



CITY OF SAN JOSÉ

**REQUEST FOR QUALIFICATIONS FOR
CONSULTANT SERVICES**

**SPRECKLES SANITARY SEWER FORCE MAIN
SUPPLEMENT AND PUMP STATION
REHABILITATION**

Issued Date: January 14, 2009

Submittal Due Date: 4:00pm, February 11, 2009

**CITY OF SAN JOSE
Department of Public Works
Engineering & Construction Services Division**

**1661 Senter Road, Building A, 3rd Floor
San José, CA 95112**

To: **QUALIFIED CIVIL ENGINEERING CONSULTANT FIRMS**

Re: **REQUEST FOR QUALIFICATIONS (RFQ) FOR THE SPRECKLES SANITARY
SEWER FORCE MAIN SUPPLEMENT AND PUMP STATION
REHABILITATION**

1 INTRODUCTION AND BACKGROUND

The City of San José, Department of Public Works, Engineering & Construction Services Division, is seeking STATEMENTS OF QUALIFICATIONS from qualified civil engineering consulting firms to provide professional services for the design and construction management support for the Spreckles Sanitary Sewer Force Main Supplement and Pump Station Rehabilitation project.

This Request for Qualifications (RFQ) identifies the general project scope and procedures for Consultant involvement in this process. Responding Consultants shall have relevant experience and the ability to provide professional services as described in the scope of services.

The Spreckles Sanitary Sewer Force Main Supplement and Pump Station Rehabilitation project (see attached map) is located within the Alviso area of the City of San José. In an effort to consolidate the usage of several municipal water pollution control plants in the late 1970's, the City of San Jose terminated the operation of the Alviso Treatment Plant and converted this facility into a pump station that currently services the entire Alviso area. In the early 1990's, the Spreckles Pump Station had an existing dry pit pumps was removed and replaced with a modified above ground 22 foot diameter wet well structure with two submersible pumps. The submersible pumps installed were a 4" inch Flygt CP3140 that could operate up to 1750 revolutions per minute (RPM) at 695 gallons per minute (GPM) at 50 feet head. Presently, these pumps operate alternately and were designed to handle approximately 1.0 MGD. Since then, no major updates or renovations to the Spreckles Pump Station have been done. Currently, the City is working with a consultant to assess the condition of the Spreckles Pump Station.

Currently, there is a ten (10) inch asbestos concrete sanitary sewer force main that was constructed approximately seven (7) feet deep and directly connected to the San Jose Water Pollution Control Plant (SJWPCP). Currently, the existing 10" ACP sanitary sewer force main is located along Spreckles Avenue, Grand Avenue and Los Esteros Road in the Alviso area of the City of San José. In recent years, the reliability of this existing 10" force main has deteriorated greatly. Due to the age and type of material of the pipe, it is necessary to design a supplemental

force main to the existing 10" AC sanitary sewer force main and further prevent any future maintenance issues and disruption of service to the residents of the Alviso area.

The project area is surrounded by wetlands which are owned by the Roads and Airport Division of Santa Clara County. Also, this area experiences fluctuating water tables due to its close proximity to the San Francisco Bay. Minimal utilities are located within the area, however a Union Pacific railroad crossing will be in conflict with any proposed alignment for the force main supplement.

2 PROPOSED CONSULTANT SCOPE OF SERVICES

The Consultant shall provide professional services necessary to achieve the outcomes as specified below. The list of outcomes is illustrative and is not meant to be a complete or exclusive list.

- Provide design documents for the pump station rehabilitation and supplemental force main including the preparation of plans, specifications and estimates
- Evaluate the hydraulic capacity of the proposed diameter of the force main to be constructed
- Geotechnical investigations for the construction of the force main supplement
- Assist with environmental review and permitting
- Evaluate construction methods for the installation of supplemental force main including open-cut and trenchless technologies [i.e. Horizontal Directional Drilling (HDD)].
- Evaluate and design various equipment for operation and maintenance of the supplemental forcemain (i.e. pig launcher, pressure air release valves along the force main)
- Preparation of encroachment permits with outside agencies
- If necessary, perform any archeological studies and monitoring
- Prepare and evaluate pre-qualification documents for general contractors and specialty subcontractors
- Provide bidding assistance
- Provide construction engineering and project management support
- Provide construction and confined space entry inspection.

3 CONSULTANT SELECTION POLICY

In accordance with the Council Adopted Qualifications Based Consultant Selection Policy (QBCS), a Screening Panel with representatives from the Department of Public Works will be formed to evaluate the Statement of Qualification (SOQ) using a consistent set of objective criteria, apply a scoring matrix based on predetermined evaluating criteria, and establish a short list of consultants based upon the screening qualifications scores.

The four highest scoring ranked candidates will be invited for an interview with the Interview Board, which consists of members from various City's departments, other agencies, and/or non-City employee when applicable. After the interview, the Interview Board will determine a final ranking based on qualifications and experience as determined in the SOQ and answers to the interview questions.

An agreement negotiation with the top ranked candidates will follow, and the successful candidate will be recommended to the Mayor and City Council for approval.

4 SOQ FORMAT AND SUBMITTAL REQUIREMENTS

4.1 General

4.1.1 The complete SOQ shall be delivered to:

City of San José, Department of Public Works
Engineering & Construction Services Division
1661 Senter Road, Bldg. A, 3rd Floor
San José, CA 95112
Attention: Rajani Nair, P.E.

4.1.2 Statements must be received at the above address no later than **4:00PM, February 11, 2009**. Identify the submission by including the following information on the outside of the package:

**Re: SOQ FOR CONSULTANT SERVICES FOR SPRECKLES SANITARY
SEWER FORCE MAIN SUPPLEMENT AND PUMP STATION
REHABILITATION
Project Manager: Rajani Nair**

4.1.3 No oversize drawings (larger than 11 x 17) shall be included in the submittal. The completed submittal shall not exceed twenty-five (25) pages and shall be completely comprised of paper that can be recycled.

4.1.4 SOQ's will not be maintained nor returned after the interview. No SOQ shall be accepted after the above listed deadline. Facsimile, emailed or electronic format proposals are not acceptable. This RFQ Statement does not include provisions for any direct reimbursement of statement preparation costs.

4.2 Deliverables

Submit six (6) color copies of the Statement of Qualifications (SOQ) each in a separate 1-inch maximum, 3-ring binder. Each binder shall be identified using divider tabs corresponding to the following sections:

Prerequisite:

- Cover Letter
- Firm Profile

Experience:

- Completed Projects
- Current Projects

Project Approach:

- Work Plans
- Budget, Schedule, and Quality
- Resources

Local and Small Business Enterprise Checklist

References:

- List of References

4.3 Screening Panel Selection Criteria

The information requested within this RFQ will be scored by the Screening Panel Board. The Screening Panel Board evaluation will consist of a matrix totaling 100 points.

Firm's Experience:

- a. Completed Projects (20 points)
- b. Current Projects (20 points)

Firms Project Approach:

- a. Work Plans (15 points)
- b. Budget, Schedule and Quality (15 points)
- c. Resources (15 points)

Local/Small Business Enterprise: (5 points each, 10 points total)

References: (5 points)

4.4 Selection of Qualifications (SOQ) Contents

4.4.1 Prerequisite Information

All prospective Consultants must complete and submit all of the prerequisite and other supplemental information described below, in one complete package by the date stated above, in order to be considered for the position. The City will not accept information or documents from parties other than the submitting consultant.

4.4.1.1 Cover Letter

Provide a Cover Letter signed by an authorized representative of the firm to the City of San José stating general qualifications, expertise and ability to perform the scope of services as described in this RFQ.

- a. Include a clear and concise response stating why you feel that your firm is the most qualified firm to perform this work, and any other information which may be helpful to the committee evaluating the RFQ.
- b. Include a brief statement acknowledging that the information provided in the SOQ is true, accurate and represents the most current information available as of the date of this RFQ.
- c. Include a brief statement expressing the Consultant's willingness to accept the "Exemplar Consultant Agreement," as shown in Attachment A of this RFQ (the "Agreement").
- d. Provide a statement that the Consultant will comply with the "Insurance Requirements for Consultants" as shown in Attachment B of this RFQ.
- e. Acknowledge and agree to comply with the City's Gift Ordinance (see Attachment E)

4.4.1.2 Firm Profile

Provide in outline form the profile of the firm and include a response to each of item below:

- a. Name of firm, address, telephone and fax numbers.
- b. Two (2) primary firm contacts with email addresses and applicable State License numbers.
- c. Include a brief summary of the firm's staff professionals and technical profile, including number of personnel by type and positions, and provide resumes of the proposed project team members that will work on this project.

- d. Provide contact information and company profile for other sub-consultants or other professional services who will be working on this project.

4.4.1.3 Conflict of Interest

Submit a completed Attachment D to disclose all conflicts of interest.

4.4.2 **Experience Information**

4.4.2.1 Completed Projects

Provide a narrative and graphic composition of completed projects with appropriate relevance to the Scope of Services contained in this RFQ demonstrating ability to provide and meet client requirements while responding to unique project conditions.

Include project name, location, and other information such as scope of the Consultant's work, project description, scheduled and actual completion dates, actual project duration, budgeted and final consultant costs of the project. Provide owner's name, address, and contact information. Include no more than three projects with no more than two example materials for each project.

4.4.2.2 Current Projects

Provide a narrative and graphic composition of current projects with appropriate relevance to the Scope of Services contained in this RFQ demonstrating ability to provide and meet client requirements while responding to unique project conditions.

Include project name, location, and other information such as scope of the Consultant's work, project description, scheduled and actual completion dates, actual project duration, budgeted and final consultant costs of the project. Provide owner's name, address and contact information. Include no more than three projects with no more than two example materials for each project.

4.4.3 **Firms Project Approach**

4.4.3.1 Work Plans

Provide a narrative and graphic composition to describe the following:

- a. Your firm's general understanding of the program and services to be provided per the Proposed Scope of Work. This may include, but not limited to, a description of your general approach and your proposed scope and schedule.
- b. How your firm will approach and manage the tasks. This may include the proposed work program for each major task proposed, its objective, procedure, etc.

- c. Identify staffing (including subcontractors) for the project, including each individual's area of responsibility, qualifications and experience.

4.4.3.2 Budget, Schedule and Quality

Provide a narrative and graphic composition to describe the following:

- a. The ability to meet project budgets. Identify past success producing accurate cost estimates for projects.
- b. Your firm's ability to support an aggressive project schedule.
- c. Your firm's documentation, quality control, quality assurance and report and technical memorandum preparation.

4.4.3.3 Resources

Provide a narrative and graphic composition to describe the following:

- a. The ability to work closely, to maintain availability, and to coordinate effectively with clients.
- b. The ability of the firm to provide other specialized services.
- c. The ability and/or approach to manage and effectively communicate with all project stakeholders.
- d. The flexibility to increase resource or partnering with other firms to meet the project's schedule.

4.4.4 Local and Small Business Enterprise:

Identify in the form attached as Attachment C to this RFQ if your firm is a Local Business Enterprise. The City of San José encourages participation of local firms in its project. By definition, a local firm is one who has a business office within the Santa Clara County limits AND has, at least, one full-time employee at that address. If you qualify as a Local Business Enterprise, you may also qualify as a Small Business Enterprise if the total number employees (regardless of where they are located) are 35 or fewer.

4.4.5 References:

- 4.4.5.1 Respondents are to provide a list of current and former clients. References should have similar requirements to the needs of the City of San José.
- 4.4.5.2 The City may contact some or all of the references provided in order to determine the candidate's performance record on services similar to that described in this request. The City reserves the right to contact references

other than those provided in the response and to use the information gained from them in the evaluation process.

5 RFQ SCHEDULE

Release of RFQ:	Wednesday, January 14, 2009
Proposals SOQ Due Date:	Wednesday, February 11, 2009
Short List Notification:	Within 4 weeks of SOQ due date
Interview of Firms/Selection:	Within 4 weeks from Short List Notification
Contract Negotiation:	Within 4 to 6 weeks after interview
Start Date of Contract:	Within 6 to 8 weeks after contract negotiations

6 GENERAL INFORMATION

The City will rate prospective Consultants/Firms for this work using only objective criteria based upon the information obtained from the Statement of Qualifications and answers to the interview questions. The City reserves the right to verify from other available sources the information provided by the Consultant and to rely upon such information gathered during the verification process. The City shall review each SOQ and establish a numeric score based upon written evaluation criteria. Consideration of prospective Consultant's qualifications will be made only if the prospective Consultant meets all the minimum qualifications. The City reserves the right to adjust, increase, limit, suspend or rescind the rating based on subsequently learned information.

Any Consultant deemed not qualified, or Consultants whose rating changes sufficiently to disqualify them, will be notified in writing. No Consultant shall have the right to an appeal based on an incomplete or late submission of the qualification statement.

6.1 Request for Supplemental Information: The City reserves the right to require, from any or all consultant candidates, supplemental information that clarifies the submitted materials.

6.2 Questions: All questions/inquiries must be made through the City's designated contact person. Contact with representative(s) other than the City's designated contact person as listed in this RFQ is grounds for disqualification. Notwithstanding the preceding sentence, nothing in this RFQ shall prohibit any member of a prospective Consultant's firm or any persons working for or representing a prospective Consultant from communicating with any person in the City, including, but not limited to, the City Council, regarding an alleged failure of a City employee to follow the procedures or requirements governing the request for qualifications, or any alleged misconduct or impropriety of a City employee related to the request for qualifications.

Submit all questions and requests for clarifications regarding this RFQ in writing via fax or email to Rajani Nair who can be reached by fax at (408) 971-4692, or by email at: rajani.nair@Sanjoseca.gov. Please submit questions on or before February 2, 2009.

- 6.3** The Proposer shall only rely on this Request for Qualification document and any subsequent written supplement(s) issued by the City for preparation of the submittal. Proposers shall not rely on any other written or any oral statements of the City or its officers, directors, employees, or agents regarding the overall project or the package in preparing and submitting the submission.
- 6.4 Incomplete Qualification Statements:** Incomplete and/or unsigned submissions will not be considered. However, if a submission is incomplete and if it appears that the omission can be corrected promptly, the affected firm may be contacted and offered the opportunity to complete the statements and provide the required information within a prescribed period of time, which will not be extended. If a firm does not respond within the time stated, the Qualification Statement will not be considered.
- 6.5 Acceptance or Rejection of Submitted SOQ:** The City reserves the right to accept or reject any item or group(s) of items of a response. The City also reserves the right to waive any informality or irregularity in any proposal. Additionally, the City may, for any reason, decide not to award an agreement as a result of this RFQ or cancel the RFQ process. The City shall not be obligated to respond to any proposal submitted, nor be legally bound in any manner by the submission of the proposal. The City reserves the right to negotiate project deliverable and associated cost.
- 6.6** Consultant's Statement of Qualification that are not current, accurate, and/or completed accurately to the prescribed format described in this RFQ shall be considered non-responsive and eliminated from further consideration.
- 6.7 Selection Process Termination:** The City reserves the right to terminate the selection process, at any time, without making an award to any consultant.

7 GENERAL DESCRIPTION OF PROPOSED AGREEMENT

Upon conclusion of the RFQ process, the City will enter into negotiations with one firm for the Consultant services. The recommended Consultant shall enter into contract negotiations with the City, in substantial conformity with the selected proposal and the Form of the City's Standard Consultant Agreement as shown in Attachment A, Exemplar Consultant Agreement.

8 EXAMINATION OF PROPOSED MATERIAL

The submission of an SOQ shall be deemed a representation and certification by the Consultant that they have investigated all aspects of the RFQ, that they are aware of the applicable facts pertaining to the RFQ process, its procedures and requirements, and that they have read and understood the RFQ.

9 CONFLICT OF INTEREST

- 9.1** 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:
- 9.2** 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(s) resulting from this RFP.
- 9.3** Proposer(s) may not have any interest in any potential proposer for future City procurements that may result from the work performed under the agreement resulting from this RFP.
- 9.4** In order to determine whether such interest may exist, all proposers must complete the attached Conflict of Interest Form (Attachment D).

10 PUBLIC NATURE OF PROPOSAL MATERIAL

- 10.1** 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.
- 10.2** 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 be considered a public record in its entirety subject to the procedures in Section 15.5.
- 10.3** Do not mark your entire proposal as “confidential”.
- 10.4** 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.
- 10.5** 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.

11 GROUNDS FOR DISQUALIFICATION

11.1 All Proposers are expected to have read and understood Council Policy 0-35 on Procurement and Contract Process Integrity and Conflict of Interest adopted on February 6, 2007. A complete copy of the policy can be found at:
http://www.sanjoseca.gov/purchasing/pdf/Policy0_35.pdf.

11.2 Any proposer who violates the Policy will be subject to disqualification. Generally, the grounds for disqualification include:

- 11.2.1.1 Contact regarding this procurement with any City official or employee or Evaluation team other than the Procurement Contact from the time of issuance of this solicitation until the end of the protest period.
- 11.2.1.2 Evidence of collusion, directly or indirectly, among Proposers in regard to the amount, terms, or conditions of this proposal.
- 11.2.1.3 Influencing any City staff member or evaluation team member throughout the solicitation process, including the development of specifications.
- 11.2.1.4 Evidence of submitting incorrect information in the response to a solicitation or misrepresentation or fail to disclose material facts during the evaluation process.

11.3 In addition to violations of Council Policy 0-35, the following conduct may also result in disqualification:

- 11.3.1.1 Offering gifts or souvenirs, even of minimal value, to City officers or employees.
- 11.3.1.2 Existence of any lawsuit, unresolved contractual claim or dispute between Proposer and the City.
- 11.3.1.3 Evidence of Proposer’s inability to successfully complete the responsibilities and obligations of the proposal.
- 11.3.1.4 Proposer’s default under any City agreement, resulting in termination of such Agreement.

12 PROHIBITION OF GIFTS

City officials are subject to several legal and policy limitations regarding receipt of gifts from persons, firms, or corporations either engaged in business with the City, or proposing to do business with the City. The offering of any illegal gift shall be grounds to disqualify a Consultant. To avoid even the appearance of impropriety, Consultants should not offer any gifts or souvenirs, even of minimal value, to City officers or employees. The Consultant shall be subject to the City Of San José's prohibition. Said prohibition is found in Chapter 12.08 of the San José Municipal Code. Consultant agrees not to offer and City officer or designated employee any gift prohibited by said Chapter.

The offer or giving of any gift prohibited by Chapter 12.08 shall constitute a material breach of the Agreement by the successful Consultant. In addition to other remedies the City may have by law or equity, City may terminate the Agreement for such breach.

13 CITY BUSINESS TAX (BUSINESS LICENSE)

Any consultant doing business with the City of San José is required to pay a City of San José business tax. Successful consultant(s) must show proof of the tax being paid or pay the City business tax at time of contract award. Please contact the City's Treasury Division of the Finance Department at (408) 535-7055 to determine applicable costs.

14 SMALL/LOCAL BUSINESS ENTERPRISE

It is the policy of the City of San José to encourage business activity in San José. Effective June 8, 2004, the City adopted Ordinance 27136, which established a Local and Small Business Preference Policy for the procurement of supplies, materials, equipment, general services and consulting services.

Attachment C, *Request for Contracting Preference for Local and Small Businesses*, is included in this package, and is to be completed and included in RFQ submittals. If you fail to submit the proper information with your Statement, you will be denied consideration for local and small business preference. The information cannot be submitted later.

15 NON-CONFORMING PROPOSAL

A proposal shall be prepared and submitted in accordance with the provision of these RFQ instructions and specifications. Any alteration, omission, addition, variance, or limitation of, from or to a proposal may be sufficient grounds for non-acceptance of the proposal, at the sole discretion of the City.

16 NON-DISCRIMINATION/NON-PREFERENTIAL TREATMENT

The successful 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 City of San José contracts.

17 SELECTED CONSULTANT

Consultant selection for work is not a guarantee that a project will be awarded. The City's decision will be based on objective evaluation criteria. The City reserves the right to adjust, increase, limit, suspend or rescind the rating based on subsequently learned information. A negotiated agreement for professional consultant services and City Council approval is required prior to project award.

18 ADDITIONAL TERMS AND CONDITIONS

18.1 It is anticipated that the award of the Agreement resulting from this RFQ shall include terms and conditions similar to those referenced in "Attachment A". Exceptions proposed by the Consultant, if any, to the terms and conditions included in the Agreement should be included in the proposal. The City reserves the right to consider any proposal exceptions during its evaluation of the acceptability of a proposal.

18.2 This RFQ does not commit the City to pay any costs incurred in the submission of the proposal, in making any necessary studies or analysis in preparation of the proposal.

18.3 An agreement shall not be binding or valid with the City unless and until it is executed by authorized representatives of the City and of the Consultant.

19 ATTACHMENTS

Attachment A:	Exemplar Consultant Agreement
Attachment B:	Insurance Requirements for Consultants
Attachment C:	Request for Contracting Preference for Local and Small Businesses
Attachment D:	Conflict of Interest Form
Attachment E:	Gift Ordinance

ATTACHMENT A
EXEMPLAR CONSULTANT AGREEMENT

**AGREEMENT FOR PROFESSIONAL CONSULTANT SERVICES
BETWEEN
THE CITY OF SAN JOSE**

AND
Name of consultant's firm

FOR
Name of City project

THIS AGREEMENT is made and entered into this ____ day of _____ 2008, by and between the CITY OF SAN JOSE, a municipal corporation (hereinafter "CITY"), and *the consultant*, a California corporation (hereinafter "CONSULTANT"), authorized to conduct business in the State of California.

RECITALS

The purpose for which this AGREEMENT is made, and all pertinent recitals, is listed on EXHIBIT A, entitled "RECITALS", which is attached hereto and incorporated herein.

THE PARTIES HEREBY AGREE AS FOLLOWS:

SECTION 1. SCOPE OF SERVICES.

CONSULTANT shall perform those services specified in detail in EXHIBIT B, entitled "SCOPE OF SERVICES", which is attached hereto and incorporated herein.

SECTION 2. TERM OF AGREEMENT.

The term of this AGREEMENT shall be from the date of execution to _____ subject to the provisions of SECTION 11 of this AGREEMENT. The Director of Public Works or the

Director's designee has the authority to extend the term of this AGREEMENT in writing, for a period of up to one hundred eighty (180) days.

SECTION 3. SCHEDULE OF PERFORMANCE.

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

SECTION 4. COMPENSATION.

The compensation to be paid to CONSULTANT for professional services and reimbursable expenses, shall not exceed _____. The rate and schedule of payment is set out in EXHIBIT D, entitled "COMPENSATION," which is attached hereto and incorporated herein.

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. Such statement shall also include a detailed record of the month's actual reimbursable expenditures. Such statement shall be sent to the following address:

The City of San José, Department of Public Works
Attention: Public Works (*Project Manager*)
1661 Senter Road, Building A, 1st Floor
San José, CA 95112

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 E, 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") 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 Public Works 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 and reimbursable expenses incurred 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.

SECTION 14. 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 15. 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 16. 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 17. 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.

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 18. CONFLICT OF INTEREST.

CONSULTANT shall avoid all conflict of interest or appearance of conflict of interest in performance of this AGREEMENT.

SECTION 19. 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 20. 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 21. SPECIAL PROVISIONS.

Special provisions, if any, to this AGREEMENT are specified in EXHIBIT F, entitled, “SPECIAL PROVISIONS”, which is attached hereto and incorporated herein.

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: name, address, telephone, and fax number

To CONSULTANT: name, address, telephone, and fax number

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. PRIOR AGREEMENTS AND AMENDMENTS.

This AGREEMENT, including all Exhibits attached hereto, represents the entire understanding of the parties as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered hereunder. This AGREEMENT may only be modified 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”

APPROVED AS TO FORM:

CITY OF SAN JOSE, a municipal corporation

JENNIFER POUSHO
Deputy City Attorney

By _____

LEE PRICE, MMC
City Clerk

200 E Santa Clara St., Wing 2nd Floor
San Jose, CA 95113-1905

“CONSULTANT”

By _____

Corporate officer, partner, or sole
proprietor

Company address
Employer I.D.

EXHIBIT A

RECITALS

WHEREAS, the CITY OF SAN JOSE desires to obtain consultant services to _____; and other related services as outlined in Exhibit B; and

WHEREAS, *the consultant* has the necessary professional expertise and skill to perform such services;

NOW, THEREFORE, the purpose of this AGREEMENT is to retain *the consultant* as CONSULTANT to CITY to perform those services specified in SECTION 1 of this AGREEMENT.

ATTACHMENT B
INSURANCE REQUIREMENTS FOR CONSULTANTS

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, including products and completed operations ; and
2. The coverage provided by Insurance Services Office Form Number CA 0001 covering Automobile Liability. Coverage shall be included for all owned, non-owend and hired automobile; and
3. Workers' Compensation insurance as required by the California Labor Code and Employers Liability insurance; and
4. Professional Liability Errors and Omissions.

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

Contractor 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 and Employers Liability limits of \$1,000,000 per accident; and

4. Professional Liability Errors and Omissions \$1,000,000 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 officer, 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, 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 other than those limitations usually contained with ISO Form CG0001 (1/96) or its equivalent.
 - 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 officials, employees, agents and contractors.

2. **Owned Aircraft Liability**
This policy shall show coverage by itemization for all aircraft owned by the CONSULTANT and used in the discharge of the covenants of this AGREEMENT.
3. **Workers' Compensation and Employers' Liability**
Coverage shall contain a waiver of subrogation in favor of the City, its officials, employees, agents and contractors.

4. **All Coverages**

Each insurance policy required by this AGREEMENT shall be endorsed to state that coverage shall not be suspended, voided, canceled, 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 non-payment 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 effecting 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 mailed to the following address or any subsequent address as may be directed in writing by the Risk Manager:

City of San Jose – Human Resources
Risk Management
200 East Santa Clara Street
San José, CA 95113-1905

G. **Subcontractors**

CONSULTANT shall include all subcontractors as insured under its policies or shall obtain separate certificates and endorsements for each subcontractor.

ATTACHMENT C

City of San Jose

Request for Contracting Preference for Local and Small Businesses

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 nonlocal 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.

In procurements such as RFP there are usually a variety of factors evaluated to determine which proposal best meets the City's needs. In procurements such as these where price is not the determinative factor, an LBE or SBE will be given an **additional 5% to 10% points** in the **scoring** of their proposal.

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

Type of Procurement	☐ Bid	☐ Request for Quote	☒ Request for Proposal
Type of Preference	☐ Price is Determinative		
Amount of Preference	☒ Price is Not Determinative		
	LBE preference = 2.5% of Cost		
	SBE preference = 2.5% of Cost		
	LBE preference = 5% of Points		
	SBE preference = 5% of Points		

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

Business Name			
Business Address			
Telephone No.			
Type of Business	☐ Corporation	☐ LLC	☐ LLP
	☐ General Partnership	☐ Sole proprietorship	☐ Other (explain)

***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 D

CONFLICT OF INTEREST FORM

To be completed by consultants.

NAME

DATE

PROPOSED ASSIGNMENT: Special Inspection Consultant Services

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

Questions	Yes (Provide Details)	No
1. Do you have any official, professional, financial or personal relationships with any person or firm that might affect your judgment or your ability to provide services to the City that are fair and impartial?		
2. Stock and Investments (a) Do you own any stock in any company likely to be affected by or involved in the Proposed Assignment? (b) Does your spouse or a dependent own any stock in company likely to be affected by or involved in the Proposed Assignment? (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? (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? 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.		
3. Employment & Consulting (a) Is your spouse or a dependent employed/retained by anyone likely to be affected by or involved in the Proposed Assignment? (b) Has your spouse or dependent been previously employed/retained by anyone likely to be affected by or involved in the Proposed Assignment? (c) Have you been employed/retained by anyone likely to be affected by or involved in the Proposed Assignment? If the answer is yes to any of the above questions, please provide name of employer, nature of services provided and if the dates employed or retained.		

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 (a) 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? (b) 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

Date

ATTACHMENT E

GIFT ORDINANCE

Municipal Code, Chapter 12.08
Prohibition of Gifts

12.08.010 Gifts Prohibited

- A. No officer or designated employee of the City or its Redevelopment Agency shall accept any gift, directly or indirectly, from any person who is subject to the decision-making or recommending authority of such officer or employee, except as specifically provided in this Chapter.
- B. “Person subject to the decision-making or recommending authority” means any individual, firm or entity whose interest or whose employer's or client's interest:
 - 1. Has been materially affected by the work of such officer or employee within the two (2) years prior to the time the gift is given; or
 - 2. In the future could reasonably be foreseen to be materially affected by the work of such officer or employee.

12.08.015 Political Reform Act Requirements

- A. The reporting and disclosure of gifts shall be done in accordance with the requirements of the Political Reform Act (California Government Code Section 81000 *et seq.*, as amended) and the requirements in this Chapter.
- B. The gift limitations and disqualification requirements under the Political Reform Act are applicable to gifts which are not prohibited by this Chapter.

12.08.020 Gift Defined

“Gift” means a voluntary transfer of any thing, service, payment or value to the extent that legal consideration of equal or greater value is not received.

- A. As used in this Chapter, the term “gift” includes:
 - 1. Any rebate or discount in the price of any thing of value unless the rebate or discount is made in the regular course of business to members of the public.
 - 2. An officer's or employee's community property interest, if any, in a gift received by that individual's spouse.
 - 3. The provision of travel, including transportation, accommodations and food, except as expressly permitted pursuant to Section 12.08.030.
- B. As used in this Chapter, the term “gift” does not include:
 - 1. Campaign contributions which otherwise comply with Title 12 of the San José Municipal Code and which are required to be reported under Chapter 4 of the Political Reform Act of 1974 as amended.
 - 2. Any devise or inheritance.

12.08.030 Gifts Not Prohibited

This Chapter does not prohibit those gifts which strictly fall within the exceptions enumerated herein:

- A. Gifts with a value less than fifty dollars (\$50): Any gift, including meals and beverages provided to an officer or employee in a business or social setting, that has a value less than fifty dollars (\$50), as long as the total value of all such gifts received from any one donor does not exceed fifty dollars (\$50) or more in any calendar year.
- B. Informational material: Informational material such as books, reports, pamphlets, calendars, or periodicals or reimbursement for any such expenses. Informational material does not include provision of educational trips including transportation, accommodation and food.
- C. Hospitality: Gifts of hospitality involving food, beverages or occasional lodging provided to any officer or designated employee by an individual in such individual's primary residence.
- D. Reciprocal gifts: Presents exchanged between any officer or designated employee and an individual, other than a lobbyist as defined in Chapter 12.12, on holidays, birthdays, baby showers, or similar occasions provided that the presents exchanged are not substantially disproportionate in value.
- E. Panels and seminars: Free admission, food, beverages, and similar nominal benefits provided to an officer or employee at an event at which the officer or employee speaks, participates in a panel or seminar or performs a similar service, and reimbursement or advance for actual intrastate travel or for necessary accommodations provided directly in connection with such event.
- F. Admission given by sponsor of an event: Admission to ceremonial, political, civic, cultural or community functions provided by a sponsor of the event for the personal use of the officer or employee. For example, cultural events include theatrical productions and art exhibits; political events include political fundraisers.
 - 1. Admission to regularly scheduled athletic events, such as tickets to professional sporting events, are not included as an exception to prohibited gifts.
 - 2. A sponsor of an event shall not include individuals, persons or organizations whose sponsorship of the event is solely limited to funding or monetary support such as the purchase of tickets.
- G. Employment interview - government employer: Transportation, accommodation, food and directly related expenses advanced or reimbursed by a governmental agency in connection with an employment interview, when the interview is conducted at least one hundred fifty (150) miles from San José and where the situs of the employment will be at least the same distance from the City.
- H. Employment interview - private employer: Transportation, accommodation, food and directly related expenses incurred in connection with an employment interview and a bonafide prospect of employment, when the expenses are advanced or reimbursed to an officer or designated employee by a potential employer, provided that the officer or designated employee has not made or participated in the making of a governmental decision materially affecting the financial interest of the potential employer during the twelve (12) months immediately preceding the time the expenses are incurred or the offer of employment is made, whichever is sooner.
- I. Authorized travel: Transportation, accommodation, food and directly related expenses for any officer or designated employee which has been authorized by a majority of the City Council or Redevelopment Agency Board or which is pursuant to a written City or Redevelopment Agency policy for intrastate or interstate travel regardless of the source of payment.
- J. City or Redevelopment Agency business: Transportation provided to an officer or designated employee by a contractor or other person doing business with the City or Redevelopment Agency, provided that such transportation is related to City or Redevelopment Agency business which is within the scope of employment or the duties of such officer or designated employee,

and further provided that such transportation is not in excess of one hundred twenty-five (125) miles one way. Nothing in this subsection shall be interpreted to limit the City Council's or Redevelopment Agency Board's discretion to approve travel under subsection I. above.

- K. Flowers: Flowers, plants or balloons which are given on ceremonial occasions, to express condolences or congratulations, or to commemorate special occasions.
- L. Prizes and Awards from Bona Fide Competitions: A prize or award received shall be reported as a gift unless the prize or award is received in a bona fide competition not related to the recipient's status as a City or Redevelopment Agency employee. If reported as a gift, the prize or award must comply with the disclosure and disqualification requirements under the Political Reform Act of 1974 as amended.
- M. Wedding gifts: Wedding gifts from an individual other than a lobbyist as defined in Chapter 12.12.

12.08.040 Acceptance Of Gifts

A gift shall be deemed to have been accepted except where:

- A. It is not used, and, within thirty (30) days after receipt, is returned to the donor or delivered to a charitable organization without being claimed as a charitable contribution for tax purposes.
- B. It is treated as and remains the property of the City or the Redevelopment Agency.
- C. It is received by an officer or designated employee in his or her official capacity or as a representative of the City or Redevelopment Agency, is reported to the City Council or Agency Board, and the Council or Board approves the retention.

12.08.050 Reporting Gifts To Domestic Partner, Spouse And Children

- A. At the time of filing the annual disclosure statement required by the Political Reform Act or any applicable conflict-of-interest code, each City and Redevelopment Agency officer and designated employee shall file a family gift report on a form to be provided by the City Clerk.
- B. The officer or designated employee shall indicate on such report any gifts known to have been accepted during the relevant reporting period by such officer's or employee's domestic partner, spouse and any dependent child where such gifts would have been prohibited to the officer or employee. The value of any such gift and the donor must be disclosed. If the officer or employee has no knowledge of any such gift having been received, the report shall so state.
- C. For purposes of this Section, domestic partner shall mean any person registered as a domestic partner by an employee with the City of San José.