REQUEST FOR PROPOSAL

RFP 12-13-DOTPL001

TRAFFIC VOLUME COUNTS FOR INTERSECTIONS

<table>
<thead>
<tr>
<th>RFP release date:</th>
<th>July 3, 2012</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contact name:</td>
<td>Paul Ma</td>
</tr>
</tbody>
</table>
| Address:          | City of San José  
                        Department of Transportation  
                        200 East Santa Clara Street, 8th Floor  
                        San José, CA 95113 |
| Phone:            | (408) 975-3272 |
| Fax:              | (408) 292-6096 |
| E-mail address:   | Paul.Ma@sanjoseca.gov |
| Deadline for questions: | July 20, 2012 |
| RFP due date:     | August 6, 2012 |
| Time:             | 5:00 pm      |
| Location:         | City of San José  
                        Department of Transportation  
                        200 East Santa Clara Street, 8th Floor Reception Desk  
                        San José, CA 95113 |
1 INTRODUCTION

1.1 The City of San José (hereinafter, “CITY”) is requesting proposals for professional traffic counting services. The City plans to collect approximately three hundred (300) peak period counts this year. Two consulting firms may be selected to provide the counting services based on proposed costs and service quality.

1.2 The majority of the contract will be for AM, mid-day, or PM Turning Movement Counts, as described in the Scope of Work section of this document. All turning movement traffic counts will include vehicle, bicycle and pedestrian count data. All additional services listed will be requested on an as needed basis.

2 BACKGROUND

2.1 GENERAL DESCRIPTION OF SERVICES

The Proposer shall perform simultaneous vehicle, bicycle and pedestrian traffic volume counts during the morning, noon, and/or afternoon peak commute hours, 48-hour mechanical counts, seven (7) day mechanical counts, and twelve (12) hour counts for various intersections as specified by CITY. Proposer shall perform these services as set forth herein.

2.2 INTERSECTIONS IDENTIFIED FOR TRAFFIC COUNTS

2.2.1 On or before the CITY issues a Notice to Proceed, CITY will provide Proposer with a Fall 2012 Intersection List. A Spring 2013 Intersection List shall be provided at a later date. Proposer shall conduct traffic counts at each of the intersections identified in the Fall 2012 Intersection List and the Spring 2013 Intersection List (collectively, "Intersection Lists") in the manner identified therein.

2.2.2 For each intersection on the Intersection Lists, the CITY shall designate whether the Proposer must perform a Two (2) Hour Turning Movement Count, a 48-hour Mechanical Count, a 7-day Mechanical Count, or a 12-hour Turning Movement Count. The Director of the Department of Transportation (hereinafter, “DIRECTOR”) may amend this designation for any intersection at any time prior to the performance of the traffic count at the intersection. Proposer shall perform the type of traffic count designated in the Intersection Lists.

2.2.3 The DIRECTOR, in the Director's sole discretion, may add additional intersections to the Intersection Lists at any time during the term of this agreement, (hereinafter, "AGREEMENT").

2.2.4 The DIRECTOR, in the Director's sole discretion, may delete an intersection from the Intersection Lists at any time during the term of this AGREEMENT by giving Proposer not less than forty-eight (48) hours either oral or written notice prior to the scheduled day of the traffic count at the intersection to be deleted.

2.2.5 To assist Proposer in performing the traffic counts, the CITY will provide Proposer with the following: a city map illustrating the geographic locations and node number of all signalized intersections in the CITY, or an intersection map illustrating vehicle movement direction in the CITY. Requests for maps or additional information must be received by the City one week prior to the count date.
3 SCOPE OF WORK

3.1 TWO (2) HOUR TURNING MOVEMENT COUNT METHODOLOGY

For each intersection on the Intersection Lists designated for Two (2) Hour Turning Movement Count, Proposer shall perform the following tasks:

3.1.1 Proposer will perform site inspections at each location prior to performing the traffic count. Tasks during the site inspections include:

a. Estimate bicyclist and pedestrian volumes.

b. Determine if count technicians in excess of two are required to conduct the counts.

c. Record any nearby road closures or detours.

d. Record any nearby land uses that may affect the counts.

3.1.2 Proposer shall use two count technicians to collect the required data. For intersections where Proposer determines that additional count technicians are needed, Proposer must obtain authorization from the CITY prior to the day of the count. Proposer shall coordinate the time period of the counts to ensure the use of identical start and end times.

3.1.3 Proposer shall perform Turning Movement Counts by stationing the count technicians at an intersection for a fixed period of time to manually count the vehicle volumes making various movements at the intersection. For each intersection on the Intersection Lists, the CITY will designate whether the Proposer must conduct the manual count during the hours of 7:00 a.m. to 9:00 a.m. ("AM Peak Hours"), 11:00 a.m. to 1:00 p.m. ("Midday Peak Hours"), and during the hours of 4:00 p.m. to 6:00 p.m. ("PM Peak Hours"). The Proposer shall perform Turning Movement Counts at the times designated in the Intersection Lists. All turning movement counts for each peak period must be completed on the same day (counts from different days may not be combined). All allowable turning movements, including but not limited to free or uncontrolled right turn movements shall be counted.

3.1.4 Pedestrians shall be counted by intersection leg. Pedestrians shall be counted as they cross the intersection and recorded for the leg which they crossed (e.g., a pedestrian crossing the street on the north side should be recorded on the north leg). The direction of travel of the pedestrians is not recorded.

3.1.5 Bicycle volumes shall be counted by direction; count technicians shall manually count the bicycle volumes making various movements at the intersection. Bicyclists who bike across a crosswalk shall be counted as bicycles. Bicycles that are walked across a crosswalk shall be counted as pedestrians.

3.2 48-HOUR MECHANICAL COUNT METHODOLOGY

For each intersection on the Intersection Lists designated for 48-hour Mechanical Count, Proposer shall perform 48-hour counts by placing in the street a mechanical tube connected to a mechanical device that records the traffic counts. The mechanical tube must not impede the flow of any traffic, including but not limited to, motor vehicles, bicycles, and pedestrians. Proposer shall perform the 48-hour Mechanical Count at a specified location for a minimum period of forty-eight (48) hours. For each location subject to a 48-hour Mechanical Count, the
Proposer is to count both directions of the traffic flow. Equipment used in Mechanical Counts must be within service life and in good operating conditions specified by manufacturer.

3.3 7-DAY MECHANICAL COUNT METHODOLOGY

For each intersection on the Intersection Lists designated for 7-day Mechanical Count, Proposer shall perform 7-day counts by placing in the street a mechanical tube connected to a mechanical device that records the traffic counts. The mechanical tube must not impede the flow of any traffic, including but not limited to, motor vehicles, bicycles, and pedestrians. Proposer shall perform the 7-day Mechanical Count at a specified location of an intersection for a minimum period of seven (7) contiguous days. The Intersection Lists shall identify, for each location subject to a 7-day Mechanical Count, if the Proposer is to count the approaches, departures, or both the approaches and departures. Equipment used in Mechanical Counts must be within service life and in good operating conditions specified by manufacturer. Proposer shall conduct routine field checks during the 7-day period to ensure equipment is functioning properly.

3.4 TWELVE (12) HOUR TURNING MOVEMENT COUNT METHODOLOGY

For each intersection on the Intersection Lists designated for 12-hour Turning Movement Count, Proposer shall perform 12-hour data collection by stationing two (2) count technicians at an intersection for a period of time from 7:00 a.m. to 7:00 p.m. to manually count vehicles, bicycles, and pedestrians making various movements at the intersection following the same methodology in Section III.

3.5 CONDITIONS OF PERFORMING TRAFFIC COUNTS

3.5.1 Proposer shall conduct the traffic counts on Tuesdays, Wednesdays or Thursdays, except for 7-day Mechanical Counts or otherwise ordered by the DIRECTOR.

3.5.2 Proposer shall not conduct any traffic counts on a rainy day or days directly on, before or after a legal holiday. Proposer shall not conduct traffic counts at an intersection in which vehicle movement is affected by nearby construction, scheduled special events (e.g. Fairground events, San José Arena events, etc.) or any other abnormal circumstances that might affect the flow of vehicular traffic.

3.5.3 It shall be the full responsibility of the Proposer to identify impacts of forecasted unfavorable weather conditions and active construction activities before the scheduled count days for any count methods.

3.5.4 If traffic flow at an intersection is affected directly or indirectly by any unforeseeable abnormal conditions while data collection is in progress, Proposer may continue data collection for the entire designated durations and document the condition. Proposer shall submit authentic proof of the condition, and upon verification of the condition by the DIRECTOR, the CITY shall compensate Proposer at rate applicable to the type of traffic count to have been performed at the affected intersection.

3.6 OBSERVATION BY CITY

3.6.1 CITY staff may observe intersection operation and field conditions on the days that the traffic counts occur. Accordingly, Proposer shall provide a weekly schedule of intersections to
be counted one (1) week prior to the proposed date of the traffic count for review by the CITY. Proposer shall notify the CITY when any change is made to the schedule; otherwise the DIRECTOR has the discretion to reject the collected traffic counts.

3.7 DELIVERABLES FOR TRAFFIC COUNTS

3.7.1 For each Two (2) Hour Turning Movement Count, performed at each intersection, the Proposer shall submit to the CITY the following deliverables:

1. Proposer shall submit the traffic count data for each counted vehicle movement aggregated to the eight (8) 15-minute intervals occurred for vehicle, bicycle, and pedestrian. Movement orientations on the data submitted shall correspond with the street network map supplied by the CITY. The data shall be submitted in a hard copy, summary format and in a Microsoft Excel 2003 spreadsheet electronic file format to be provided by the CITY.

2. Proposer shall also submit a schematic sketch of intersection lane configuration in a form provided by the City. An intersection sketch shall illustrate the number of turning movement lanes, through lanes, crosswalks, bicycle lanes and High Occupancy Vehicle (HOV) lanes observed by Proposer. Proposer shall also clearly note on the sketch the date of the count, weather conditions, street names, any observed traffic conditions that may have impacted the traffic count at any time, and any other field notes the Proposer determines are relevant. Proposer's designated Field Supervisor shall prepare the sketch, print and sign his/her name, and print the names of the count technicians performing the manual count.

3.7.2 For each location at which a 48-hour Mechanical Count occurs, Proposer shall submit to the CITY the following:

1. Proposer shall submit traffic counts for each direction of traffic flow in one hundred ninety-two (192) 15-minute time intervals for 48-hour period. Proposer shall also provide hourly totals for the 48-hour period of the traffic count, and the Average Daily Traffic Volumes. The data shall be submitted in a hard copy, summary format and in a Microsoft Excel 2003 spreadsheet electronic file format to be provided by the CITY.

2. Proposer shall also note observations made during set-up and removal of the mechanical tube counting device of factors that might have impacted traffic counts (i.e., queue length, traffic accidents, construction, etc.).

3.7.3 For each intersection at which a 7-day Mechanical Count occurs, Proposer shall submit to the CITY the following:

1. Proposer shall submit traffic counts for each approach and/or departure of a vehicle from the intersection in 15-minute time intervals for the 168-hour period. Proposer shall also provide hourly totals for the 168-hour period of the traffic count, and the Average Daily Traffic Volumes. The data shall be submitted in a hard copy, summary format and in a Microsoft Excel 2003 spreadsheet electronic file format to be provided by the CITY.

2. Proposer shall also note observations made during set-up and removal of the mechanical tube counting device of factors that might have impacted traffic counts (i.e., queue length, traffic accidents, construction, etc.).
3.7.4 For each 12-hour Turning Movement Count performed at each intersection, the Proposer shall submit to the CITY the following deliverables:

1. Proposer shall submit the traffic count data for each counted vehicle and pedestrian movement aggregated to the forty-eight (48) 15-minute intervals for the entire 12 hour period during which the traffic count occurred. Movement orientations on the data submitted shall correspond with the street network map supplied by the CITY. The data shall be submitted in a Jamar Petra 3 format (*.PWF) and in a Microsoft Excel 2003 spreadsheet electronic file format to be provided by the CITY.

2. Proposer shall also submit a schematic sketch of the lane configuration of the intersection illustrating the number and width of turning movement lanes, through lanes and High Occupancy Vehicle (HOV) lanes, and cross-walk width and length as measured from face of curb to face of curb by Proposer. Proposer shall also clearly note on the sketch the date of the 12- hour Manual Count, weather conditions, street names, posted speed limits, any observed traffic conditions that may have impacted the traffic count at any time, and any other field notes the Proposer determines are relevant. Proposer's designated Field Supervisor shall prepare the sketch, print and sign his/her name, and print the names of the count technicians performing the 12- hour Manual Count.

3.8 DUE DATE FOR DELIVERABLES

3.8.1 Proposer shall complete all initial traffic counts of the intersections identified on the Fall Intersection List between the first Wednesday after Labor day and the last Thursday in October. Proposer shall complete all initial traffic counts of the intersections identified on the Spring Intersection List between The first Tuesday in February and the second Thursday in April.

3.8.2 For each intersection, Proposer shall submit the applicable deliverables set forth in Section IX of this Scope of Services to the CITY by the end of the week following the week in which the traffic count was completed at the intersection. Notwithstanding the foregoing, Proposer shall submit the deliverables for the traffic counts completed during the final week of either one of the initial counting periods by the Monday following the week in which the traffic count was completed.

3.9 RECOUNTS

3.9.1 If the Proposer's initial traffic count at any intersection is not consistent with the available data for the area, as determined by the DIRECTOR, Proposer shall conduct an additional complete traffic count of the same type at such intersection within one (1) week of the initial traffic count ("Recount"). If Proposer's initial count at such intersection is validated and consistent with the Recount at that intersection, as determined by the DIRECTOR, CITY shall compensate Proposer for that additional count in the same amount as the original count. Otherwise, the Recount shall be at no cost to the CITY.

3.9.2 Proposer shall complete all Recounts by the second Thursday in November for intersections on the Fall Intersection List and by the last Thursday in April for all intersections on the Spring Intersection List.

3.10 INNOVATIVE DATA COLLECTIVE TECHNOLOGY
3.10.1 Proposer may use new innovative technology (e.g. automated video data collection) upon approval by the Director. Any new technology must be able to conduct simultaneously pedestrian, bicycles and vehicle turning movement counts. The quality of work must equal or exceed the quality of the traffic counts performed by technicians or mechanical tubes. The Proposer must send a request that must have approval by the Director prior to application of any use of the new technology.

3.11 DAMAGE OR FAULTY EQUIPMENT

3.11.1 It is the Proposer’s responsibility to do routine inspections of the equipment set for traffic counts. It will be the responsibility of Proposer for any damage or replacement of the equipment and recounts at no cost to the city. The City is not liable for any damage or faulty equipment.

4 DESIRED QUALIFICATIONS

In addition to the ability to perform the work as described in Section 3, Scope of Work, of this document, RFP 12-13-DOTPL001, the following list describes the desirable qualifications of Proposer:

1. Assignment (to this project) of a Project Manager who led a team in conducting at least 500 individual peak-hours and/or daily traffic counts within the Bay Area in the past 12 months.

2. A minimum of one (1) full-time employee based within the metropolitan Bay Area region.

3. Ownership of mechanical counting equipment.

A proposal will not be immediately disqualified if any of the above qualifications cannot be met, however this may result in a lower overall score.

5 TERM OF AGREEMENT

The term of this AGREEMENT is anticipated to be one year with up to three one year options to renew the agreement at the sole discretion of the City, for a total of four years.

The term of this AGREEMENT shall be from September 1, 2012 and shall extend through August 31, 2013, inclusive, subject to the provisions of section 11 of Attachment C (TERMINATION) of this document, RFP 12-13-DOTPL001.

6 COMPENSATION

CITY agrees to compensate Proposer for professional services performed in accordance with the terms and conditions of this AGREEMENT as follows:

1. The maximum amount of compensation to be paid to Proposer under this AGREEMENT for payment for professional services shall not exceed Fifty Thousand Dollars ($50,000). Any hours worked for which payment would result in a total exceeding the maximum amount of compensation set forth herein shall be at no cost to CITY.
2. Proposer rates for professional services shall be based on fees submitted by the Consultant under section 8.5 of this document, RFP 11-12-DOTPL001 for each intersection at which traffic volume counts are performed.

3. Proposer shall not be entitled to reimbursement for any expenses.

4. The Proposer may request adjustment of compensation rates upon CITY’s decision to renew the AGREEMENT. The adjustment shall be calculated as follows:

a. The base for computing the adjustment shall be the Consumer Price Index for Urban Wage Earners and Clerical Workers (with a base year of 1982-1984=100) for the San Francisco-Oakland-San Jose area, published by the United States Department of Labor Statistics (“Index”), which is published most immediately preceding the commencement of the applicable extension term (“Extension Index”), shall be compared with the Index published most immediately preceding the commencement date of the then expiring term (“Beginning Index”). If the Extension Index published has increased over or decreased under the Beginning Index, the monthly compensation rates for the extension term shall be set by multiplying the then expiring term’s monthly compensation rate by a fraction, the numerator of which is the Extension Index and the denominator of which is the Beginning Index. Upon adjustment of the monthly compensation rates, the parties shall immediately execute a written amendment to the Agreement setting forth the new monthly compensation rates, and attach the same as a revised exhibit to the Agreement.

b. If the Index is changed so that the base year differs from that used as of the month immediately preceding the Agreement’s commencement date, the Index shall be converted in accordance with the conversion factor published by the United States Department of Labor, Bureau of Labor Statistics. If the Index is discontinued or revised during the term of the Agreement such other government index or computation with which it is replaced shall be used in order to obtain substantially the same result as would be obtained if the Index had not been discontinued or revised.

c. The preceding provision of this Section notwithstanding, the adjustment of any monthly compensation rate for any extension term shall not exceed 7% of the previous term’s monthly compensation rate.

d. For the purpose of illustration only, if a Beginning Index is 115 and the Extension Index is 124, the monthly compensation rate to be paid during the extension term shall $ X (the then expiring term’s monthly compensation rate) multiplied by 124/115.
7 SCHEDULE OF PERFORMANCE

Work shall commence immediately upon CITY’s issuance of a Notice to Proceed. The estimated time for completion is June 30, 2013. The DIRECTOR may authorize, in writing, an extension of the term of this AGREEMENT of up to six (6) months to perform the work included under this AGREEMENT so long as no other change is made to this AGREEMENT. Each category of counting, Original and Recounts shall be completed by the following dates:

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<thead>
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<th>Fall 2012 Intersection List</th>
<th>Counting Deadline</th>
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<tr>
<td>Original Counts</td>
<td>October 25, 2012</td>
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<td>All Recounts</td>
<td>November 8, 2012</td>
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<table>
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<th>Spring 2013 Intersection List</th>
<th>Counting Deadline</th>
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<tbody>
<tr>
<td>Original Counts</td>
<td>April 11, 2013</td>
</tr>
<tr>
<td>All Recounts</td>
<td>April 25, 2013</td>
</tr>
</tbody>
</table>

8 SUBMITTAL REQUIREMENTS

Questions pertaining to this RFP should be submitted via e-mail to the contract manager listed on the cover page of this RFP. Please submit all questions by the deadline on the cover page of this RFP. The City will provide a written response to all pertinent questions in the form of an Addendum.

In order to expedite the evaluation process, each Proposal shall be organized in accordance with this section. Proposals that do not follow the specified format outlined below, or fail to provide the required documentation, may receive lower scores. In the event of any conflict between any of the Proposal documents, resolution thereof shall be in the City’s sole discretion. Proposals shall include the following information in the format indicated:

8.1 GENERAL INFORMATION

8.1.1 Submit three copies of the technical proposal clearly marked on the envelope/box and on the cover or title page of each proposal as follows: RFP Proposal (RFP 12-13-DOTPL001). In addition, include an electronic copy of your proposal on a CD or DVD, in PDF format.

Within the technical proposal, please include the following:

1. A cover letter with the name, address, phone number, fax number and website URL for your firm (website URL optional) together with the name, address, phone, fax and e-mail for the person whom the Transportation Planning Division should contact in regard to this RFP,

2. a written discussion of the traffic volume counting expertise and services that distinguish your firm, with emphasis on the past 12 months, and
3. a company profile and resume of the project manager and any other permanent employees that would be assigned to handle the City of San José account.

8.1.2 Submit one copy of your cost proposal (per Section 8.3) in a separate sealed envelope clearly marked on the outside: RFP Cost Proposal (RFP 12-13-DOTPL001).

8.1.3 Refer to the cover sheet of this RFP for due dates and delivery location.

8.2 ATTACHMENTS
The following documents must be completed and submitted with your proposal:

8.2.1 Attachment A – “Proposal Certification,” completed and signed

8.2.2 Attachment B – “Conflict of Interest Form”

8.2.3 Attachment C – “Previous Customer Reference Worksheet”
Submit three references where your firm has completed project(s) similar in scope and complexity to the requirements of this RFP.

8.2.4 Attachment D – “Consultant Agreement” for RFP 12-13-DOTPL001
Please note any exceptions to the Agreement. If there are no exceptions, submit the 1st page of the Agreement stating “No Exceptions”.

The following attachments should be completed and submitted with your technical proposal. Failure to submit with your proposal will not result in the immediate rejection of your proposal, however it may result in a lower overall score.

8.2.5 Attachment E – “Local and Small Businesses Preference”
This form must be provided if the proposer is requesting consideration. If this form is not included with your proposal, consideration for local and small business preference shall not be granted. This form may not be submitted at a later date.

8.3 COST PROPOSAL
Proposer must complete and submit a Cost Proposal, Attachment F. Please follow the instructions included with the form.

9 SELECTION PROCESS AND EVALUATION CRITERIA
City staff will evaluate proposal submissions. The City reserves the right to interview prospective firms/individuals prior to making its selection. The City also reserves the right to rely on information from sources other than the information provided by the respondents.

9.1 PROPOSAL RESPONSIVENESS (pass/fail)

9.2 PROJECT MANAGEMENT 35%
Proposer will be evaluated based on the ability to contact and communicate as necessary, and the ability to adhere to schedules and deadlines. Additional elements considered for this criterion include, but not limited to, related work experience, availability of equipments, availability of and qualification of personnel, adherence to commitment, communication plan, and work procedure. Scopes and timeframes of current commitments of similar work should be
taken into account by CONSULTANT in proposal to demonstrate availability of equipment and personnel. This criterion considers both written proposal and City’s past experience working with Proposer. If Proposer has not previously worked with the Transportation Planning Division of City’s Department of Transportation, professional references provided through the proposal will be contacted in lieu.

9.3 CUSTOMER SATISFACTION AND FIRM REPUTATION

Proposer will be evaluated on the quality and consistency of traffic counts performed, and quality and timeliness of data delivered. Clarity, completeness, reasonableness, and data format are the major attributes considered for quality. Past record of on time submission of deliverables is the major attribute considered for timeliness. Reputation will be evaluated based on clienteles’ feedback on Proposer. This criterion considers primarily on City’s past experience working with Proposer and/or professional references. If Proposer has not previously worked with the Transportation Planning Division of City’s Department of Transportation, professional references provided through the proposal will be contacted in lieu.

9.4 FEE STRUCTURE (COST)

Proposer will be evaluated based on a weighted average of the five proposed cost items. The weight costs are assigned based on anticipated work with approximately 75% on Standard Manual Count.

9.5 LOCAL BUSINESS ENTERPRISE

5%

9.6 LOCAL AND SMALL BUSINESS ENTERPRISE

5%

10 PROCESS INTEGRITY GUIDELINES

10.1 In accordance with Procurement and Contract Process Integrity and Conflict of Interest Council policy adapted on 2/6/2007, proposers may be disqualified from this procurement without further consideration for any of the following:

10.1.1 Evidence of collusion, directly or indirectly, among proposers regarding the amount, terms, or conditions of this proposal

10.1.2 Failure to direct all questions/inquiries through the contact listed in this document.

10.1.3 Offering gifts or souvenirs, even of minimal value, to City officials or employees

10.1.4 Any attempt to improperly influence any member of the selection staff.

10.1.5 Existence of any lawsuit, unresolved contractual claim or dispute between Proposer and the City

10.1.6 Evidence of submitting incorrect information in the response to a solicitation or misrepresenting or failing to disclose material facts during the evaluation process

10.2 CONFLICT OF INTEREST

In order to avoid a conflict of interest or the perception of a conflict of interest, proposer(s) selected to provide services under this RFP will be subject to the following requirements:

1. The proposer(s) selected under this RFP will be precluded from submitting proposals or bids as a prime contractor or subcontractor for any future procurement with the City if the
specifications for such procurements were developed or influenced by the work performed under the agreement resulting from this RFP.

2. Proposer(s) may not have any interest in any potential proposer for any future City procurements that may result from the work performed under the agreement resulting from this RFP.

3. In order to determine whether such interest may exist, all proposers must complete the attached Conflict of Interest Questionnaire (Attachment E).

11 GENERAL INFORMATION

11.1 Responses will be evaluated as outlined in Section 9.

11.2 Final award shall be contingent upon selected firm (Proposer) accepting City’s terms and conditions per Attachment C of this RFP.

11.3 City reserves the right to accept an offer in full, or in part, or to reject all offers.

11.4 All questions/inquiries must be made through the contact listed on the cover sheet of this document, via e-mail. Contact with representative(s) other than name listed in this RFP is grounds for disqualification. The City will provide a written response to all questions in the form of an Addendum.

11.5 You must respond to this RFP by the due date and time as stated on the cover sheet of this document in order for your quotation to be considered. Quotations may be submitted via fax or e-mail, and must be addressed to the attention of the contact listed on the cover sheet of this document, clearly labeled RFP 08-09-DOT001.

11.6 The successful proposer will be required to demonstrate evidence of insurance and agree to City’s Terms and Conditions as indicated in Attachment C.

12 PUBLIC NATURE OF PROPOSAL MATERIAL

12.1 All correspondence with the City including responses to this RFP will become the exclusive property of the City and will become public records under the California Public Records Act (Cal. Government Code section 6250 et seq.) All documents that you send to the City will be subject to disclosure if requested by a member of the public. There are a very limited number of narrow exceptions to this disclosure requirement.

12.2 Therefore, any proposal which contains language purporting to render all or significant portions of their proposal “Confidential”, “Trade Secret” or “Proprietary”, or fails to provide the exemption information required as described below will automatically be considered a public record in its entirety and shall be disclosed to the requesting party without further consideration or notice.

12.3 Do not mark your entire proposal as “confidential”.

12.4 The City will not disclose any part of any proposal before it announces a recommendation for award, on the ground that there is a substantial public interest in not disclosing proposals during the evaluation process. After the announcement of a recommended award, all proposals received in response to this RFP will be subject to public disclosure. If you believe that there are portion(s) of your proposal which are exempt from
disclosure under the Public Records Act, you must mark it as such and state the specific provision in the Public Records Act which provides the exemption as well as the factual basis for claiming the exemption. For example, if you submit trade secret information, you must plainly mark the information as “Trade Secret” and refer to the appropriate section of the Public records Act which provides the exemption as well as the factual basis for claiming the exemption.

12.5 Although the California Public Records Act recognizes that certain confidential trade secret information may be protected from disclosure, the City of San José may not be in a position to establish that the information that a Proposer submits is a trade secret. If a request is made for information marked “Confidential”, “Trade Secret” or “Proprietary”, the City will provide Proposers who submitted the information with reasonable notice to seek protection from disclosure by a court of competent jurisdiction.

12.6 COSTS

All costs associated with responding to this request are to be borne by the respondent.

12.7 NON-DISCRIMINATION

It is the City’s policy that the selected firm shall not discriminate, in any way, against any person on the basis of race, sex, color, age, religion, sexual orientation, actual or perceived gender identity, disability, ethnicity, or national origin, in connection with or related to the performance of City of San José contracts.

13 OBJECTIONS AND PROTESTS

13.1 OBJECTIONS

13.1.1 Any objections as to the structure, content or distribution of this RFP must be submitted in writing to the purchasing contact listed below. Objections must be as specific as possible, and identify the RFP section number and title, as well as a description and rationale for the objection.

13.2 PROTESTS

13.2.1 If an unsuccessful Proposer wants to dispute the award recommendation, the Protest must be submitted in writing to the Chief Purchasing Officer no later than ten calendar days after announcement of the successful Proposer, detailing the grounds, factual basis and providing all supporting information. Protests will not be considered for disputes of proposal requirements and specifications, which must be addressed in accordance with Section 13. Failure to submit a timely written Protest to the Chief Purchasing Officer will bar consideration of the Protest.

13.3 The address for submitting objections or protests is:

Attention: Mr. Manuel Pineda
200 East Santa Clara Street, 8th Floor
San Jose, CA 95113
ATTACHMENT A

Proposal Certification

<table>
<thead>
<tr>
<th>Proposing Firm Name:</th>
<th></th>
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<tbody>
<tr>
<td>Address:</td>
<td></td>
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<tr>
<td>Telephone:</td>
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<tr>
<td>Facsimile:</td>
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<tr>
<td>Contact person name and title:</td>
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</table>

**PROPOSER REPRESENTATIONS**

1. Proposer did not, in any way, collude, conspire or agree, directly or indirectly, with any person, firm, corporation or other Proposer in regard to the amount, terms, or conditions of this proposal.

2. Proposer additionally certifies that neither proposer nor its principals are presently disbarred, suspended, proposed for disbarment, declared ineligible or voluntarily excluded from participation in this transaction by any federal department or agency, any California State agency, or any local governmental agency.

3. Proposer acknowledges that all requests for deviations, exceptions, and approved equals are enclosed herein and that only those deviations, exceptions, and approved equals included in the RFP document or permitted by formal addenda are accepted by the City.

4. Proposer did not receive unauthorized information from any City staff member or City Consultant during the Proposal period except as provided for in the Request for Proposals package, formal addenda issued by the City, or the pre-proposal conference.

5. Proposer hereby certifies that the information contained in the proposal and all accompanying documents is true and correct.

6. Please check the appropriate box below:

- [ ] If the proposal is submitted by an individual, it shall be signed by him or her, and if he or she is doing business under a fictitious name, the proposal shall so state.

- [ ] If the proposal is submitted by a partnership, the full names and addresses of all members and the address of the partnership, the full names and addresses of all members and the addresses of the partnership shall be stated and the proposal shall be signed for all members by one or more members thereof.

- [ ] If the proposal is submitted by a corporation, it shall be signed in the corporate name by an authorized officer or officers.
If the proposal is submitted by a limited liability company, it shall be signed in the corporate name by an authorized officer or officers.

If the proposal is submitted by a joint venture, the full names and addresses of all members of the joint venture shall be stated and it shall be signed by each individual.

By signing below, the submission of a proposal with all accompanying documents shall be deemed a representation and certification by the Proposer that they have investigated all aspects of the RFP, that they are aware of the applicable facts pertaining to the RFP process, its procedures and requirements, and that they have read and understand the RFP.

<table>
<thead>
<tr>
<th>Authorized Representative Name (sign name):</th>
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</thead>
<tbody>
<tr>
<td>Authorized Representative Signature (print name):</td>
<td></td>
</tr>
<tr>
<td>Authorized Representative Title (print title):</td>
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</tbody>
</table>

Complete additional signatures below as required per # 6 above

<table>
<thead>
<tr>
<th>Authorized Representative Name (sign name):</th>
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<tbody>
<tr>
<td>Authorized Representative Signature (print name):</td>
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<td>Authorized Representative Title (print title):</td>
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<th>Authorized Representative Name (sign name):</th>
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<tr>
<td>Authorized Representative Signature (print name):</td>
<td></td>
</tr>
<tr>
<td>Authorized Representative Title (print title):</td>
<td></td>
</tr>
</tbody>
</table>
ATTACHMENT B

CONFLICT OF INTEREST FORM
To be completed by consultants making proposals.

NAME

DATE

PROPOSED ASSIGNMENT:

In order for the City to assess whether the personnel proposed to be assigned by the successful Proposer to work on the Proposed Assignment have a conflict of interest; this form must be completed by each person that the Proposer intends to assign.

<table>
<thead>
<tr>
<th>Questions</th>
<th>Yes (Provide Details)</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Do you have any official, professional, financial or personal relationship with any person or firm that might affect your judgment or your ability to provide services to the City that are fair and impartial?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2. Stock and Investments</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(a) Do you own any stock in any company likely to be affected by or involved in the Proposed Assignment?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(b) Does your spouse or a dependent own any stock in company likely to be affected by or involved in the Proposed Assignment?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(c) Do you hold any investments in any entity (e.g. partnership, limited liability company, or a trust) likely to be affected by or involved in the Proposed Assignment?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(d) Does your spouse or a dependent hold any investments in any entity (e.g. partnership, limited liability company, or a trust) likely to be affected by or involved in the Proposed Assignment?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>If the answer is yes to any of the above questions, please provide the name of the company and the amount of the stock or investment.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3. Employment &amp; Consulting</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(a) Is your spouse or a dependent employed/retained by anyone likely to be affected by or involved in the Proposed Assignment?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(b) Has your spouse or dependent been previously employed/retained by anyone likely to be affected by or involved in the Proposed Assignment?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(c) Have you been employed/retained by anyone likely to be affected by or involved in the Proposed Assignment?</td>
<td></td>
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</tr>
<tr>
<td>If the answer is yes to any of the above questions, please provide name of</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Employer</td>
<td>Nature of services provided and if the dates employed or retained</td>
<td></td>
</tr>
<tr>
<td>----------</td>
<td>---------------------------------------------------------------</td>
<td></td>
</tr>
</tbody>
</table>


4. Payments or Gifts
   (d) Within the past 12 months, have you received any payments or gifts from anyone likely to be affected by or involved in the Proposed Assignment?
   (e) Within the past 12 months, has your spouse or a dependent received any payments or gifts from anyone likely to be affected by or involved in the Proposed Assignment?
   If the answer is yes, please provide the amount the payment or value of the gift, the name and position of the payor/donor and the date of receipt.

5. Real Estate
   (a) Do you own real property that is likely to be affected by or involved in the Proposed Assignment?
   (b) Does your spouse or a dependent own real property that is likely to be affected by or involved in the Proposed Assignment?
   If the answer is yes, please provide the location of the property.

6. Positions
   14 Do you currently hold a position (e.g. member of a board of directors) of any entity (e.g. a company, partnership, association, nonprofit) that is likely to be affected by or involved in the Proposed Assignment?
   15 Does your spouse or a dependent hold a position (e.g. member of a board of directors) of any entity (e.g. a company, partnership, association, nonprofit) that is likely to be affected by or involved in the Proposed Assignment?
   If the answer is yes, please provide the name of the entity, and the title of the position held.

   If during the course of the evaluation, any personal, external, or organizational impairments occur that may affect your ability to do the work and report findings impartially, notify the Program Manager immediately.

   ________________________________
   Signature

   ________________________________
   Print Name
ATTACHMENT C
PREVIOUS CUSTOMER REFERENCE WORKSHEET

Provide reference information for the product you are quoting and used in a manner and environment similar in size and scope to the requirements of this project. Copy this form as appropriate.

<table>
<thead>
<tr>
<th>Name of Customer:</th>
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<tbody>
<tr>
<td></td>
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<tr>
<td>Customer Address</td>
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<tr>
<td>Customer Contact Name(s)</td>
<td></td>
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<td></td>
<td></td>
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<tr>
<td>Customer Contact Phone Number(s)</td>
<td></td>
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</tbody>
</table>

Brief description of work performed for this client (use additional sheets if necessary):
ATTACHMENT D
EXEMPLAR

AGREEMENT FOR CONSULTANT SERVICES
BETWEEN
THE CITY OF SAN JOSE
AND
[INSERT NAME OF CONSULTANT]

THIS AGREEMENT is made and entered into this _____ day of __________ 2011, by and between the CITY OF SAN JOSE, a municipal corporation (hereinafter “CITY”), and [INSERT NAME OF CONSULTANT], a [INSERT TYPE OF BUSINESS ENTITY – e.g. a California corporation, a Delaware limited liability company, an individual] (hereinafter “CONSULTANT”).

THE PARTIES HEREBY AGREE AS FOLLOWS:

SECTION 1. SCOPE OF SERVICES.
CONSULTANT shall perform those services specified in detail in EXHIBIT A, entitled “SCOPE OF SERVICES”, which is attached hereto and incorporated herein.

SECTION 2. TERM OF AGREEMENT.
A. The term of this AGREEMENT shall be from [INSERT BEGINNING DATE] and shall extend through August 31, 2013, inclusive (“Initial Term”), subject to the provisions of SECTION 11 of this AGREEMENT.

B. The CITY, at CITY’s sole option, and subject to appropriation of funds by the City Council, may extend the term of this AGREEMENT for up to three (3) one-year option periods, at the rate of compensation as set out in EXHIBIT D, entitled “COMPENSATION,” which is attached hereto and incorporated herein.
C. Before the expiration of this AGREEMENT, the Director of the Department of Transportation ("Director") may extend the term by written Notice of Exercise of Option.

D. CITY’s agreement to extend the term of this AGREEMENT is not a waiver of the “time is of the essence” provision in SECTION 3.

SECTION 3. SCHEDULE OF PERFORMANCE.
The services of CONSULTANT are to be completed according to the schedule set out in EXHIBIT B, entitled “SCHEDULE OF PERFORMANCE”, which is attached hereto and incorporated herein. Time is of the essence in this AGREEMENT.

SECTION 4. COMPENSATION.
A. The compensation to be paid to CONSULTANT, including both payment for professional services, shall not exceed FIFTY THOUSAND Dollars ($50,000.00). The rate and schedule of payment is set out in EXHIBIT C, entitled “COMPENSATION,” which is attached hereto and incorporated herein.

B. CONSULTANT agrees that in the performance of this AGREEMENT, CONSULTANT shall adhere to City Council Policy 1-19, the following provisions of which are made applicable to this AGREEMENT:

1. It is the policy of the CITY that CITY’s funds should not be used for the purchase of single-serving bottled water.

2. The following circumstances shall constitute exceptions to City Council Policy 1-19:

   a. Public safety emergencies, investigations and extended deployments or activation of the Office of Emergency Services.
   b. High risk of cross-contamination with non-potable water.
c. Situations where there are no reasonable alternatives to bottled water, such as large public events and when large quantities of water may need to be distributed for health and safety reasons.

3. CONSULTANT acknowledges and agrees that an invoice seeking reimbursement from CITY for the cost of single-serving bottled water under the exception referenced above in Subsection 2 (c) must be accompanied by a waiver form provided by CITY and signed by the department head of the CITY department administering this AGREEMENT.

SECTION 5. METHOD OF PAYMENT.
Each month, CONSULTANT shall furnish to the CITY a statement of the work performed for compensation during the preceding month.

SECTION 6. INDEPENDENT CONTRACTOR.
It is understood and agreed that CONSULTANT, in the performance of the work and services agreed to be performed by CONSULTANT, shall act as and be an independent contractor and not an agent or employee of CITY; and as an independent contractor, CONSULTANT shall obtain no rights to retirement benefits or other benefits which accrue to CITY's employees, and CONSULTANT hereby expressly waives any claim it may have to any such rights.

SECTION 7. ASSIGNABILITY.
The parties agree that the expertise and experience of CONSULTANT are material considerations for this AGREEMENT. CONSULTANT shall not assign or transfer any interest in this AGREEMENT nor the performance of any of CONSULTANT's obligations hereunder, without the prior written consent of CITY, and any attempt by CONSULTANT to so assign this AGREEMENT or any rights, duties or obligations arising hereunder shall be void and of no effect.
SECTION 8. INDEMNIFICATION.
CONSULTANT shall defend, indemnify and hold harmless CITY, its officers, employees and agents against any claim, loss or liability arising out of or resulting in any way from work performed under this AGREEMENT due to the willful or negligent acts (active or passive) or omissions by CONSULTANT’s officers, employees or agents. The acceptance of said services and duties by CITY shall not operate as a waiver of such right of indemnification.

SECTION 9. INSURANCE REQUIREMENTS.
CONSULTANT agrees to have and maintain the policies set forth in EXHIBIT D, entitled “INSURANCE,” which is attached hereto and incorporated herein. All policies, endorsements, certificates and/or binders shall be subject to approval by the Director of Finance or the Director’s authorized designee (“Risk Manager”) of the City of San Jose as to form and content. These requirements are subject to amendment or waiver if so approved in writing by the Risk Manager. CONSULTANT agrees to provide CITY with a copy of said policies, certificates and/or endorsements before work commences under this AGREEMENT.

SECTION 10. NONDISCRIMINATION.
CONSULTANT shall not discriminate, in any way, against any person on the basis of race, sex, color, age, religion, sexual orientation, actual or perceived gender identity, disability, ethnicity, or national origin, in connection with or related to the performance of this AGREEMENT.

SECTION 11. TERMINATION.
A. CITY shall have the right to terminate this AGREEMENT, without cause, by giving not less than seven (7) days' written notice of termination.

B. If CONSULTANT fails to perform any of its material obligations under this AGREEMENT, in addition to all other remedies provided by law, CITY may terminate this AGREEMENT immediately upon written notice.
C. CITY’s DIRECTOR OF TRANSPORTATION is empowered to terminate this AGREEMENT on behalf of CITY.

D. In the event of termination, CONSULTANT shall deliver to CITY copies of all reports, documents, and other work performed by CONSULTANT under this AGREEMENT, and upon receipt thereof, CITY shall pay CONSULTANT for services performed to the date of termination.

SECTION 12. GOVERNING LAW.
CITY and CONSULTANT agree that the law governing this AGREEMENT shall be that of the State of California.

SECTION 13. COMPLIANCE WITH LAWS.
CONSULTANT shall comply with all applicable laws, ordinances, codes and regulations of the federal, state and local governments. Without limiting the generality of the preceding sentence, CONSULTANT shall comply with the provisions of CITY’s Business Tax Ordinance in Chapter 4.76 of the San José Municipal Code.

SECTION 14. ENVIRONMENTALLY PREFERABLE PROCUREMENT POLICY.
CONSULTANT agrees that, in the performance of this Agreement, CONSULTANT shall perform its obligations under the agreement in conformance with City Council Policy 4-6, Environmentally Preferable Procurement Policy. A description for environmentally preferable procurement and the Policy can be found on the CITY’S website at the following link: http://www.sanjoseca.gov/esd/natural-energy-resources/epp.htm.

Environmental procurement policies and activities related to the completion of work will include wherever practicable, but are not limited to:

A. Use of recycled and/or recyclable products in daily operations (i.e. 30, 50, 100% PCW paper, chlorine process free; triclosan free hand cleaner, etc.)
B. Use of Energy Star Compliant equipment.

C. Vehicles and vehicle operations (i.e. Alternative Fuel, Hybrid, etc.)

D. Internal waste reduction and reuse protocol(s).

E. Water and resource conservation activities within facilities, including bans on individual serving bottled water and the use of compostable food service products, etc.

SECTION 15. CONFIDENTIAL INFORMATION.
All data, documents, discussions or other information developed or received by or for CONSULTANT in performance of this AGREEMENT are confidential and not to be disclosed to any person except as authorized by CITY, or as required by law.

SECTION 16. OWNERSHIP OF MATERIALS.
All reports, documents or other materials developed or discovered by CONSULTANT or any other person engaged directly or indirectly by CONSULTANT to perform the services required hereunder shall be and remain the property of CITY without restriction or limitation upon their use.

SECTION 17. WAIVER.
CONSULTANT agrees that waiver by CITY of any breach or violation of any term or condition of this AGREEMENT shall not be deemed to be a waiver of any other term or condition contained herein or a waiver of any subsequent breach or violation of the same or any other term or condition. The acceptance by CITY of the performance of any work or services by CONSULTANT shall not be deemed to be a waiver of any term or condition of this AGREEMENT.

SECTION 18. CONSULTANT'S BOOKS AND RECORDS.
A. CONSULTANT shall maintain any and all ledgers, books of account, invoices, vouchers, cancelled 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 (3) years, or for any longer period required by law, from the date of final payment to CONSULTANT pursuant to this AGREEMENT.

B. CONSULTANT shall maintain all documents and records which demonstrate performance under this AGREEMENT for a minimum period of three (3) 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 no cost to CITY, at any time during regular business hours, upon written request by the City Attorney, City Auditor, City Manager, 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 indicated for receipt of notices in this AGREEMENT. CONSULTANT acknowledges that under certain circumstances specified in California Government Code Section 8546.7, this AGREEMENT (if it involves an expenditure of $10,000 or more of public funds) may be subject to examination and audit by the Auditor of the State of California pursuant to California Government Code Section 8546.7.

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

SECTION 19. CONFLICT OF INTEREST.
CONSULTANT shall avoid all conflict of interest or appearance of conflict of interest in performance of this AGREEMENT. As of the date of entering into this AGREEMENT, CONSULTANT’s employees assigned to perform services as specified in EXHIBIT B of this AGREEMENT (“CONSULTANT’s Assigned Employees”) shall not be required to complete and file a Form 700 with CITY’s Clerk. In the event that the CITY subsequently determines to require CONSULTANT’s Assigned Employees to complete and file a Form 700 with CITY’s Clerk, CITY will notify CONSULTANT in writing of such requirement, including without limitation, instructions regarding the categories of economic interests subject to disclosure on the Form 700 (“Form 700 Notice”). CONSULTANT shall cause CONSULTANT’s Assigned Employees to complete and file the Form 700 with CITY’s Clerk and to submit a copy to [Insert Project Manager Name], in accordance with the instructions specified in the Form 700 Notice, no later than thirty (30) days of the date of the Form 700 Notice.

SECTION 20. GIFTS.
A. CONSULTANT is familiar with CITY’s prohibition against the acceptance of any gift by a CITY officer or designated employee, which prohibition is found in Chapter 12.08 of the San Jose Municipal Code.

B. CONSULTANT agrees not to offer any CITY officer or designated employee any gift prohibited by said Chapter.

C. The offer or giving of any gift prohibited by Chapter 12.08 shall constitute a material breach of this AGREEMENT by CONSULTANT. In addition to any other remedies CITY may have in law or equity, CITY may terminate this AGREEMENT for such breach as provided in SECTION 11 of this AGREEMENT.
SECTION 21. DISQUALIFICATION OF FORMER EMPLOYEES.
CONSULTANT is familiar with the provisions relating to the disqualification of former officers and employees of CITY in matters which are connected with former duties or official responsibilities as set forth in Chapter 12.10 of the San Jose Municipal Code (“Revolving Door Ordinance”). CONSULTANT shall not utilize either directly or indirectly any officer, employee, or agent of CONSULTANT to perform services under this AGREEMENT, if in the performance of such services, the officer, employee, or agent would be in violation of the Revolving Door Ordinance.

SECTION 22. NOTICES.
All notices and other communications required or permitted to be given under this AGREEMENT shall be in writing and shall be personally served or mailed, postage prepaid and return receipt requested, addressed to the respective parties as follows:

To CITY: [INSERT NAME, POSITION TITLE AND ADDRESS]

To CONSULTANT: [INSERT NAME, POSITION TITLE AND ADDRESS]

Notice shall be deemed effective on the date personally delivered or, if mailed, three (3) days after deposit in the mail.
SECTION 23. **VENUE.**

In the event that suit shall be brought by either party to this contract, the parties agree that venue shall be exclusively vested in the state courts of the County of Santa Clara, or if federal jurisdiction is appropriate, exclusively in the United States District Court, Northern District of California, San Jose, California.

SECTION 24. **INTERPRETATION, PRIOR AGREEMENTS AND AMENDMENTS.**

This AGREEMENT, including all Exhibits attached hereto, represents the entire understanding of the parties as to those matters contained herein. In the event that the terms specified in any of the Exhibits attached hereto conflict with any of the terms specified in the body of this AGREEMENT, the terms specified in the body of this AGREEMENT shall control. No prior oral or written understanding shall be of any force or effect with respect to those matters covered hereunder. This AGREEMENT may be modified only by a written amendment duly executed by the parties to this AGREEMENT.
WITNESS THE EXECUTION HEREOF on the day and year first hereinabove written.

“CITY”

FORM OF AGREEMENT APPROVED BY THE OFFICE OF THE CITY ATTORNEY

CITY OF SAN JOSE, a municipal corporation

By __________________________

NORBERTO DUENAS
Deputy City Manager

“CONSULTANT”

[INSERT NAME OF CONSULTANT], a [INSERT TYPE OF BUSINESS ENTITY – e.g. a California corporation, a Delaware limited liability company, an individual]

By __________________________

Name:
Title:
EXHIBIT A

SCOPE OF SERVICES

CONSULTANT shall perform the following services:
EXHIBIT B

SCHEDULE OF PERFORMANCE

Work shall commence immediately upon execution of this AGREEMENT. The estimated time for completion is __________.
EXHIBIT C

COMPENSATION

CITY agrees to compensate CONSULTANT:

EXHIBIT D

INSURANCE

CONSULTANT, at CONSULTANT’s sole cost and expense, shall procure and maintain for the duration of this AGREEMENT insurance against claims for injuries to persons or damages to property which may arise from, or in connection with, the performance of the services hereunder by CONSULTANT, its agents, representatives, employees or subcontractors.

A. Minimum Scope of Insurance

Coverage shall be at least as broad as:

1. The coverage provided by Insurance Services Office Commercial General Liability coverage (“occurrence”) Form Number CG 0001; and

2. The coverage provided by Insurance Services Office Form Number CA 0001 covering Automobile Liability. Coverage shall be included for all owned, non-owned and hired automobiles; and

3. Workers’ Compensation insurance as required by the California Labor Code and Employers Liability insurance; and

4. Professional Liability Errors & Omissions for all professional services.

There shall be no endorsement reducing the scope of coverage required above unless approved by the CITY’s Risk Manager.

B. Minimum Limits of Insurance

CONSULTANT shall maintain limits no less than:

1. Commercial General Liability: $1,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial Liability Insurance or other form with a general aggregate limit is used, either the general
aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit; and

2. Automobile Liability: $1,000,000 combined single limit per accident for bodily injury and property damage; and

3. Workers' Compensation and Employers Liability: Workers' Compensation limits as required by the California Labor Code and Employers Liability limits of $1,000,000 per accident; and

4. Professional Liability Errors & Omissions $1,000,000 per occurrence/aggregate limit.

C. **Deductibles and Self-Insured Retentions**

Any deductibles or self-insured retentions must be declared to, and approved by CITY's Risk Manager. At the option of CITY, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects CITY, its officers, employees, agents and contractors; or CONSULTANT shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses in an amount specified by the CITY’s Risk Manager.

D. **Other Insurance Provisions**

The policies are to contain, or be endorsed to contain, the following provisions:

1. Commercial General Liability and Automobile Liability Coverages
   
   a. The City of San Jose, its officers, employees, agents and contractors are to be covered as additional insureds as respects: Liability arising out of activities performed by or on behalf of, CONSULTANT; products and completed operations of CONSULTANT; premises owned, leased or used by CONSULTANT; and automobiles owned, leased, hired or borrowed by CONSULTANT. The coverage shall contain no special limitations on the scope of protection afforded to CITY, its officers, employees, agents and contractors.
   
   b. CONSULTANT's insurance coverage shall be primary insurance as respects CITY, its officers, employees, agents and contractors. Any insurance or self-insurance maintained by CITY, its officers, employees, agents or contractors shall be excess of CONSULTANT’s insurance and shall not contribute with it.
   
   c. Any failure to comply with reporting provisions of the policies by CONSULTANT shall not affect coverage provided CITY, its officers, employees, agents, or contractors.
d. Coverage shall state that CONSULTANT’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.

e. Coverage shall contain a waiver of subrogation in favor of the City, its officers, employees, agents and contractors.

2. Workers’ Compensation and Employers' Liability

Coverage shall contain waiver of subrogation in favor of the City of San Jose, its officers, employees, agents and contractors.

3. All Coverages

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 CITY, except that ten (10) days’ prior written notice shall apply in the event of cancellation for nonpayment of premium.

E. Acceptability of Insurers

Insurance is to be placed with insurers acceptable to CITY’s Risk Manager.

F. Verification of Coverage

CONSULTANT shall furnish CITY with certificates of insurance and with original endorsements affecting coverage required by this AGREEMENT. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

Proof of insurance shall be either emailed in pdf format to: Riskmgmt@sanjoseca.gov, or mailed to the following postal address or any subsequent address as may be directed in writing by the Risk Manager:

City of San Jose—Finance  
Risk Management  
200 East Santa Clara Street, 13th Floor Tower  
San Jose, CA  95113-1905

G. Subcontractors

CONSULTANT shall include all subcontractors as insureds under its policies or shall obtain separate certificates and endorsements for each subcontractor.
End of ATTACHMENT D
Exemplar Agreement
Chapter 4.06 of the San Jose Municipal Code provides for a preference for Local and Small Businesses in the procurement of contracts for supplies, materials and equipment and for general and professional consulting services. The amount of the preference depends on whether the vendor qualifies as a Local Business Enterprise* or Small Business Enterprise** and whether price has been chosen as the determinative factor in the selection of the vendor.

In order to be a Local Business Enterprise (LBE) you must have a current San Jose Business Tax Certificate Number and have an office in Santa Clara County with at least one employee. If you qualify as an LBE you can also qualify as a Small Business Enterprise (SBE) if the total number of employees (regardless of where they are located) of your firm is 35 or fewer.

There are two ways in which the preference can be applied. In procurements where price is the determinative factor (i.e. there are not a variety of other factors being considered in the selection process) the preference is in the form of a credit applied to the dollar value of the bid or quote. For example, a non-local vendor submits a quote of $200 per item and a LBE submits a quote of $204 per item. The LBE receives a 2.5% credit on the quote, which equals approximately $5 and thus the LBE will win the award because the quote is evaluated as if it had been submitted as $199.

The following determinations have been made with respect to this procurement: (for official use only)

<table>
<thead>
<tr>
<th>Type of Procurement</th>
<th>Bid</th>
<th>Request for Quote</th>
<th>Request for Proposal</th>
</tr>
</thead>
<tbody>
<tr>
<td>Type of Preference</td>
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<tr>
<td>Price is Determinative</td>
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<tr>
<td>Price is Not Determinative</td>
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<tr>
<td>Amount of Preference</td>
<td>LBE preference = 2.5% of Cost</td>
<td>LBE preference = 5% of Points</td>
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</tr>
<tr>
<td></td>
<td>SBE preference = 2.5% of Cost</td>
<td>SBE preference = 5% of Points</td>
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</table>

In order to be considered for any preference you must fill out the following statement(s) under penalty of perjury.

**LOCAL BUSINESS ENTERPRISE (LBE) PREFERENCE**

In order to qualify as an LBE you must provide the following information:

Current San Jose Business Tax Certificate Number

Address of Principal Business Office or Regional, Branch or Satellite Office with at least one employee located in Santa Clara County:

**SMALL BUSINESS ENTERPRISE (SBE) PREFERENCE**

In order to qualify as an SBE you must qualify as an LBE and have 35 or fewer employees. This number is for your entire business --NOT just local employees, or employees working in the office address given above.

Please state the number of employees that your Business has:

Based upon the forgoing information I am requesting that the Business named above be given the following preferences (please check): [ ] Local Business Enterprise [ ] Small Business Enterprise

I declare under penalty of perjury that the information supplied by me in this form is true and correct.

Executed at: ____________________________, California

Date: ____________________________

Signature: ____________________________

Print name: ____________________________

ATTACHMENT E – LOCAL AND SMALL BUSINESS PREFERENCE
ATTACHMENT F
COST PROPOSAL

The proposal should provide costs under the following scenarios (as defined in Section 3, Scope of Work, of this document, RFP 11-12-DOTPL001).

Please ensure to quote the cost of the full service provided, e.g., ‘Cost 1’ is the total fee (including all labor associated with preparing for traffic counts, as well as data collection, preparation, and delivery to the City) when two (2) technicians perform a ‘Standard Manual Count’ for a single 2-hour peak period.

<table>
<thead>
<tr>
<th></th>
<th>2-hour Count (AM, mid-day, or PM)</th>
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<tbody>
<tr>
<td>2-Person Count</td>
<td>Cost 1</td>
</tr>
<tr>
<td>3-Person Count</td>
<td>Cost 2</td>
</tr>
<tr>
<td>12-hour Turning Movement Count</td>
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<tr>
<td>2-Person Count</td>
<td>Cost 3</td>
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<tr>
<td>48-hour</td>
<td>Mechanical Count</td>
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<tr>
<td>7-day</td>
<td>Cost 4</td>
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<td>Cost 5</td>
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