



City of Visalia  
Purchasing Division  
707 W. Acequia Avenue  
Visalia, CA 93291  
(559) 713-4334

**PURCHASE ORDER NO.**

This order number must show on  
all invoices, packing lists, etc.

C19014

Original Date: 11/13/18

Revised Date: 12/27/18

VENDOR ID: V00855

VENDOR: SHAPE INC

5115-A JOHNSON DRIVE

PLEASANTON, CA 94588

DELIVER TO: CITY OF VISALIA

WASTE WATER TREATMENT PLANT

7579 AVE 288

VISALIA, CA 93277

TELEPHONE #:

FAX #:

EMAIL:

MAIL TWO COPIES

OF YOUR INVOICE TO: CITY OF VISALIA FINANCE DEPT

P.O. BOX 5078

VISALIA, CALIFORNIA 93278

TERMS	BID NUMBER	REQUESTED BY	REQ #	
Net 30		Maricela Berrones-Ga	R03003	
QUANTITY	UNIT	DESCRIPTION	UNIT PRICE	EXTENDED PRICE
1		ANNUAL CONTRACT TO PURCHASE FLYGT STORM AND SANITARY SEWER LIFTSTATION PUMPS  RENEWABLE FOR UP TO 4 CONSECUTIVE ONE YEAR PERIODS  FIRST YEAR NOT TO EXCEED \$275,000. SUBSEQUENT YEARS COST NOT TO EXCEED \$200,000 PER YEAR.  TERM: 11/5/18-11/4/19		
1		INCREASE TO FIRST YEAR CONTRACT OF \$50,000  NOT TO EXCEED \$325,000 FIRST YEAR SEE ATTACHED APPROVAL		

ACCOUNT NO.	AMOUNT
1010-60000/	0.00

SUBTOTAL  
DISCOUNT  
TAX  
FREIGHT  
PO TOTAL

DO NOT ACCEPT THIS ORDER  
UNLESS SIGNED BELOW

*E. J. Jarama*  
AUTHORIZED PURCHASING AGENT

12-31-18

DATE ISSUED


THIS ORDER SUBJECT TO TERMS AND CONDITION ON REVERSE SIDE HEREOF. BY ACCEPTING THE ORDER  
OR ANY PART THEREOF, SELLER AGREES TO AND ACCEPTS SAID TERMS AND CONDITIONS.

## TERMS AND CONDITIONS

1. **ACCEPTANCE:** This Purchase Order becomes a contract subject to the terms and conditions set forth and incorporated herein by reference. Any additions to, changes in, modification of, or revision of this order shall not be effective or binding unless expressed in writing by an authorized agent of the City of Visalia.
2. **DELIVERY:** All prices reflect F.O.B., Visalia, site in place, unless otherwise stated herein. Since time is of the essence, deliveries are to be made both in quantities and at time specified herein. If vendor's deliveries fail to meet schedule, City of Visalia, without limiting its other rights or remedies, may direct expedited routing at no charge or cancel this order or any portion hereof. Vendor shall be liable to City for all damages, losses, and liability incurred by City directly or indirectly as a result of Vendor's breach. Where City has so authorized in writing, goods may be shipped F.O.B. shipping point, but Vendor shall prepay all shipping charges and list said charges as a separate item on Vendor's invoice. City reserves the right to reject C.O.D. shipments with no penalties to City.
3. **SUBSTITUTION:** All substitutions(s), partial deliveries and back order(s) require notification to and consent of City Purchasing Agent.
4. **PRICE:** If price(s) are shown as NOT TO EXCEED/Estimate(s), actual price may not exceed the price shown without authorization from the Purchasing Agent.
5. **STATE SALES TAX/FEDERAL EXCISE TAX:** City must pay State Sales Tax, unless resale number is stated at time of purchase. City is exempt from Federal Excise Tax - certificate will be furnished upon request.
6. **WARRANTY:** Vendor expressly warrants that all goods and services shall conform to all specifications, drawings, samples, i.e. description, applicable specification of this order, good merchantable quality, free of material defect, good workmanship, and be fit for the known purpose for which sold. The cost of returning goods found otherwise will be borne by the Vendor.
7. **PRICE WARRANTY:** In the event Vendor reduces price(s) for article(s) during the term of this order, Vendor agrees to reduce the price(s) hereof correspondingly. Vendor warrants that prices shown on the Purchase Order shall be complete, and no additional charges shall be added without express written consent of Purchasing Agent. Such additional charges include, but are not limited to shipping, packaging, labeling, custom duties, taxes, storage, insurance, boxing, crating.
8. **INVOICES:** Invoices shall be submitted to the City of Visalia/Finance Department, PO Box 5078, Visalia, CA 93278. The Purchase Order Number must appear on all correspondence, i.e. invoices, packing slips, shipping containers, letters. Failure to state purchase order number shall delay payment.
9. **DISCOUNT:** Cash discount period will date from the receipt of Vendor's invoice by City Finance Department and NOT the date of the invoice.
10. **PACKING AND SHIPMENT:** All goods are to be packed in suitable containers for protection in shipment and storage, and in accordance with applicable specifications. Each container of a multiple container shipment shall be identified.
11. **OSHA:** This order is subject to all terms and conditions of the Occupational Safety and Health Act of 1970, California OSHA and their present and future amendments. Vendor expressly assumes responsibility for compliance therewith and warrants that all applicable materials, supplies and equipment provided or installed pursuant to this purchase order fully satisfy the requirements of these acts.
12. **NON-DISCRIMINATION:** The California Fair Employment Practices Act (Labor Code Sec. 1410-1433) Prohibits discrimination in employment on the basis of race, religion, color, sex, physical handicap, mental condition, marital status, age, national origin or ancestry and is applicable to all employers, employment agencies and labor organizations. The City of Visalia is an affirmative action employer and City requires Vendors and Contractors to comply with applicable laws relating to equal employment.
13. **DRUG-FREE WORKPLACE CERTIFICATION:** The contractor certifies under penalty of perjury under the laws of the State of California that the contractor will comply with the requirements of the Drug-Free Workplace Act of 1980 (Government Code Section 8350 et. seq.).
14. **FORCED, CONVICT, INDENTURED AND CHILD LABOR:** In accordance with PCC Section 8108, contractor warrants that no foreign-made equipment, materials, or supplies furnished to the City pursuant to this contract are produced in whole or in part by or with the benefit of, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor.
15. **TERMINATION:** City may terminate this order or any part hereof for cause in the event of default by the Vendor, or if the Vendor fails to comply with any of the terms and conditions of this offer. Late deliveries, deliveries of defective products, nonconforming products, and failure to provide City, upon request, with reasonable assurance of future performance shall be causes allowing City to terminate this order. In the event of termination for cause, City shall not be liable to Vendor for any amount, and Vendor shall be liable to City for any and all damages sustained by reason of the default which gave rise to the termination. Acceptance of part of the order shall not oblige City to accept later shipments and not affect its right to return goods already accepted.
16. **FORCE MAJEURE:** Neither party shall be liable for defaults or delays due to Acts of God or the public enemy, acts or demands of any Government or any Government agency, strikes, fires, floods, earthquakes, accidents, or other unforeseeable causes beyond its control and not due to its fault or negligence. Each party shall notify the other in writing of the cause of such delay within five (5) days after the beginning thereof.
17. **INDEMNIFICATION:** Vendor, Vendor's employees, or persons under contract to Vendor in the performance of services on City property, or property under City's obligation, shall perform work as an independent contractor. Persons doing such work shall not be considered employees of the City. Vendor shall maintain and require its subcontractor to maintain (1) Public Liability and Property Damage Insurance including contractual liability (both general and vehicle) in amounts set forth in City policy, and (2) Workmen's Compensation Insurance. Vendor shall indemnify, protect, hold harmless and defend City and its employees from any and all claims or liability arising from this contract.
18. **WAIVER:** City's failure to insist on performance of any of the terms or conditions herein or to exercise any right or privilege or City's waiver of any breach hereunder shall not thereafter waive any other terms, condition, or privileges, whether the same or similar type.
19. **HOLD HARMLESS:** Contractor agrees to indemnify and hold the City and its officers, and agents, and employees, harmless from any liability imposed for injury (as defined by Government Code Section 810.8), whether arising before or after completion of the Work hereunder, or in any manner, directly or indirectly caused, claimed, occasioned or contributed to, by reason of any negligence or omission of the Contractor, in connection with or incident to or arising out of the performance of this contract.
20. **DEFAULT:** In case of default by the Vendor of any of the conditions of this contract, the Vendor agrees the City may procure the articles or services from other sources and may deduct from the unpaid balance due the Vendor, or collect against the bond or security, or may invoice the Vendor for excess costs so paid, and prices paid by the City shall be considered the prevailing market price at the time such purchase is made.
21. **ASSIGNMENT:** Assignment by the Vendor of contract or any part thereof, or of funds to be received hereunder, will not be binding upon the city unless such assignment has had prior written approval and consent of the City. Seller shall not assign this contract, or the right to payment due hereunder, without Buyer's prior written consent.
22. **CONTRACT MODIFICATION:** No amendment or variation of the terms of this contract shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or agreement not incorporated in the contract is binding on any of the parties.
23. **VENUE:** This contract shall be governed by and shall be interpreted in accordance with the laws of the State of California; venue of any action brought with regard to this contract shall be in Tulare County, Visalia, California.
24. **DISPUTES:** The parties shall deal in good faith and attempt to resolve potential disputes informally. If the disputes persist the contractor must submit to the Chief Financial Officer in writing requesting a resolution.
25. **PAYMENT:** Payment will be made after receipt of invoice and acceptance of goods and/or services and upon requesting department confirmation of such acceptance. Payment will be made in accordance with the provisions the California Prompt Payment Act, government code Section 927 et. seq. The Act requires the City to pay properly submitted, undisputed invoices within 45 days of receipt.
26. **SPECIAL CHARGES:** Vendor shall be responsible for the payment of all charges for handling, shipping, packaging, wrapping, bags, containers and related matters unless City has assumed an express obligation therefore by notation on the reverse side hereof.
27. **LIENS, CLAIMS, AND ENCUMBRANCES:** Vendor warrants and represents that all goods will, when delivered hereunder, be free and clear of all liens, claims, encumbrances, and infringements of any patent, trademark, copyrights, or franchise rights.

December 7, 2018

To: Randy Groom

From: Jim Ross 

RE: Authorization to amend contract; add \$50K to NTE value

Approval of this memo will authorize staff to add an additional \$50,000 to the current not to exceed \$275,000 contract with Shape, Inc. for the purchase of sewer lift station pumps. This will allow staff to replace a recently failed pump at the airport sanitary sewer lift station.

On November 5, 2018, Council approved award of a 5-year contract to Shape, Inc. for the purchase of pumps for the storm and sanitary sewer lift stations. The approved NTE value was \$275,000 for the first year and \$250,000 for successive years. First year value was higher because first year planned projects included the rehabilitation of lift stations that utilize larger, and therefore more expensive, pumps. The airport lift station was not on the project list.

The airport lift station operates with four installed pumps; a fifth pump is stocked "on the shelf" to ensure continuous operation. Prior to contract award, two pumps for this lift station had failed and replacements had been ordered (delivery early January). Subsequent to contract award, another pump failed expectantly. This has left the lift station with only two functional pumps and no spares in inventory. The cost for the spare pump is about \$35,000 and was not included in the NTE contract value of \$275,000.

Staff is requesting that \$50,000 be added to the first year NTE contract value. This will allow purchase of the spare pump for the airport lift station, as well as one or two smaller pumps throughout the course of the year should the need arise.

There are approved CIP projects in the Storm Sewer and Wastewater Funds to cover the additional expense.

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I authorize staff to amend the contract with Shape, Inc. to add an additional \$50,000 to the first year "not to exceed" value. Amended first year NTE value will be \$325,000.

  
\_\_\_\_\_  
Randy Groom

12/26/2018  
Date

**City of Visalia  
Agenda Item Transmittal**

**Meeting Date:** 11/5/2018

**Agenda Item Number (Assigned by City Clerk):** 9.

**Agenda Item Wording:** Authorization to award a sole source annual contract for the purchase of storm and sanitary lift station pumps to Shape Incorporated of Pleasanton, CA., renewable for up to four additional one year terms, in an amount not to exceed \$275,000 for the first year and \$200,000 for subsequent years.

**Deadline for Action:** 11/5/2018

**Submitting Department:** Public Works

**Contact Name and Phone Number:**

Jim Ross, Public Works Manager, 559-713-4466; [jim.ross@visalia.city](mailto:jim.ross@visalia.city)

Mario Cifuentez, Interim Public Works Director, 559-713-4340; [mario.cifuentez@visalia.city](mailto:mario.cifuentez@visalia.city)

**Department Recommendation:**

It is recommended that Council authorize staff to award a sole source contract for the purchase of storm and sanitary lift station pumps to Shape Incorporated of Pleasanton, CA. All of City's existing sanitary lift stations and several storm lift stations use Flygt pumps, and Shape is the sole distributor and certified repair center for Flygt pumps in Central California. This is an annual contract renewable for up to four additional one-year terms, in an amount not to exceed \$275,000 for the first year and \$200,000 for subsequent years.

**Summary:**

The City's sanitary sewer and storm sewer systems include 13 lift stations and 35 lift stations, respectively. For the past several years, the City has rehabilitated three or four lift stations per year to ensure that they remain in good working order. Funds for this work are included in the annual CIP budget.

Part of the rehabilitation process includes the rebuilding or replacement of pumps. Over time, all of the sanitary lift stations and many of the storm lift stations have come to utilize Flygt submersible pumps. This happened through the competitive bid process and was not planned. Nonetheless, the high degree of standardization that has resulted has streamlined maintenance work and simplified inventory needs. To capitalize on this development, staff is recommending that Flygt pumps be used during future rehabilitation work.

Shape is the sole factory authorized distributor and certified repair center for Flygt pumps in Central California. Although the pumps can be purchased from other retailers, each of those

retailers can only get the pumps from Shape and only Shape can provide City with factory authorized warranty and repair work.

**Background Discussion:**

The City's CIP budget includes \$840,000 in funding for rehabilitation of the City's lift stations during the current year and \$375,000 in subsequent years. Because of the specialized nature of the work, City utilizes private contractors to complete the work. To streamline the process and reduce costs, City pre-purchases the pumps and associated equipment and supplies them to the contractor for installation.

For the 2018-19 fiscal year, three of the largest storm water lift stations are scheduled for rehabilitation.

Location	Pump size	Number of pumps	Pump cost
Cedar @ St. Johns River	60 HP	1	\$65,257.33
Chinowth @ Mill Creek	15 HP	2	\$61,805.94
Demaree @ Mill Creek	15 HP	2	\$123,048.77
	45 HP	1	
<b>Total</b>			<b>\$250,112.04</b>

**Fiscal Impact:**

This is an annual contract, renewable for up to four consecutive one-year periods. First year cost not to exceed \$275,000; subsequent years cost not to exceed \$200,000. Lift stations scheduled for rehabilitation in subsequent years utilize smaller pumps and, therefore, cost less.

Funding for this project is from the City's Wastewater Enterprise Fund and the Storm Water Enterprise Fund and is included in the City's Capital Improvement Program (project No. CP8266 and CP0267)

**Prior Council Action:** none.

**Other:** N/A.

**Committee/Commission Review and Action:** None

**Alternatives:**

Reject sole source contract and follow competitive bid process, which would delay project several months and could result in less standardized equipment.

**Attachments:**

- Letter from Flygt confirming Shape as the sole distributor in Central California.

**Recommended Motion (and Alternative Motions if expected):**

I move to authorize staff to award an annual contract for the purchase of storm and sanitary lift station pumps to Shape Incorporated of Pleasanton, CA, in an amount not to exceed \$275,000 for the first year and \$200,000 per year for each renewable period thereafter.

Copies of this report have been provided to: none

**Environmental Assessment Status**

CEQA Review: N/A



**Grant Stayberg**  
**Territory Manager**  
**Xylem Water Utilities**  
**Flygt Products**  
4109 NE 107<sup>th</sup> St.  
Vancouver, WA 98686  
(503) 706-0601  
[Grant.Stayberg@xyleminc.com](mailto:Grant.Stayberg@xyleminc.com)

October 23, 2018

Subject: Flygt Sole-Source Authorized Distributor

To: Rick Paredes  
City of Visalia

This letter is to inform you that Shape Inc. is your exclusive factory authorized distributor for Flygt equipment. Shape Inc covers the counties of Tulare, Kings, Fresno, Madera and Mariposa. Shape's address is 119 Val Dervin Parkway, Stockton, CA 95206 and phone number (209) 234-5909.

I am confident Shape Inc. will provide expert advice in a professional manner for all of your pumping needs. Thank you for your interest in Flygt Products and Services. Please call if I can be of further assistance.

Sincerely,

*Grant Stayberg*

Grant Stayberg  
Territory Manager