. Proposals shall not include any unnecessarily elaborate or promotional material. Page limit does not include the outside cover, section dividers, cover letters and subconsultant commitment memorandum, or appendices. Proposals that do not contain the required information or submittals that do not contain the required number of copies may be rejected.

G. Changes:

- A. At any time during the procurement process, if a firm makes any changes to proposed key personnel or sub-consultants; they must notify the City in writing of those proposed changes. The City reserves the right to accept or reject such proposed changes or to revise the evaluation scoring to reflect the proposed staffing changes.

H. Appendices:

Information considered being pertinent to this project and which has not been specifically solicited in any of the aforementioned sections may be placed in the appendix section. Consultants are cautioned, however, that this not constitute an invitation to submit large amounts of extraneous materials; appendices should be relevant and brief. The appendix section does not count against the page limit.

IX. ACCEPTANCE OF PROPOSALS

The City reserves the right to accept or reject any and all proposals, or any item or part thereof, or to waive any informalities or irregularities in proposals. The City reserves the right to withdraw or cancel this RFP at any time without prior notice and the City makes no representation that any contract will be awarded to any firm responding to this RFP. The City reserves the right to re-issue a new RFP for the same or similar services. The City reserves the right to postpone proposal openings for its own convenience. Proposals

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received by the City are public information and must be made available to any person upon request. Submitted proposals are not to be copyrighted.

X. CONSULTANT SELECTION

The primary objective of the City is to select a qualified firm to perform necessary services or the City at a fair and reasonable cost. To that end, the City has established the following criteria for the selection process:

A. Rejections

All proposals will be reviewed to determine conformance with the RFP requirements. Any proposal that the City deems incomplete, conditional, or non-responsive to the requirements of the RFP may be rejected. As was stated above; the City reserves the right to reject any and all proposals as well.

B. The selection process shall be fair, open, and competitive.

C. The selection of the consultant firm will be based on clearly stated objectives.

D. Selection of consultants/firms shall be based upon demonstrated competence, professional qualifications, experience, and capabilities to perform the required services.

E. Selection Criteria

- Project Management (25 points). Components of project management that demonstrate capability in management of projects of this scope. Include a sample monthly report.
- Project Understanding (25 points). The proposal adequately demonstrates an understanding and experience in construction management and inspection services for water system projects, wastewater system projects, and transportation projects for municipalities
- Project Approach (25 points). Innovative approaches for alternative solutions and recommendations are preferred.
- Experience (25 points). The firm's expertise and professional qualifications with similar work. Qualifications of the firm and individuals assigned to perform the work.

XI. CONFLICT OF INTEREST

The selected Consultant will not be prevented from participating in future projects to the extent that no direct conflict of interest exists at the time. Consultant's responsible for a project's design may not participate in construction management/construction inspection of the project. The determination of a conflict of interest, direct or incidental, shall be at the sole discretion of City.

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XII. SCHEDULE FOR CONSULTANT SELECTION

The following is a tentative schedule and is subject to change:

Issue Request for Proposals	August 8, 2024
Deadline to Request Clarifications/Questions	August 26, 2024 5:00 p.m.
Q&A and/or Addenda Publication	August 29, 2024 5:00 p.m.
Proposals Due Date	September 3, 2024 5:00 p.m.
Evaluation of Proposals	September 3, 2024 (week of)
Select Consultant	September 3, 2024 (week of)
City Council Approval	September 17, 2024
Notice to Proceed	September 18, 2024 (week of)

Address questions via email to:
Kyzen Nicolas, Assistant Engineer
knicolas@manteca.gov

All related questions and answers and any addenda will be posted on the City website:

<https://www.manteca.gov/business/request-for-proposals>

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B. Consultant enters into this AGREEMENT as an independent contractor and not as an employee of the City. The Consultant shall have no power or authority by this AGREEMENT to bind the City in any respect. Nothing in this AGREEMENT shall be construed to be inconsistent with this relationship or status. All employees, agents, contractors or subcontractors hired or retained by the Consultant are employees, agents, contractors or subcontractors of the Consultant and not of the City. The City shall not be obligated in any way to pay any wage claims or other claims made against Consultant by any such employees, agents, contractors or subcontractors, or any other person resulting from performance of this AGREEMENT.

C. The Consultant agrees it has satisfied itself by its own investigation and research regarding the conditions affecting the work to be done and labor and materials needed, and that its decision to execute this AGREEMENT is based on such independent investigation and research.

2. TERM OF AGREEMENT

A. The services of Consultant are to commence upon execution of this Agreement and shall be completed and this AGREEMENT terminated on _____, unless otherwise extended in writing by the mutual agreement of both parties.

B. The City Manager or designee may, by written instrument signed by the Parties, extend the duration of this AGREEMENT in the manner provided in Section 5, provided that the extension does not require the payment of compensation in excess of the maximum compensation set forth in Section 3, Compensation.

3. COMPENSATION:

A. The Consultant shall be paid in accordance to the attached Fee Schedule in **Exhibit "C"**. Consultant charges separately for certain costs incurred in the representation, as well as for any disbursements to third parties made on City's behalf. Such costs and disbursements include, for example, the following: mileage (at the IRS rate in effect at the time the travel occurs), overnight delivery and messenger services. Consultant shall be reimbursed for expenses related to travel, for example (flights, hotels, meals). However, Consultant shall not make travel arrangements or incur costs on behalf of City without prior written authorization to incur said expenses and in no event shall total compensation under this AGREEMENT exceed _____ (\$_____) without City's prior written approval.

B. Said amount shall be paid upon submittal of monthly billings showing completion of the tasks that month. Consultant shall furnish City with invoices for all expenses as well as for all materials authorized by this AGREEMENT. The invoices shall be submitted with the monthly billings.

C. If the work is temporarily suspended at the request of the City, compensation shall be based upon the portion of work completed as of the date of the suspension , subject to Section 4.

4. TERMINATION:

Agreement for Services

A. This AGREEMENT may be terminated by either party, provided that the other party is given not less than fourteen (14) calendar days' written notice (delivered by registered mail) of intent to terminate.

B. The City may temporarily suspend this AGREEMENT, at no additional cost to City, provided that the Consultant is given written notice (delivered by certified mail, return receipt requested) of temporary suspension. If City gives such notice of temporary suspension, Consultant shall immediately suspend its activities under this AGREEMENT.

C. Notwithstanding any provisions of this AGREEMENT, Consultant shall not be relieved of liability to the City for damages sustained by the City by virtue of any breach of this AGREEMENT by Consultant, and the City may withhold any payments due to Consultant until such time as the exact amount of damages, if any, due the City from Consultant is determined.

D. In the event of termination, the Consultant shall be compensated as provided for in this AGREEMENT, except as provided in Section 4C. Upon termination, the City shall be entitled to all final work and draft work, including but not limited to, appraisals, inventories, studies, analyses, drawings and data estimates performed to that date in accordance with Section 7 herein.

5. AMENDMENTS, CHANGES OR MODIFICATIONS:

Amendments, changes or modifications in the terms of this AGREEMENT may be made at any time by mutual written agreement between the parties hereto and shall be signed by the persons authorized to bind the parties hereto.

6. EXTENSIONS OF TIME:

Consultant may, for good cause, request extensions of time to perform the services required herein. Such extensions shall be authorized in advance by the City in writing and shall be incorporated in written amendments to this AGREEMENT in the manner provided in Section 5.

7. PROPERTY OF CITY:

A. It is mutually agreed that all draft and final materials prepared by the Consultant under this AGREEMENT shall become the property of the City, and the Consultant shall have no property right therein whatsoever. Immediately upon termination, the City shall be entitled to, and the Consultant shall deliver to the City, all data, drawings, specifications, reports, estimates, summaries and other such materials as may have been prepared or accumulated to date by the Consultant in performing this AGREEMENT which is not Consultant's privileged information, as defined by law, or Consultant's personnel information, along with all other property belonging exclusively to the City which is in the Consultant's possession.

B. Additionally, it is agreed that the parties intend this to be an AGREEMENT for services and each considers the products and results of the services to be rendered by Consultant herein (the "Work") to be a work made for hire. Consultant acknowledges and agrees that the Work (and all rights therein, including, without limitation, copyright) belongs to and shall be the sole and exclusive property of the City.

8. COMPLIANCE WITH ALL LAWS:

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A. Consultant shall comply with all applicable laws, ordinances, and codes of federal, State and local governments, and shall commit no trespass on any public or private property in performing any of the work authorized by this AGREEMENT. It shall be City's responsibility to obtain all rights of way and easements to enable Consultant to perform its services herein. Consultant shall assist City in providing the same.

B. Consultant warrants to the City that it is licensed by all applicable governmental bodies to perform this AGREEMENT and will remain so licensed throughout the progress of the Work, and that it has, and will have, throughout the progress of the Work, the necessary experience, skill and financial resources to enable it to perform this AGREEMENT.

9. WARRANTIES AND RESPONSIBILITIES - CONSULTANT:

A. Consultant agrees and represents that it is qualified to properly provide the services set forth in **Exhibit "A"** in a manner which is consistent with the generally accepted standards of Consultant's profession.

B. Consultant agrees and represents that the work performed under this AGREEMENT shall be in accordance with applicable federal, State and local law in accordance with Section 17A hereof.

C. Consultant shall designate a project manager who at all times shall represent the Consultant before the City on all matters relating to this AGREEMENT. The project manager shall continue in such capacity unless and until he or she is removed at the request of the City, is no longer employed by Consultant, or is replaced with the written approval of the City.

D. Consultant shall provide corrective services without charge to the City for services which fail to meet the above professional and legal standards and which are reported to Consultant in writing within sixty (60) days of discovery. Should Consultant fail or refuse to perform promptly its obligations, the City may render or undertake performance thereof and the Consultant shall be liable for any expenses thereby incurred.

10. SUBCONTRACTING:

None of the services covered by this AGREEMENT shall be subcontracted without the prior written consent of the City. Consultant shall be fully responsible to the City for the negligent acts and omissions of its contractors and subcontractors, and of persons either directly or indirectly employed by them, as it is for the negligent acts and omissions of persons directly employed by Consultant.

11. ASSIGNABILITY:

Consultant shall not assign or transfer any interest in this AGREEMENT whether by assignment or novation, without the prior written consent of the City. However, claims for money due or to become due to Consultant from the City under this AGREEMENT may be assigned to a financial institution, or to a trustee in bankruptcy, without such approval. Notice of any assignment or transfer whether voluntary or involuntary shall be furnished promptly to the City.

12. INTEREST IN AGREEMENT:

Consultant covenants that neither it, nor any of its employees, agents, contractors, subcontractors has any interest, nor shall they acquire any interest, direct or indirect, in the subject of the AGREEMENT, nor any other interest which would conflict in any manner or degree with the performance of its services hereunder. Consultant shall make all disclosures required by the City's conflict of interest code in accordance with the category designated by the City, unless the City Manager determines in writing that Consultant's duties are more limited in scope than is warranted by the category designated by the City code and that a narrower disclosure category should apply. Consultant also agrees to make disclosure in compliance with the City conflict of interest code if, at any time after the execution of this AGREEMENT, City determines and notifies Consultant in writing that Consultant's duties under this AGREEMENT warrant greater disclosure by Consultant than was originally contemplated. Consultant shall make disclosures in the time, place and manner set forth in the conflict of interest code and as directed by the City.

13. MATERIALS CONFIDENTIAL:

All of the materials prepared or assembled by Consultant pursuant to performance of this AGREEMENT are confidential and Consultant agrees that they shall not be made available to any individual or organization without the prior written approval of the City, except by court order.

14. LIABILITY OF CONSULTANT-NEGLIGENCE:

Consultant shall be responsible for performing the work under this AGREEMENT in a manner which is consistent with the generally-accepted standards of the Consultant's profession and shall be liable for its own negligence and the negligent acts of its employees, agents, contractors and subcontractors. The City shall have no right of control over the manner in which the work is to be done but only as to its outcome, and shall not be charged with the responsibility of preventing risk to Consultant or its employees, agents, contractors or subcontractors.

15. INDEMNITY AND LITIGATION COSTS:

To the fullest extent permitted by law, Consultant shall indemnify, defend, and hold harmless the City, its officers, officials, agents, and employees against all claims, damages, demands, liability, costs, losses and expenses, including without limitation court costs and reasonable attorneys' fees, arising from Consultant's negligent acts or negligent failure to act, errors, omissions or willful misconduct incident to the performance of this AGREEMENT except such loss or damage caused solely by the active negligence, sole negligence, or willful misconduct of the City. The provisions of this paragraph shall survive termination or suspension of this AGREEMENT.

16. CONSULTANT TO PROVIDE INSURANCE:

A. Consultant shall not commence any work before obtaining, and shall maintain in full force at all times during the duration and performance of this AGREEMENT, the policies of insurance specified in this Section. Such insurance must have the approval of the City as to limit, form, and amount, and shall be placed with insurers with a current A.M. Best's rating of no less than "A" in Class VII (an NR rating is acceptable for Worker's Compensation insurance written with the State Compensation Insurance Fund of California).

B. Prior to execution of this AGREEMENT and prior to commencement of any work, the Consultant shall furnish the City with certificates of insurance and copies of endorsements providing evidence of coverage for all policies required by the AGREEMENT. The Consultant

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and its contractors and subcontractors shall, at their expense, maintain in effect at all times during the performance of work under the AGREEMENT not less than the following coverage and limits of insurance, which shall be maintained with insurers and under forms of policy satisfactory to the City. The maintenance by Consultant and its contractors and subcontractors of the following coverage and limits of insurance is a material element of this AGREEMENT. The failure of Consultant or of any of its contractors or subcontractors to maintain or renew coverage or to provide evidence of renewal may be treated by the City as a material breach of this AGREEMENT. Approval of the insurance by the City shall not relieve or decrease any liability of Consultant.

1. Commercial General Liability Insurance.

a. Consultant shall maintain commercial general liability insurance with coverage at least as broad as Insurance Services Office form CG 00 01 (or equivalent), in an amount not less than two million dollars (\$2,000,000) per occurrence and four million dollars (\$4,000,000) minimum limit for general aggregate for bodily injury, personal injury, and property damage, including without limitation, blanket contractual liability. 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. Consultant's general liability policies shall be primary and shall not seek contribution from the City's coverage, and be endorsed using Insurance Services Office form CG 20 10 (or equivalent) to provide that City and its officers, officials, employees, and agents shall be additional insureds under such policies. For construction projects, an endorsement providing completed operations coverage for the additional insured, ISO form CG 20 37 (or equivalent), is also required.

b. Any failure to comply with reporting provisions of the policies by Consultant shall not affect coverage provided the City.

c. Coverage shall state that Consultant 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.

d. Coverage shall contain a waiver of subrogation in favor of the City.

2. *Automobile Liability.* If vehicles are brought onto city facilities, Consultant shall maintain automobile liability with limits no less than one million dollars (\$1,000,000) minimum limit per accident for bodily injury and property damage.

3. *Workers' Compensation and Employers' Liability.* Consultant shall maintain Workers' Compensation Insurance and Employer's Liability Insurance with limits of at least one million dollars (\$1,000,000). Consultant shall submit to City, along with the certificate of insurance, a waiver of subrogation endorsement in favor of City, its officers, agents, employees, and volunteers. Consultant shall sign the Certificate of Compliance with labor Code 3700 (Exhibit B).

4. *Professional Liability.* Consultant shall maintain professional liability insurance that insures against professional errors and omissions that may be made in performing the Services to be rendered in connection with this Agreement, in the minimum amount of two million dollars (\$2,000,000) per claim and in the aggregate. Any policy inception date, continuity date, or retroactive date must be before the effective date of this agreement, and Consultant agrees to maintain continuous coverage through a period no less than three years after completion of the services required by this agreement.

Agreement for Services

5. All Coverages.

a. Each insurance policy required by this Agreement shall be endorsed to state that coverage shall not be suspended, voided, cancelled, or reduced in limits except after thirty (30) days' prior written notice has been given to the City.

b. All self-insurance, self-insured retentions, and deductibles must be declared and approved by the City.

c. Evidence of Insurance - Prior to commencement of work, the Consultant shall furnish to the City certificates, additional insured endorsements, and waivers of subrogation evidencing compliance with the insurance requirements above. The Consultant must agree to provide complete, certified copies of all required insurance policies when requested by the City.

d. Acceptability of Insurers - Insurance shall be placed with insurers admitted in the State of California and with an A.M. Best rating of "A" Class VII or higher.

e. Subcontractors and Consultants - A category of risk and the applicable insurance requirements will be determined on a "per subcontractor" or "per consultant" basis, considering the particular work to be done by the subcontractor or consultant and the interrelationship of that work to other work being conducted by the Consultant.

6. No other provision of this Agreement or any attachment thereto shall reduce the insurance or indemnity obligations imposed under this Section.

C. In addition to any other remedy the City may have, if Consultant fails to maintain the insurance coverage as required in this Section, the City may obtain such insurance coverage that is not being maintained, in the form and amount substantially the same as is required herein, and the City may deduct the cost of such insurance from any amounts due or which may become due to Consultant under this AGREEMENT.

D. No policy required by this AGREEMENT shall be suspended, cancelled, terminated by either party, or reduced in coverage or in limits unless written approval is obtained by Consultant from the City.

E. Any deductibles or self-insured retentions in excess of \$10,000 must be declared to, and approved by, the City.

F. The requirement as to types, limits, and the City's approval of insurance coverage to be maintained by Consultant are not intended to, and shall not in any manner, limit or qualify the liabilities and obligations assumed by Consultant under the AGREEMENT.

17. MISCELLANEOUS PROVISIONS:

A. Compliance with Laws. Consultant shall keep itself fully informed of, shall observe and comply with, and shall cause any and all persons, firms or corporations employed by it or under its control to observe and comply with, applicable federal, state, county and municipal laws, ordinances, regulations, orders and decrees which in any manner affect those engaged or employed on the work described by this AGREEMENT or the materials used or which in any way affect the conduct of the work.

Agreement for Services

B. Unlawful Acts. Consultant shall not engage in unlawful employment discrimination. Such unlawful employment discrimination includes, but is not limited to, employment discrimination based upon a person's race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, gender, citizenship, or sexual orientation.

C. Record Retention. Consultant shall maintain and make available for inspection by the City and its auditors accurate records of all of its costs, disbursements and receipts with respect to any work under this AGREEMENT. Such inspections may be made during regular office hours at any time until six (6) months after the final payments under this AGREEMENT are made to the Consultant.

D. Notice. All notices that are required to be given by one party to the other under this AGREEMENT shall be in writing and shall be deemed to have been given if delivered personally or enclosed in a properly addressed envelope and deposited in a United States Post Office for delivery by registered or certified mail addressed to the parties at the following addresses:

City:

City Contact
City Contact Title
City of Manteca
1001 W. Center St.
Manteca, CA 95337

Consultant:

Other Party Contact Name
Other Party Contact Title
Other Party Vendor Name
Other Party Address
Other Party Phone Number
Other Party Email

E. Governing Law and Venue. This AGREEMENT shall be interpreted and 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.

F. 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.

G. 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.

H. Mediation. In the event of any controversy or claim arising out of or relating to this Agreement or the Services provided by Consultant (each referred to as a "Dispute" and all collectively referred to as the "Disputes"), the Parties shall try to resolve all Disputes through good faith, direct discussions involving the representatives of each Party who possess the necessary authority to resolve such Dispute. If direct discussions are unsuccessful in resolving a Dispute, the Parties shall endeavor to resolve the matter by mediation through and administered by JAMS or its successor in interest. JAMS shall provide the parties with the name of five (5) 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.

Agreement for Services

I. Costs and Attorney' Fees. If either party commences any legal action against the other party arising out of this Agreement or the performance thereof, the prevailing party in such action may recover its reasonable litigation expenses, including court costs, expert witness fees, discovery expenses, and attorneys' fees.

J. Entire Agreement. This AGREEMENT constitutes the entire agreement between the parties relative to the services specified herein and no modification hereof shall be effective unless and until such modification is evidenced by a writing signed by both parties to this AGREEMENT. There are no understandings, agreements, conditions, representations, warranties or promises, with respect to this AGREEMENT, except those contained in or referred to in writing.

K. 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.

L. 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 signature to this AGREEMENT have the legal power, right, and authority to enter into this AGREEMENT and to bind each party.

M. California Prevailing Wage Requirement Pursuant to California Labor Code sections 1720 through 1861, the Consultant, its Contractor and all subcontractors shall ensure that all workers who perform work under this Agreement are paid not less than the prevailing rate of per diem wages as determined by the Director of the California Department of Industrial Relations (DIR), if applicable. This includes work performed during the design, site assessment, feasibility study, and other preconstruction phases of construction, including but not limited to inspection and land surveying work, regardless of whether any further construction work is conducted, and work performed during the post-construction phases of construction, including but not limited to all cleanup work at the jobsite. The most current prevailing wage determination can be found at <https://www.dir.ca.gov/OPRL/DPreWageDetermination.htm>.

CITY OF MANTECA

By: _____
City Party Name, City Party Title

ATTEST:

By: _____
Cassandra Candini-Tilton, City Clerk

APPROVED AS TO FORM:

By: _____
City Attorney Name, City Attorney Title

CONSULTANT

Agreement for Services

By: _____
Title: Other Party Name

EXHIBIT A

Consultant Proposal/Scope of Work

EXHIBIT B

CERTIFICATE OF COMPLIANCE WITH LABOR CODE § 3700
[Labor Code § 1861]

I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this AGREEMENT.

CONSULTANTS

By: _____
[Title]

EXHIBIT C
Fee Schedule

EXHIBIT 1

Insurance Requirements for Professional Services

INSURANCE REQUIREMENTS

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

Minimum Limits of Insurance: Coverage shall be at least as broad as:

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 of 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 \$2,000,000 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 Consultant 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 Consultant’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 Consultant’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 Consultant’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

Consultant 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 Entity before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Consultant'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 Entity.

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

Consultant hereby grants to The City of Manteca a waiver of any right to subrogation which any insurer of said Consultant may acquire against the Entity by virtue of the payment of any loss under such insurance. Consultant 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

Consultant 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.