



CITY OF VISALIA, CA
REQUEST FOR PROPOSAL
RFP-22-23-33

PLAYGROUND STRUCTURES REPLACEMENT PROJECT
VISALIA RIVERWAY SPORTS PARK

DESCRIPTION: The City of Visalia is requesting proposals from qualified firms to provide the design and installation of new playground equipment and safety inspection for two playground structures in Riverway Sports Park (a structure for 2-5 year olds, and a structure for 5-12 year olds). Interested Proposers must propose on all items in the project for which a proposal is being submitted.

MANDATORY PROPOSER CONFERENCE:

Mandatory Conferences: Two mandatory conferences have been scheduled for this project as follows:

Wednesday, June 14, 2023, beginning at 11:00 A.M. and Thursday, June 15, 2023, at 10:00 A.M.

Interested Proposers are required to attend at least one of the mandatory conferences to be considered eligible to submit a proposal. Each meeting will begin at City of Visalia Council Chambers, 707 W. Acequia Avenue, Visalia, CA. At the conclusion of the meeting, Interested Proposers will have an opportunity to visit project jobsite: Riverway Sports Park Playground, 3611 N. Dinuba Blvd., Visalia, CA. Transportation will be the responsibility of the Contractor.

SUBMITTAL DEADLINE:

One (1) unbound original and four (4) copies are due no later than: **2:00 p.m. on Friday, June 30, 2023**

Address to: City of Visalia Purchasing Division
707 W. Acequia Avenue
Visalia, CA 93291

Addressed from: Proposer's Name & Mailing Address

Mark envelope: **RFP No. 22-23-33**
Playground Structures Replacement Project at Visalia Riverway Sports Park

INQUIRIES: Direct all questions to the Visalia Purchasing Division (559) 713-4334. To prevent misinterpretation, the Purchasing Division prefers that all questions be submitted in writing via email to: purchasing@visalia.city

PUBLIC WORKS PROJECT:

Notice is hereby given that this is a Public Works Project. In compliance with SB854 and Labor Code Section 1725.5, all contractors, and subcontractors (*including Consultants and Sub-Consultants*) bidding and performing work on Public Works Projects must be currently registered with the California Department of Industrial Relations (DIR) and furnish electronic payroll records to the Labor Commissioner.



**CITY OF VISALIA, CALIFORNIA
REQUEST FOR PROPOSAL (RFP) 22-23-33**

**PLAYGROUND STRUCTURE REPLACEMENTS PROJECT
VISALIA RIVERWAY SPORTS PARK**

SEALED PROPOSALS will be received by the Purchasing Division located at 707 West Acequia, Visalia, CA 93291, **until 2:00 P.M., on Friday, June 30, 2023 for Playground Replacement Projects:**

This solicitation is being offered as the: **Riverway Sports Park Jim Byrd Playground Structures**. Interested Proposers must propose on all items for which a proposal is being submitted. Requests for Proposal specifications and contract documents may be obtained by calling the Purchasing Division at (559) 713-4334 or emailing purchasing@visalia.city

Mandatory Conferences: Mandatory Conferences: Two mandatory conferences have been scheduled for this project as follows:

Wednesday, June 14, 2023, beginning at 11:00 A.M. and Thursday, June 15, 2023, at 10:00 A.M.

Interested Proposers are required to attend at least one of the mandatory conferences to be considered eligible to submit a proposal. Each meeting will begin at City of Visalia Council Chambers, 707 W. Acequia Avenue, Visalia, CA. At the conclusion of the meeting, Interested Proposers will have an opportunity to visit the project jobsite: Riverway Sports Park Playground, 3611 N. Dinuba Blvd., Visalia, CA. Transportation will be the responsibility of the Contractor.

Public Works Contract: Notice is hereby given that this is a Public Works Project. In compliance with SB854 and Labor Code Section 1725.5, all contractors and subcontractors (including Consultants and Sub-Consultants) bidding and performing work on Public Works Projects must be currently registered with the California Department of Industrial Relations (DIR) and furnish electronic payroll records for new projects to the Labor Commissioner. Selected Consultant will be required to furnish the City of Visalia with their DIR registration number. No contract will be awarded unless that contractor and/or subcontractors are registered with the California Department of Industrial Relations (DIR). Proposals submitted by unregistered contractors or list unregistered subcontractors will be rejected as non-responsive. Consultant must hold (at minimum) a valid D-34 Contractor's License.

State Prevailing Wages: Consultant must comply with all State Regulations that apply to this contract, including payment of Prevailing Wages as applicable. Pursuant to Sections 1770, et. seq., of the California Labor Code, the selected firm will be required to pay not less than the prevailing wage of per diem wages as determined by the Director of the California Department of Industrial Relations. The General Prevailing Wage Rates are available from the California Department of Industrial Relations' Internet web site: <http://www.dir.ca.gov/dlsr/PWD/index.htm>.

The City hereby affirmatively ensures that Minority Business Enterprises and Disadvantaged Business Enterprises (DBE) will be afforded full opportunity to submit proposals in response to this notice. Individuals and/or entities submitting bids/proposals to the City of Visalia will not be discriminated against on the basis of age, race, religion, creed, color, national origin, ancestry, physical or mental disability, medical condition,

genetic information, marital status, gender, gender identity or expression, sexual orientation, or military and veteran status in any consideration leading to the award of contract.

Executive Order N-6-22 – Russia Sanctions

On March 4, 2022, Governor Gavin Newsom issued Executive Order N-6-22 (the EO) regarding Economic Sanctions against Russia and Russian entities and individuals. “Economic Sanctions” refers to sanctions imposed by the U.S. government in response to Russia’s actions in Ukraine, as well as any sanctions imposed under state law. By submitting a bid or proposal, Contractor represents that it is not a target of Economic Sanctions. Should the State determine Contractor is a target of Economic Sanctions or is conducting prohibited transactions with sanctioned individuals or entities, that shall be grounds for rejection of the Contractor’s bid/proposal any time prior to contract execution, or, if determined after contract execution, shall be grounds for termination by the State.

The right is reserved by the City of Visalia to reject any or all proposals, to waive any irregularities or informalities not affected by law, to evaluate the proposals submitted and to award the contract according to the proposal which best serves the interests of said City. Publish Dates: 6/1/23 & 6/6/23

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Additional Attachments

- Sample Contract (Informational only - do not submit with Proposal)
- Labor Compliance Manual
- Sample Contractor’s Affidavit (informational only)
- Riverway Sports Park Jim Byrd Playground Site
- City of Visalia Labor Compliance Manual

I. DEFINITIONS

For the purposes of this RFP NO. 22-23-33, the following terms shall have the meanings indicated:

1. "City" means the City of Visalia
2. "City Council" means the Council of the City of Visalia
3. "Bidder", "Vendor", "Supplier", "Consultant", "Contractor" and "Subrecipient" are used interchangeably throughout this invitation to mean the person, firm, or corporation or other entity submitting a Bid in response to the Request for Bid.
4. "Bid" and "Proposal" are used interchangeably to mean an individual's or entity's offer in response to this Request for Proposal.
5. "RFP" means Request for Proposal No. 22-23-33.

II. INTRODUCTION

A. Information

The City of Visalia is requesting proposals from qualified firms to provide the design, installation of new playground equipment and safety inspection for one (1) playground structure in Visalia, California. Interested Proposers must propose on all items in the project for which a proposal is being submitted.

Mandatory Conferences: Mandatory Conferences: Two mandatory conferences have been scheduled for this project as follows:

Wednesday, June 14, 2023, beginning at 11:00 A.M. and Thursday, June 15, 2023, at 10:00 A.M.

Interested Proposers are required to attend at least one of the mandatory conferences to be considered eligible to submit a proposal. Each meeting will begin at City of Visalia Council Chambers, 707 W. Acequia Avenue, Visalia, CA. At the conclusion of the meeting, Interested Proposers will have an opportunity to visit the project jobsite: Riverway Sports Park Playground, 3611 N. Dinuba Blvd., Visalia, CA. Transportation will be the responsibility of the Contractor.

This Request for Proposals is being issued by the City of Visalia Purchasing Department on behalf of the Parks Maintenance Division. Unless otherwise directed, all communications regarding this Request for Proposals should be directed to the Purchasing Division at (559) 713-4334. However, to prevent misinterpretations, the Purchasing Division would prefer that all questions be sent by email to purchasing@visalia.city.

Any revisions to the Request for Proposals will be issued and distributed as addenda. Proposers are specifically directed not to contact any other City personnel for meetings, conferences or technical discussions related to this Request for Proposal. Failure to adhere to this policy may be grounds for rejection of proposals.

B. Purpose, Objective and Services to be Provided

Visalia is located east of State Highway 99 and along State Highway 198. The City's population is approximately 140,000. Its incorporated area covers approximately 36 square miles. The purpose of this project contract is to provide the City of Visalia with the highest quality playground structure expected by the City's residents, City Council, City staff, and visitors of the community. The selected firm will work closely with

the Project Manager and other City staff to insure the most durable, playable, and unique playground design for the City of Visalia, its residents and visitors.

C. RFP/Agreement Schedule

<u>Event</u>	<u>Date of Event</u>
RFP Available to the public	05/30/23
Proposer Conference #1 at 707 W. Acequia Ave. @ 11:00 a.m.,	06/14/23
Proposer Conference #2 at 707 W. Acequia Ave. @ 10:00 a.m.,	06/15/23
Deadline for Questions.....	06/21/23
RFP due at 2:00 pm at 707 W Acequia.....	06/30/23
<i>Short list established and vendors notified</i>	<i>tbd</i>
<i>Interviews/Presentations with short-listed vendors (if required)</i>	<i>tbd</i>
<i>Award of Contract @ City Council Meeting.....</i>	<i>tbd</i>
<i>Contract Begins.....</i>	<i>upon contract being fully executed</i>

Italicized items and dates are at the City’s option. The City reserves the right to award contract solely on the basis of proposal content.

III. SCOPE OF SERVICES

A. Required Products

Riverway Sports Park Jim Byrd Playgrounds Structure Replacement

Work is to include the design **and installation of two playgrounds:**

- Design of a playground for ages 2 to 5 years and a playground for ages 5 to 12 years (age-appropriate play systems) within the constructed play area boundaries, with minimal to no alterations to existing concrete curbs, equipment footings, landing mats.
- A minimum of twelve (12) inches of wood fiber fall zone material.
- Installation of all playground equipment.
- Certified safety inspection of completed playground structure. This project will be the final turnkey step in completing the overall Riverway Sports Park Jim Byrd Playground Replacement Project.

Playground Suppliers shall submit a maximum of (2) two designs per age-appropriate playground.

The City of Visalia requires Suppliers to design a play system that meets or exceeds all current federal CPSC, ASTM, IPEMA standards and ADA requirements. The proposals shall include the cost of delivered play systems as designed, inclusive of the equipment structures, components, hardware, details technical installation instructions and maintenance & operations manuals from manufacturer.

The City of Visalia shall be exempt from any liability for costs incurred by unsuccessful Proposers/Suppliers in preparation of the proposal.

B. Services of the Consultant

The City of Visalia will require the consultant to perform the tasks detailed below and in the Introductory Section so that the contract will be completed by the end of the sixty (60) day contract period for the Project.

Awarded Consultant will be required to obtain from the City’s Building Services Division (315 E. Acequia Avenue, Visalia), a Visalia Building Permit for the awarded projects. The City of Visalia will pay for the cost of the building permit, however it is the Awarded Consultant’s responsibility to obtain it.

Awarded Consultant is required to obtain a City of Visalia Business Tax permit from our Business Tax Division, located at 707 W. Acequia Avenue. The cost of business tax permit is the Awarded Consultant's responsibility. For more information, call 559-713-4326.

This is a public works contract and therefore, the Awarded Consultant will be responsible for paying State of California prevailing wages for any trade performed that has a designated wage rate. The wages are set forth in the General Prevailing Wage Rates available from the California Department of Industrial Relations' Internet web site: <http://www.dir.ca.gov/dlsr/PWD/index.htm>.

Further, the Awarded Consultant will be responsible for uploading certified payroll to the Labor Commissioner and provide the City of Visalia project manager with Contractor's affidavit that labor codes were followed, and prevailing wage rates were paid. The affidavit must be submitted to the City Project Manager prior to final payment. A sample Contractor's Affidavit is attached to the Sample Contract included with this RFP (see pg. 43).

Consultant shall follow the requirements of the City of Visalia Labor Compliance Manual (which is made a part of this RFP and subsequent contract/s).

C. Consultant Responsibilities

DESIGN ELEMENT GUIDELINES & PLAY SYSTEM SPECIFICATIONS

Suppliers should base their playground equipment designs on meeting all accessibility and safety standards as well as the guidelines & specifications listed in this RFP. Quality of equipment components, quality of design, play value, cost and appropriateness to location and target demographic must be taken into consideration and stay within budget in the design, demo, and construction and inspection of the play system. The budget for the playground replacement project (which includes both play structures) is \$300,000.

Riverway Sports Park Jim Byrd 2 to 5 Playground Dimensions for Fall Surface: 152' x 111' Approximate Perimeter

Required Items:

1. All play system elements must meet and/or exceed all federal, CPSC, ASTM & IPEMA guidelines.
2. Play system must include engineered wood fiber surfacing at a minimum depth of (12) twelve inches over the entire play area.
3. Play system must include wear mats for all equipment as appropriate.
4. Playground Safety Inspection performed by a Certified Playground Inspector to ensure playground is in compliance with all safety requirements.

Play System Features in Priority Order:

5. Provide a minimum of one structure designed for age 2 to 5.

Preferred Play System Qualities:

6. All play system elements must demonstrate the highest level of durability in materials and finishes selected in consideration of child health and safety.
7. Structures should provide a variety of built-in activity panels and climbers.
8. Play system shall use forest green, tan and chocolate brown as primary colors.
9. Maximum shade coverage designed into structure, or a free-standing shade structure.

Riverway Sports Park Jim Byrd 5 to 12 Playground Dimensions for Fall Surface: 152' x 111' Approximate Perimeter.

Required Items:

1. All play system elements must meet and/or exceed all federal, CPSC, ASTM & IPEMA guidelines.
2. Play system must include engineered wood fiber surfacing at a minimum depth of (12) twelve inches over the entire play area.
3. Play system must include wear mats for all equipment as appropriate.
4. Playground Safety Inspection performed by a Certified Playground Inspector to ensure playground is in compliance with all safety requirements.

Play System Features in Priority Order:

5. Provide a minimum of one structure designed for age 5 to 12.

Preferred Play System Qualities:

6. All play system elements must demonstrate the highest level of durability in materials and finishes selected in consideration of child health and safety.
7. Structures should provide a variety of built-in activity panels and climbers.
8. Play system shall use forest green, tan and chocolate brown as primary colors.
9. Maximum shade coverage designed into structure, or a free-standing shade structure.

In the proposal, provide a list of the components proposed for the Riverway Sports Park Jim Byrd play system. Include structure and component model numbers, materials, color choices and recommendations, protective area requirements, target age ranges and development levels, target play type or activity, estimated lifetime of equipment including manufactures warranty and any other relevant descriptive information.

Play system design shall safely fit in the playground area as shown on the site plans (Attached). Suppliers are encouraged to be creative in their designs and to maximize the role of unstructured play in their proposals. Suppliers may submit proposals from non-traditional type playground structures, if desired, in whole or as components of the overall playground.

D. City Responsibilities

- Compensate the consultant as provided in the contract agreement.
- Provide a "City Representative" who will represent the City and who will work with the consultant in carrying out the provisions of the RFP.
- Examine documents submitted to the City by the Consultant and timely render decisions pertaining thereto.
- Give reasonably prompt consideration to all matters submitted by the Consultant for approval to the end that there will be no substantial delays in the Consultant's program of work.
- City will pay for the cost of the City Building Permit, but the Awarded Consultant is responsible for obtaining the permit from the City's Buildings Division.

IV. PROPOSAL CONTENT AND FORMAT REQUIREMENTS

The following are proposal requirements. Respondents are requested to organize their proposal into sections with tabs corresponding to the listed selection criteria as follows. You must answer the following questions in the same sequence as below. A screening committee will evaluate the completeness of the response to the RFP.

A. General Information

- Cover letter referencing Firm name, address, telephone number and email address.

- Account Representative or other person to contact for clarification of any item contained in the proposal. Include telephone number, fax number and email address if different from above.
- Personnel of the Proposer's Firm must be identified in the proposal with their background and the firm must give assurances of continuity of its personnel. A contact person needs to be identified.
- Specify type of organization (individual, partnership, or corporation) and if applicable indicate whether you are:
 - a. Small Business.
 - b. Disadvantaged Business.
 - c. Minority and/or Women-Owned Business.
- Complete and submit the required forms on pages 23-35.
- Provide surety information for all sureties – General and Automobile Liability, Professional Liability E/O and Worker's Compensation.
- References and Referrals

B. Proposed Program Approach

Summarize your approach and understanding of the project and any special considerations of which the City of Visalia should be aware. Indicate clearly, the levels of participation you will expect from City of Visalia staff in the fulfillment of the contract.

Exceptions to the requirements of the RFP should be clearly delineated in this section.

In addition, you are invited to include a maximum of two (2) pages of information not included, nor requested in this RFP, if you feel it may be useful and applicable to this project.

The information in this section will aid the City in the refinement of the scope of work during contract negotiations.

C. Staff Qualifications and Related Experience

1. Staff Qualifications and Experience

This section should demonstrate the qualifications of all professional personnel to be assigned to this project by providing resumes/experience summaries describing their education, credentials, related experience and their proposed roles for this contract. Note: Consultant may not substitute any member of the project team without prior written approval of the City.

If your firm intends to subcontract any of the services required under this RFP it should be discussed in this section. Detailed information for each subcontractor must be provided on the Subcontractor List (see pg. 23-24). *Note:* No work may be subcontracted, nor assigned, without prior written approval of the City of Visalia.

2. Related Experience

Include descriptive information concerning the experience of the firm. Include information about previous projects that might be comparable, including the size and type of projects and the scope of services provided. These projects must demonstrate that the consultant has experience in designing systems with multi use functions effectively blended into neighborhood design. In addition, provide references for the three (3) most comparable projects for which your firm has provided, or currently is providing, similar services in the past three years.

List the projects in reverse chronological order and provide the following information for each project:

Indicate for each of these projects:

- Name of project or playground
- Project location (address)
- Brief description (type of construction, functional components, special design considerations)
- Name of owner/entity
- Name of owner's contact person and telephone number (contact person, who, at the time of RFP submittal, will be employed by the owner)
- Your firm's specific involvement (i.e., engineer, construction contractor, etc.)
- The Total contract amount awarded vs the Final Contract amount at end of project.
- Status of completion

D. Proposed Fee Structure and Schedules

A Proposed Fee Structure and Schedule shall be provided as a part of the RFP submittal. One (1) original Fee Structure and Schedule are required, no additional copies are needed.

Provide proposed fees, cost information, and recommend a budget plan for all services to be provided in the following format:

1. Proposers should review the requirements of this RFP and address all services in this fee schedule that might reasonably be expected to support each project. Indicate how the City will be invoiced for services, i.e., unit or hourly costs. This information should be detailed and broken down for Project A and Project B, type of service and units of work or other applicable measure (for example, staff hours at a certain rate). Proposers should endeavor to provide a comprehensive, fee schedule for each Project being proposed, as the City will not include compensation in the contract for items not addressed.
 - **Include a total cost to provide services, based on the consultant's fee schedule and the scope of work as outlined in this RFP for each playground structure proposed.** This cost will be used as a basis for negotiations.
 - **Clearly identify all costs for Tasks related to the project** for which a proposal is being submitted.
 - **Clearly identify all trades to be performed and the corresponding State of California prevailing wage determinations for same.** The Awarded Contractor will be responsible for uploading certified payroll to the Labor Commissioner and provide the City of Visalia project manager with an affidavit that labor codes and prevailing wage rates were paid. The affidavit must be submitted to the City Project Manager prior to final payment.
2. The fee proposal, along with the proposed project approach, will be used as a basis for any contract negotiations. The actual scope of services and fees included in the contract may be negotiated and may vary to satisfy the City's actual needs.

E. Conflict of Interest

- Disclose any financial, business, or other relationship with the City or any member of the City staff that may have an impact on the outcome of the project.
- List current clients who may have a financial interest in the outcome of the project.

V. CONSULTANT SELECTION PROCEDURE

Selection of the successful proposal shall be generally based on the information provided by the Vendors in response to the Request for Proposals and any subsequent interviews that may be conducted. *Consultant*

interviews will be held solely at the option and discretion of the City of Visalia. The process for selection shall occur in the following sequence:

- a. Review Proposals
- b. Establish a "short list" of three or more firms
- c. Interview "short-listed" firms (at the option and discretion of the City)
- d. Identify best qualified firm
- e. Award contract

A project Selection Committee, as deemed necessary, will be formed to evaluate the proposals and to make recommendations to the Visalia City Council. This committee may consist of representatives of the user department, members of the community, members of the Council and the Administrative Services Department, and may include a representative knowledgeable in playground systems from outside of the community. Composition and creation of this committee, should one be formed, is at the sole discretion of the City. Names of the Committee members, should one be formed, will not be released prior to the time for interviews.

The Committee will review the proposals for format to ensure conformance with the requirements of the RFP and may select finalists to interview with the Committee as a part of the Committee's evaluation process. The City does not guarantee that an interview will take place, thus reserving the right to select a contractor based solely on the information provided in the proposals received in response to the RFP. *Should an interview take place, the key personnel responsible for fulfilling the requirements of the project shall be required to be present for the interview.*

A. Criteria and Evaluation Points

The Committee will address the following criteria in evaluation of proposals in order to gauge the ability of a contractor to perform the contract as specified. The same general criteria will be used to judge both the proposal and the presentation, should the City choose to conduct interviews with short-listed firms.

<u>Criteria</u>	<u>Points</u>
1. ADA, ASTM, IPEMA & CPAC compliance	Yes/No
2. Proposal addresses design guidelines and specifications, including a list of proposed subcontractors and trades to be performed	0 - 25
3. Quality of design, play value and target demographic	0 - 20
4. Quality and durability of equipment	0 - 20
5. Uniqueness of Equipment	0 - 15
6. Reputation and reliability of manufacturer	0 - 10
7. <u>Overall quality of Proposal</u>	<u>0 - 10</u>

Maximum Points: 100

Prior to the award of contract, the City must be assured that the proposer selected has all of the resources required to successfully perform under the contract. This includes, but is not limited to, personnel with the skills required, equipment/materials and financial resources sufficient to provide services called for under this contract. If, during the evaluation process, the City is unable to assure itself of the proposer's ability to perform under the contract, if awarded, the City has the option of requesting from the proposer, any information that the City deems necessary to determine the proposer's capabilities. If such information is required, the proposer will be notified and will be permitted seven (7) working days to submit the requested information.

B. Background Check

The City reserves the right to conduct a background inquiry of each proposer which may include the collection of appropriate criminal history information, contractual and business associations and practices, employment histories and reputation in the business community. By submitting a proposal to the City, the proposer consents to such an inquiry and agrees to make available to the City such books and records as the City deems necessary to conduct the inquiry.

C. Award of Contract

The successful firm will be required to execute a contract with the City of Visalia. A Draft Agreement has been included in this RFP to alert proposers to the provisions generally found in City contracts. The Draft Agreement may be altered from the enclosed form at the discretion of the City and without notice to consultant prior to award of contract. The City does not guarantee that the Final Agreement will duplicate the enclosed Draft Agreement.

VI. GENERAL CONDITIONS

A. Important Notice

The City of Visalia will not be responsible for oral interpretations given by any City employee, representative, or others. Proposers are cautioned that any statements made that materially change any portion of the proposal documents shall not be relied upon unless subsequently ratified by a formal written amendment to the proposal document. The issuance of a written addendum is the only official method whereby interpretation, clarification, or additional information can be given. If any addenda are issued to this Request for Proposals, the City will attempt to notify all prospective vendors who have secured same. However, it will be the responsibility of each vendor, prior to submitting their proposal, to contact the Purchasing Division, located at 707 W. Acequia, Visalia, CA 93291, (559) 713-4334 to determine if addenda were issued and to make all such addendum a part of the proposal (Proposer must sign all addenda and submit with proposal).

B. Contracting Agency

The contract resulting from this Request for Proposals will be administered by the City of Visalia Community Services Department and the Visalia Purchasing Division.

C. Legal Responsibilities

It is the responsibility of Contractor to comply with all local, state, and federal laws and regulations which apply to this project. This includes, but is not limited to, compliance with Uniform Building, Plumbing, Mechanical, Electric, and Fire Codes. Contractor shall provide a safe working environment in compliance with the Occupational Safety and Health Act, and California Health and Safety Code.

Contractor shall secure all necessary permits, licenses, and similar requirements to carry out the project. Contractor shall comply with all applicable labor laws and ensure against discrimination.

1. Business Tax Certificate

Possession of a City of Visalia Business Tax Certificate is not required to submit a proposal in response to this invitation or if your business is located outside of city limits. *However, Contractor shall be required to possess, at his/her own expense, a valid and current City of Visalia Business Tax Certificate, prior to commencing work if located inside city limits.* Fee is based on gross receipts for all business transactions in the City of Visalia. For additional information, contact the City of Visalia at (559) 713-4326.

2. Professional License

Consultant is to be licensed in accordance with the California Business and Professions Code and is to possess current professional registration and be licensed to perform work in the State of California.

3. Permits

Consultant shall be required to obtain and maintain at his/her own expense, any and all permits, licenses and certifications issued by any federal, state or local governmental agency, pertaining to, and necessary for providing the services required in this Request for Proposals. However, the City of Visalia will pay the cost of the Building Permit, but the Awarded Contractor must obtain the permit from the City of Visalia Buildings Division.

D. Insurance

Indemnification and Insurance

As respects acts, errors, or omissions in the performance of services, VENDOR agrees to indemnify and hold harmless CITY, its elected and appointed officers, employees, and CITY designated volunteers from and against any and all claims, demands, losses, defense costs, liability or consequential damages arising directly out of Vendor's negligent acts, errors or omissions in the performance of his/her services under the terms of this Agreement; except to the extent those arise out of the negligence of CITY.

CITY agrees to indemnify and hold harmless VENDOR, its officers, employees, and designated volunteers from and against any and all losses, defense costs, liability or consequential damages to the extent arising out of CITY'S negligent acts, errors or omissions in the performance of this Agreement.

As respects all acts or omissions which do not arise directly out of the performance of services, including but not limited to those acts or omissions normally covered by general and automobile liability insurance, VENDOR agrees to indemnify, defend (at CITY's option), and hold harmless CITY, its elected and appointed officers, agents, employees, representatives, and volunteers from and against any and all claims, demands, defense costs, liability, or consequential damages of any kind or nature arising out of or in connection with Vendor's (or Vendor's subcontractors, if any) performance or failure to perform, under the terms of this Agreement; except to the extent those which arise out of the negligence of CITY.

Without limiting CITY's right to indemnification, it is agreed that VENDOR shall secure prior to commencing any activities under this Agreement, and maintain during the term of this Agreement, insurance coverage as follows:

- Workers' Compensation insurance as required by California statutes.
- Commercial general liability insurance with a combined single limit of not less than One Million Dollars (\$1,000,000) per occurrence. Such insurance shall include coverage for Premises and Operations, Contractual Liability, Personal Injury Liability, Products and Completed Operations Liability, Broad Form Property Damage (if applicable), Independent Contractor's Liability (if applicable).
- Professional Liability insurance coverage, in an amount not less than One Million Dollars (\$1,000,000).
- Comprehensive Automobile Liability coverage with a combined single limit of not less than One Million Dollars (\$1,000,000) per occurrence. Such insurance shall include coverage for owned, hired, and non-owned automobiles and shall be provided by a business automobile policy.

Each insurance policy required by this Agreement shall contain the following clause:

"This insurance shall not be canceled, limited in scope or coverage, or non-renewed until after thirty (30) days prior written notice has been given to the City of Visalia, Purchasing Division, 707 W. Acequia, Visalia, CA 93291, with the exception of cancellation for non-payment of premium, in which case ten (10) days' notice shall be given"

In addition, the Commercial general liability policy required by this Agreement shall contain the following clauses:

"It is agreed that any insurance maintained by the City of Visalia shall apply in excess of and not contribute with insurance provided by this policy."

"The City of Visalia, its officers, agents, employees, representatives and volunteers are added as additional insured as respects operations and activities of, or on behalf of the named insured, performed under contract with the City of Visalia."

The successful bidder shall maintain the insurance for the life of the contract. Endorsements are to be received and approved by the City before work commences. Should Consultant cease to have insurance as required during any time, all work by Consultant pursuant to this agreement shall cease until insurance acceptable to the City is provided.

In addition to any other remedies CITY may have if CONSULTANT fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, CITY may, at its sole option:

1. Obtain such insurance and deduct and retain the amount of the premiums for such insurance from any sums due under the Agreement; or
2. Order CONSULTANT to stop work under this Agreement and/or withhold any payment(s) which become due to CONSULTANT hereunder until CONSULTANT demonstrates compliance with the requirements hereof; or
3. Terminate this Agreement.

VII. EXAMINATION OF CONTRACT REQUIREMENTS AND ACCEPTANCE OF PROPOSAL CONTENT

Before submitting a proposal, proposers must satisfy themselves by personal examination of the proposal requirements and other contract documents, and by any other means as they may believe necessary, as to the actual conditions, requirements, and difficulties under which the work must be performed and to verify any representations made by the City of Visalia, upon which the offeror will rely.

The submission of a proposal shall be considered conclusive evidence that the proposer has carefully investigated all conditions that affect, or may at some future date affect, the performance of services covered by this solicitation, and is satisfied as to the character, quality, and quantities of work to be performed and as to the requirements of the proposal. Submission of a proposal shall also be evidence that the proposer is familiar with directives that in any way affect prosecution of the work or persons engaged or employed in the work.

No proposer shall at any time after submission of a proposal make any claim or assertion that there was any misunderstanding or lack of information regarding the nature or amount of work necessary for satisfactory performance under the contract. If the proposer receives an award as a result of this Request for Proposals, failure to have made such investigations and examinations will in no way relieve the proposer from its obligations to comply in every detail with all provisions and requirements of the contract documents, nor will a plea of ignorance of such conditions and requirements be accepted as a basis for claim whatsoever by the proposer for additional compensation. Any errors, omissions, or discrepancies found in the specifications or other contract documents shall be called to the attention of the City and clarified prior to the submission of proposals.

Should the proposer feel there has been a supplemental or oral modification, it shall be his responsibility to verify said modification in writing prior to submission of the proposal.

The contents of the proposal of the successful proposer shall become contractual obligations if procurement action ensues. Failure to accept these obligations in a contractual agreement shall result in cancellation of award.

A. Withdrawal of Proposals

Any proposal may be withdrawn at any time prior to the time fixed in the public notice for the receipt of proposals, only by written request for the withdrawal of the proposal filed with the Purchasing Division. The request shall be executed by the proposer or his duly authorized representative. The withdrawal of a proposal does not prejudice the right of the proposer to file a new proposal. No proposal may be withdrawn after the time fixed in the public notice for the receipt of proposals.

B. Rejection of Proposals

The City of Visalia reserves the right to reject any or all proposals; to waive any requirements, both the City's and those proposed by the vendor; to waive any irregularities or informalities in any proposal or the RFP process when it is in the best interest of the City to do so; to negotiate for the modification of any proposal with

mutual consent of the proposer; to re-advertise for proposals, if desired; to sit and act as sole judge of the merit and qualifications of the service offered and; to evaluate in its absolute discretion, the proposal of each vendor, so as to select the vendor which best serves the requirements of the City, thus insuring that the best interest of the City will be served. Proposer's past performance and the City's assurance that each proposer will provide service as proposal, will be taken into consideration when proposals are being evaluated.

The City may make such investigation as it deems necessary to determine the ability of a proposer to furnish the required services, and the proposer will furnish to the City all such information and data for this purpose as the City may request. The City reserves the right to reject any proposal if the evidence submitted by, or investigation of, such proposer fails to satisfy the City that such proposer is properly qualified to carry out the obligations of a contract and to deliver the services contemplated herein or; the proposal of any proposer who has previously failed to perform properly, or complete on time, contracts of a similar nature. Any material misrepresentation or material falsification of information provided to the City in the proposer's proposal submission, or at any point in the proposal evaluation process, including any interview conducted, is grounds for rejection of the proposal. In the event that the misrepresentation or falsification is not discovered until after any agreement is awarded, the agreement may be terminated at that time. A determination as to whether a misrepresentation or falsification of the proposal submission is material shall be made solely in the exercise of the City's sound discretion. The City expressly reserves the right to reject the proposal of any proposer who is in default on the payment of taxes, licenses or other moneys due to the City of Visalia.

C. Evaluation/Award of Contract

Evaluation and selection of proposals will be based on the information called for in this RFP. Brochures or other promotional presentations beyond that sufficient to submit a complete and effective proposal are not desired. Elaborate artwork, expensive paper or binders, and expensive visuals are not necessary.

Proposals will be evaluated by a Selection Committee. The City reserves the right to make the selection of a proposer based on any or all factors of value, whether quantitatively identifiable or not, including, but not limited to, the anticipated initiative and ability of the proposer to perform the services set forth herein.

The award, if made, will be made within ninety (90) days from proposal closing date. Proposer agrees and so stipulates in submitting this proposal, as though stated therein, and in any subsequent award of contract that:

1. Proposer is an independent contractor, not an employee, agent or officer of the City.
2. Contract, should it be awarded, shall be interpreted, construed, and given effect in all respects according to the laws of the State of California.
3. Should proposer be awarded contract, proposer shall not assign contract, or any part thereof, or any moneys due or to become due thereunder, without prior consent of the City.
4. Proposer shall indemnify and hold harmless the City, its officers, officials, employees, and agents from and against all claims, damages, losses, and expenses caused in whole or in part by any negligent act or omission of the proposer, its consultants, subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, except where caused by the active negligence, sole negligence, or willful misconduct by the City.
5. Proposer shall hold the City harmless from liability of any nature or kind, including cost and expenses for infringement or use of any copyrighted composition, secret process, patented or unpatented invention, article or appliance furnished or used in connection with the contract.
6. Proposer warrants that no gratuities, in the form of gifts, entertainment, or otherwise, were offered or given by the proposer, to any officer or employee of the City with a view toward securing the contract or securing favorable treatment with respect to any determination concerning the performance of the contract. For breach or violation of this warranty, the City shall have the right to terminate the contract either in whole or in part. The rights and remedies of the City provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under the contract.

D. Proposal Pricing Guidelines

Proposer shall provide proposed fees and cost information as a part of this Request for Proposals. **Proposed fees shall be submitted under separate, sealed cover.**

E. Assignment of Contract

No assignment by the vendor of the contract or any part hereof, or of funds to be received there under, will be binding upon the City unless such assignment had prior written approval and consent of the City. In the event the City gives such consent, the terms and conditions of the agreement shall apply to and bind the party or parties to whom such work is assigned, sublet or transferred.

The failure of the City at any time to require performance by the proposer of any provisions hereof shall in no way affect the right of the City thereafter to enforce the same. Nor shall waiver by the City of any breach of any provision hereof be taken or held to be waiver of any succeeding breach of such provision or as a waiver of any provision itself.

F. Right to Require Performance

The failure of the City at any time to require performance by the proposer of any provisions hereof shall in no way affect the right of the City thereafter to enforce the same. Nor shall waiver by the City of any breach of any provision hereof be taken or held to be waiver of any succeeding breach of such provision or as a waiver of any provision itself.

G. Ethics in Public Contracting

Each proposer, by submitting a proposal, certifies that it is not a party to any collusive action or any action that may be in violation of the Sherman Antitrust Act by submitting a proposal, the proposer certifies that its proposal was made without fraud; that it has not offered or received any kickbacks or inducements from any other proposer in connection with the request for proposal; and that it has not conferred on any public employee, public member or public official having responsibility for this procurement transaction, any payment, loan, subscription, advance, deposit of money, services, or anything of more than nominal value. The proposer further certifies that no relationship exists between itself and the City or another person or organization that interferes with fair competition or constitutes a conflict of interest with respect to a contract with the City of Visalia.

Prior to the award of any contract, the potential Consultant may be required to certify in writing to the Purchasing Division that no relationship exists between the proposer and any City employee, officer, official or agent that interferes with fair competition or is a conflict of interest with respect to a contract with the City of Visalia.

More than one proposal from an individual, firm, partnership, corporation or association under the same or different names may be rejected. Reasonable grounds for believing that a proposer has interest in more than one proposal for the work solicited may result in rejection of all proposals in which the proposer is believed to have an interest.

H. Equal Employment Opportunity

During the performance of the contract, proposer agrees to the following:

1. Proposer shall comply with all the requirements, when applicable, of the California Fair Employment Practice Commission and provisions of, when applicable, all Federal, State of California, County of Tulare and City of Visalia laws and ordinances related to employment practices.
2. Proposer shall not discriminate against any employee or applicant for employment on the basis of race, religion, color, gender, age, handicap, national origin or ancestry, except when such a condition is a bona fide occupational qualification reasonably necessary for the normal operations of the proposer. The proposer agrees to post in conspicuous places, visible to the employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

3. Proposer, in all solicitations or advertisements for employees, placed by, or on behalf of the proposer, shall state that proposer is an Equal Opportunity Employer.

I. Venue

Any contract resulting from this solicitation shall be governed by, and construed in accordance with, the laws of the State of California. Venue for any litigation arising out of the contract will be vested in Tulare County, California.

J. Proprietary Information

The proposals received shall become the property of the City of Visalia and are subject to public disclosure. Proposal prices and information submitted by proposers will be made available to proposers after City Council has approved award of contract. Proposers are to indicate any restrictions on the use of data contained in their responses. Those parts of a proposal which are defined by the proposer as business or trade secrets, as that term is defined in California Government Code, Section 6254.7, and are reasonably marked as "Trade Secrets", "Confidential" or "Proprietary" shall only be disclosed to the public if such disclosure is required or permitted under the California Public Records Act or otherwise by law. Proposers who indiscriminately and without justification identify most, or all, of their proposal as exempt from disclosure may be deemed non-responsive.

K. Incurring Costs

The City of Visalia is not liable for any cost incurred by proposers in responding to this Request for Proposals.

L. Firearms Prohibited

Guns may not be carried by contractors/vendors/consultants while working on City of Visalia premises without the expressed written approval of a City of Visalia Department Head, or an exemption in the contract. If a contractor/vendor/consultant is caught carrying a gun, without City permission, their contract will be terminated.

M. Executive Order N-6-22 – Russia Sanctions

Russia Sanctions On March 4, 2022, Governor Gavin Newsom issued Executive Order N-6-22 (the EO) regarding Economic Sanctions against Russia and Russian entities and individuals. "Economic Sanctions" refers to sanctions imposed by the U.S. government in response to Russia's actions in Ukraine, as well as any sanctions imposed under state law. The EO directs state agencies to terminate contracts with, and to refrain from entering any new contracts with, individuals or entities that are determined to be a target of Economic Sanctions. Accordingly, should the State determine Contractor is a target of Economic Sanctions or is conducting prohibited transactions with sanctioned individuals or entities, that shall be grounds for termination of this agreement. The State shall provide Contractor advance written notice of such termination, allowing Contractor at least 30 calendar days to provide a written response. Termination shall be at the sole discretion of the State.

VIII. MEASUREMENT AND PAYMENT

A. Billing and Payments

Awarded Vendor is fully responsible for assuring that all services arising from the agreement are billed at the correct and applicable contract prices. The vendor is required to establish and maintain a process to monitor its billing practices and will refund all over-charges that may occur.

In connection with any cash discount offered, time will be computed from the date of complete delivery of the service as specified, or from the date correct invoices are received, if that date is later than the date of delivery. For the purposes of earning the discount, payment is deemed to be made on the date of the mailing of the City check.

The City of Visalia shall withhold retention in the amount of 5% of invoiced amount for completed work. Retention shall be held until 35 days after the filing of a Notice of Completion.

IX. SPECIAL CONDITIONS APPLICABLE TO THIS PUBLIC WORKS CONTRACT

A. Department of Industrial Relations Requirements and Public Works Contractor Registration Program and Project Labor Agreements

Notice is hereby given that this is a Public Works Project. All contractors and subcontractors (*including Consultants and Sub-Consultants*) bidding and performing work on Public Works Projects must: (1) Be currently registered with the California Department of Industrial Relations (DIR), and (2) Furnish electronic payroll records for new projects to the Labor Commissioner.

No contract will be awarded unless that contractor and/or subcontractors are registered with the California Department of Industrial Relations (DIR). Bids submitted by unregistered contractors or list unregistered subcontractors will be rejected as non-responsive.

A contractor or subcontractor shall not be qualified to bid on, be listed in a bid proposal, subject to the requirements of Section 4104 of the Public Contract Code or engage in the performance of any contract for public work, as defined in this chapter, unless currently registered and qualified to perform public work pursuant to Section 1725.5. It is not a violation of this section for an unregistered contractor to submit a bid that is authorized by Section 7029.1 of the Business and Professions Code or by Section 10164 or 20103.5 of the Public Contract Code, provided the contractor is registered to perform public work pursuant to Section 1725.5 at the time the contract is awarded.

If a project labor agreement (the term "project labor agreement" is defined in Public Contract Code 2500(b)(1) as a pre-hire collective bargaining agreement that establishes terms and conditions of employment for a specific construction project or projects and is an agreement described in Section 158(f) of Title 29 of the United States Code) is used, then it must comply with the taxpayer protection provisions set forth in Public Contract Code section 2500(a). City of Visalia has no ordinances requiring or prohibiting such agreements.

B. City of Visalia Labor Compliance Manual

Consultant shall fulfill requirements of Department of Industrial Relations and California Labor Codes by complying with the *City of Visalia Labor Compliance Manual* which is incorporated into his RFP and subsequent contract as an attachment and available at visaliapurchasing.org. Executed contract will include a hard copy of this document.

C. Required Bonds

Awarded Consultant shall be required to submit a **Performance Bond** in the amount of one hundred percent (100%) of the agreement, as surety condition for the full, complete and faithful performance of the agreement. In addition, Awarded Consultant shall be required to furnish a **Labor and Materials Bond** in the amount of one hundred percent (100%) of the agreement if subcontractors are proposed to be used to complete this project.

According to City standards the surety company must be either a California Admitted Surety OR current Treasury Listed Surety (Federal Register) to its specified dollar limitation AND a current A.M. Best A: VIII rated surety.

D. Project Administrative Issues

1. Complete Project

The successful consultant shall be responsible for providing all materials, labor, equipment, and services necessary to fulfill the requirements of this RFP. It is the intent of this RFP and related agreement to describe a functionally complete project.

2. Quantities/Change Orders

The City reserves and shall have the right to make such changes to the work as may be necessary and desirable to complete the work originally intended in an acceptable manner. Unless otherwise specified herein, the Project Manager shall be and is hereby authorized to make such changes, in the work as may increase or decrease the originally awarded contract quantities and/or total contract cost. The Contract Price, or the amount due the Contractor will only be reduced/increased after the price change is reviewed and authorized by the City of Visalia Change Order Committee.

Should the Contractor disagree with any terms or conditions set forth in an approved contract change order not executed by the Contractor, the Contractor shall submit a written protest to the Engineer within 15 days after the receipt of the approved contract change order and the procedures outlined in Section 4-1.03 of the Standard Specifications apply.

If a requested change order is sent back to the Contractor for revisions, the Contractor has 15 (fifteen) calendar days to resubmit.

Changes shall not invalidate the contract nor release the surety, and the Contractor agrees to accept payment for such changes as if the altered work had been a part of the original contract. These changes which are for work within the general scope of the contract shall be covered by Change Orders issued by the City. Change orders for altered work shall include extensions of contract time where, in the Project Manager's opinion, such extensions are commensurate with the amount and difficulty of added work.

Excessive altered work shall be covered by supplemental agreement that is subject to funding agency approval as applicable. If the City and the Contractor are unable to agree on a unit adjustment for any contract item that requires a supplemental agreement, the City reserves the right to terminate the contract with respect to the item and to make other arrangements for its completion.

3. Omitted Items

Project Manager is authorized to omit minor contract items. Major items must be omitted by supplemental agreement.

4. Extra Work

Contractor is prohibited from doing extra work, unless authorized in writing by Project Manager before the work is done. The Project Manager should obtain authorization from the Change Order Committee before agreeing to extra work requested by the Contractor. In the instances where it is necessary for the work to be done immediately, the Project Manager may authorize the work prior to taking the additions to the Change Order Committee. Payment for the approved Extra Work shall be as agreed to in writing by the Project Manager prior to the Extra Work being completed or the Change Order Committee shall approve an increase in a Change Order issued after the Extra Work is completed. No additional payment is due for unauthorized Extra Work.

If the Project Manager authorizes Extra Work but the payment for the Extra Work has not been agreed to in writing prior to the work being completed, then Contractor shall submit to the Project Manager the documentation required for a Change Order within forty-five (45) days of completing the Extra Work. The Project Manager will submit a Change Order request for review and approval by the Change Order Committee. If the Contractor does not submit any documentation within that time period, the Project Manager may move forward with issuing a Change Order to adjust the contract price.

5. Removal of Obstructions

Contractor shall remove and dispose of all structures, debris or other obstructions of any character required for completion of the project. Any temporarily removed or relocated items shall be replaced.

6. Clean Up

Prior to acceptance and final payment, Contractor shall clean up the site of work, and any areas occupied by Contractor in connection with the project.

E. City-Contractor Relations

1. Project Manager's Responsibility and Authority

City will designate a Project Manager. All work shall be done under the general supervision of such Project Manager or his or her designee(s). The Project Manager shall decide issues of quality and acceptability of materials, work performance, rate of progress of work, interpretation of drawings and specifications, and all questions related to fulfillment of the contract for the project. Project Manager shall not have control over acts or omissions of the Contractor, Subcontractors, their agents or employees.

2. Contractor/Contractor's Superintendent.

Contractor shall bear all responsibility for, and have all control over, the construction means, methods, techniques, sequences, procedures and safety precautions or programs related to the project. Contractor may designate a superintendent.

3. Project Site/Existing Utilities and Structures

(a) Contractor shall take care to avoid, but shall be responsible for, all damage to existing structures, including, but not limited to: temporary or permanent fencing, sewers, water service, drains and culverts, underground utilities and the like.

(b) USA Notification. Contractor shall notify underground service alert ("USA) of times and locations of proposed excavations.

- i. Contractor shall notify owners of and be responsible for damage to utilities and substructures.
- ii. If damage occurs to an unknown utility, Contractor shall repair the utility.
- iii. Contractor shall not make connection to or draw water from any hydrant or pipeline without first obtaining permission to do so.

4. Signs, Barricades, and Notice

Contractor must provide and maintain proper barricades, fences, signal lights, watchmen, and notice in general to the surrounding public, in accord with local, federal, and state requirements.

5. Labor

- (a) Workmanship. Workmanship shall be equal to the best general practice of modern-day fabrication shops and good construction practice.
- (b) Qualification. Contractor shall ensure that each employee who works on this project is qualified to perform their assigned duty in a safe manner.

6. Control of Materials

- (a) Source of Supply and Quality of Materials Guarantee. All materials, parts and equipment supplied by the Contractor shall be new and of a quality equal to that specified. Materials which become unfit for use shall not be used for the project.
- (b) Equivalent Materials. Trade names or manufacturer's catalog information, where used, are a means of indicating kind, type, design, style, finish, durability or quality desired and are not intended to exclude or omit the products of any responsible manufacturer, if such products are equal in every respect to those specified. The burden of proof of compliance with the specifications is the responsibility of Contractor. City shall be the sole judge as to the adequacy of any item for substitution.
- (c) Manufacturer's Directions. Manufactured articles, materials and equipment shall be applied, installed, connected, erected, used, cleaned and conditioned as directed by the manufacturer.

7. Storage of Materials

Materials shall be stored to ensure the preservation of their quality and fitness for the project. Contractor assumes full responsibility for ensuring that the project and materials are protected until project is completed. Any cost for storage of materials is the responsibility of the Contractor.

8. Materials and Shop Drawing Submittals

If applicable, Contractor shall submit to Project Manager for approval, two (2) copies of the materials list and detailed dimensional shop drawings covering all Contractor-furnished items of equipment. Prior approval by Project Manager is required. Such approval shall not relieve the Contractor from the responsibility of deviation from the Contract unless Contractor has, in writing, called to the attention of the Project Manager such deviations.

9. Legal Responsibilities

It is the responsibility of Contractor to comply with all local, state and federal laws and regulations which apply to this project. This includes, but is not limited to, compliance with Uniform Building, Plumbing, Mechanical, Electric, and Fire Codes. The Contractor shall provide a safe working environment in compliance with the Occupational Safety and Health Act, and California Health and Safety Codes. Additionally, Contractor shall secure all necessary permits, licenses, and similar requirements to carry out the project. Contractor shall comply with all applicable labor laws and ensure against discrimination.

REQUIRED INFORMATION

PROPOSING AGENCY NAME: _____

STATE CONTRACTOR'S LIC. CLASS: _____ **#** _____ **EXP. DATE:** _____

STATE D.I.R. REGISTRATION # _____ **FEDERAL TAX I.D. #** _____

CITY OF VISALIA BUSINESS TAX CERTIFICATE # _____

(A City Business Tax Certificate (license) is not required to submit a bid; however, vendor is required to obtain a City License prior to commencement of work or if vendor is presently transacting business within the City of Visalia, regardless of whether the business address is actually located within the City. Contact the business License Division for clarification of questions at 559-713-4326.

SUBCONTRACTOR LISTING

The Proposer hereby designates below for the project, opposite various portions of the work, the names, and locations of the places of business of each subcontractor who will perform work or labor in an amount in excess of one-half of one percent (1/2 of 1%) of the of the total bid. All work not listed below shall be performed by the undersigned BIDDER. It is understood that the BIDDER, if awarded the contract, shall not substitute any subcontractor in place of the subcontractors herein designated without the approval of the Project Manager.

SUBCONTRACTOR INFORAMTION & TRADE CLASSIFICATION (CIRCLE ALL THAT APPLY)

1.	Subcontractor Name:	Performing _____% of project work	Asbestos	Drywall/Lathers	Operating Engineers	Sheet Metal
	Business Address:		Boilermaker	Electricians	Painters	Sound/Comm
	Email Address:		Bricklayers	Elevator Mechanic	Pile Drivers	Surveyors
	CSLB #	Expires:	Carpenters	Glaziers	Pipe Trades	Teamster
	DIR Registration #		Carpet/Linoleum	Iron Worker	Plasterers	Tile Worker
			Cement Mason	Laborers	Roofers	Other:_____
			Drywall Finisher	Millwrights		
2.	Subcontractor Name:	Performing _____% of project work	Asbestos	Drywall/Lathers	Operating Engineers	Sheet Metal
	Business Address:		Boilermaker	Electricians	Painters	Sound/Comm
	Email Address:		Bricklayers	Elevator Mechanic	Pile Drivers	Surveyors
	CSLB #	Expires:	Carpenters	Glaziers	Pipe Trades	Teamster
	DIR Registration #		Carpet/Linoleum	Iron Worker	Plasterers	Tile Worker
			Cement Mason	Laborers	Roofers	Other:_____

DIR Registration #			Drywall Finisher	Millwrights		
3.	Subcontractor Name:	Performing _____% of project work	Asbestos	Drywall/Lathers	Operating Engineers	Sheet Metal
Business Address:			Boilermaker	Electricians	Painters	Sound/Comm
Email Address:			Bricklayers	Elevator Mechanic	Pile Drivers	Surveyors
CSLB #			Carpenters	Glaziers	Pipe Trades	Teamster
Expires:			Carpet/Linoleum	Iron Worker	Plasterers	Tile Worker
DIR Registration #			Cement Mason	Laborers	Roofers	Other:_____
			Drywall Finisher	Millwrights		

4.	Subcontractor Name:	Performing _____% of project work	Asbestos	Drywall/Lathers	Operating Engineers	Sheet Metal
Business Address:			Boilermaker	Electricians	Painters	Sound/Comm
Email Address:			Bricklayers	Elevator Mechanic	Pile Drivers	Surveyors
CSLB #			Carpenters	Glaziers	Pipe Trades	Teamster
Expires:			Carpet/Linoleum	Iron Worker	Plasterers	Tile Worker
DIR Registration #			Cement Mason	Laborers	Roofers	Other:_____
			Drywall Finisher	Millwrights		
5.	Subcontractor Name:	Performing _____% of project work	Asbestos	Drywall/Lathers	Operating Engineers	Sheet Metal
Business Address:			Boilermaker	Electricians	Painters	Sound/Comm
Email Address:			Bricklayers	Elevator Mechanic	Pile Drivers	Surveyors
CSLB #			Carpenters	Glaziers	Pipe Trades	Teamster
Expires:			Carpet/Linoleum	Iron Worker	Plasterers	Tile Worker
DIR Registration #			Cement Mason	Laborers	Roofers	Other:_____
			Drywall Finisher	Millwrights		

If this page is not needed, please line through and submit with proposal.

If more space is needed to list additional subcontractors and trade classifications, please list remaining subcontractors on a separate sheet of paper (providing all of the requested information for each subcontractor) and submit with Proposal.

**PROPOSER'S STATEMENT ON PREVIOUS CONTRACTS
SUBJECT TO EQUAL EMPLOYMENT OPPORTUNITY CLAUSE
(EXECUTIVE ORDER 11426)**

The BIDDER shall complete the following statement by checking the appropriate blanks:

The BIDDER has _____ has not _____ participated in a previous contract subject to the Equal Employment Opportunity Clause prescribed by Executive Order 11246, as amended, of September 24, 1965.

The BIDDER has _____ has not _____ submitted all compliance reports in connection with any such contract due under the applicable filing requirements; and those representations indicating submission of required compliance reports signed by proposed subBIDDERS will be awarded prior to award of subcontracts.

If the BIDDER has participated in previous contracts subject to the Equal Employment Opportunity Clause and has not submitted compliance reports due under applicable filing requirements, the BIDDER shall submit a compliance report on Standard Form 100, "Employee Information Report EEO-1" prior to award of the contract.

Note: Failure to complete the blanks may be grounds for rejecting the bid.

Company: _____

Business Address: _____

Signature: _____

Name of Signing Official: _____

Title of Signing Official: _____

Date: _____

Company Seal (if any) :

**EQUAL EMPLOYMENT OPPORTUNITY COMPLIANCE CERTIFICATE
(EXECUTIVE ORDER 11246)**

Equal Opportunity Clause

Unless exempted by rules, regulations or orders of the Secretary of Labor issued pursuant to Executive Orders 10925, 11114 or Section 204 of Executive Order 11246 of September 24, 1965, during the performance of each contract with the City of Visalia, the BIDDER agrees as follows:

1. The BIDDER will not discriminate against any employee or applicant for employment because of race, color, religion, gender, national origin or political affiliation. The BIDDER will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, gender, national origin or political affiliation. Such action shall include, but not be limited to, the following: employment upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The BIDDER agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.
2. The BIDDER will, in all solicitations or advertisements for employees, placed by or on behalf of the BIDDER, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, gender, national origin or political affiliation.
3. The BIDDER will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or the workers' representative of the BIDDER's commitments under Section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice on conspicuous places available to employees and applicants for employment.
4. The BIDDER will comply with all provisions of Executive Order 11246 of September 24, 1965, and the rules, regulations and relevancy orders of the Secretary of Labor.
5. The BIDDER will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations and relevant orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.
6. In the event of the BIDDER's non-compliance with the non-discrimination clauses of this subcontract or with any of such rules, regulations or orders, this subcontract may be canceled, terminated or suspended, in whole, or in part and the BIDDER may be declared ineligible for further government contracts in accordance with the procedures authorized in accordance with Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation or order of the Secretary of Labor, or otherwise provided by law.
7. The BIDDER will include the provisions of Paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each SUBBIDDER or vendor. The BIDDER will take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing such provisions including sanctions for non-compliance. Provided, however, that in the event the BIDDER becomes involved in, or is threatened with litigation with a SUBBIDDER or vendor as a result of such direction by the contracting agency, the BIDDER may request the United States to enter into such litigation to protect the interest of the United States.

Company Name: _____ Business Address: _____

Signature: _____ Date: _____

Name & Title of Signing Official (Print or Type): _____
Name Title

Company Seal (if any):

**CERTIFICATE OF NONSEGREGATED FACILITIES
(BIDDERS/PROPOSERS and SUBCONTRACTORS)**

1. "Segregated facilities," as used in this provision, means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees, that are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, or national origin, because of habit, local custom, or otherwise.

2. By the submission of a bid, the BIDDER certifies that it does not and will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not and will not permit its employees to perform their services at any location under its control where segregated facilities are maintained. The BIDDER agrees that a breach of this certification is a violation of the Equal Opportunity clause in the contract.

3. By submission of the bid, the BIDDER further agrees that (except where it has obtained identical certifications from proposed SUBCONTRACTORS for specific time periods) it will:

- (a) Obtain identical certifications from proposed SUBCONTRACTORS before the award of subcontracts under which the SUB-BIDDER will be subject to the Equal Opportunity clause;
- (b) Retain such certifications in its files; and
- (c) Forward this certification and the following notice to the proposed SUBCONTRACTORS:

**NOTICE TO PROSPECTIVE SUBCONTRACTORS OF REQUIREMENT
FOR CERTIFICATION OF NONSEGREGATED FACILITIES**

A certificate of Nonsegregated Facilities must be submitted before the award of a subcontract under which the SUBCONTRACTOR will be subject to the equal Opportunity clause. The certification may be submitted either for each SUBCONTRACTOR for all subcontracts during a period (i.e., quarterly, semi-annually, or annually).

4. By commencing performance of the Contract work, the selected BIDDER certifies to the Nonsegregated Facilities provisions above.

Company: _____

Business Address: _____

Signature: _____ Date: _____

Name of Signing Official (Print or Type) : _____

Title of Signing Official: _____ Company Seal (if any):

NON-COLLUSION AFFIDAVIT

STATE OF CALIFORNIA)
) ss
CITY OF VISALIA)

_____, being first duly sworn, deposes and says that he or she is _____ of _____ the party making the foregoing Bid; that the Bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation; that the Bid is genuine and not collusive or sham; that the BIDDER has not directly or indirectly induced or solicited any other BIDDER to put in a false or sham Bid, and has not directly or indirectly colluded, conspired, connived, or agreed with any BIDDER or anyone else to put in a sham Bid, or that anyone shall refrain from Bidding; that the BIDDER has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the Bid price of the BIDDER or any other BIDDER, or to fix any overhead, profit, or cost element of the Bid price, or of that of any other BIDDER, or to secure any advantage against the public body awarding the contract of anyone interested in the proposed contract; that all statements contained in the Bid are true; and, further, that the BIDDER has not, directly or indirectly, submitted his or her Bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any corporation, partnership, company association, organization, bid depository, or to any member or agent thereof to effectuate a collusive or sham Bid.

Company: _____
Business Address: _____
Signature: _____
Name of Signing Official: _____
Title of Signing Official: _____
Date: _____ Company Seal (if any): _____

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of _____

On this _____ day of _____ before me, _____, a Notary

Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct

WITNESS my hand and official seal. Signature _____ (Seal)

**WORKERS' COMPENSATION INSURANCE CERTIFICATE
(CALIF. LABOR CODE § 3700)**

STATE OF CALIFORNIA)
) ss
CITY OF VISALIA)

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

Company: _____

Business Address: _____

Signature: _____

Name of Signing Official: _____

Title of Signing Official: _____

Date: _____

Company Seal (if any):

CERTIFICATION OF ANTI-KICKBACK COMPLIANCE
(48 Stat. 948; 62 Stat. 740; 63 Stat. 108; Title 18 U.S.C. § 8741; and 40 U.S.C. (c))

By submission of a Bid, the BIDDER certifies that neither it nor any of its employees has performed or participated in any prohibited actions, as defined in that provision, relating to the award of the Contract. By commencing performance of the Contract work, the selected BIDDER certifies to Anti-Kickback Compliance.

Company: _____

Business Address: _____

Signature: _____

Name of Signing Official: _____

Title of Signing Official: _____

Date: _____

Company Seal (if any):

AMERICANS WITH DISABILITIES ACT COMPLIANCE CERTIFICATE

By submission of a bid, the BIDDER certifies it will comply with the Americans with Disabilities Act, 42 U.S.C., 12101 et. seq., and will maintain compliance throughout the life of this Contract. By commencing performance of the Contract work, the selected BIDDER certifies to the Americans with Disabilities Act compliance.

Company: _____

Business Address: _____

Signature: _____

Name of Signing Official: _____

Title of Signing Official: _____

Date: _____

Company Seal (if any):

STATE OF CALIFORNIA

DRUG-FREE WORKPLACE CERTIFICATION

STD.21 (REV.12-93)

I, the official named below, hereby swear that I am duly authorized legally to bind the contractor or grant recipient to the certification described below. I am fully aware that this certification, executed on the date below, is made under penalty of perjury under the laws of the State of California.

CONTRACTOR/BIDDER FIRM NAME	FEDERAL ID NUMBER
BY(Authorized Signature)	DATE EXECUTED
PRINTED NAME OF PERSON SIGNING	TELEPHONE NUMBER (Include Area Code) ()
TITLE OF PERSON SIGNING	
PROPOSING FIRM'S MAILING ADDRESS	

The contractor or grant recipient named above hereby certifies compliance with Government Code Section 8355 in matters relating to providing a drug-free workplace. The above named contractor or grant recipient will:

1. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations, as required by Government Code Section 8355(a).
2. Establish a Drug-Free Awareness Program as required by Government Code Section 8355(b), to inform employees about all of the following:
 - (a) The dangers of drug abuse in the workplace,
 - (b) The person's or organization's policy of maintaining a drug-free workplace,
 - (c) Any available counseling, rehabilitation and employee assistance programs, and
 - (d) Penalties that may be imposed upon employees for drug abuse violations.
3. Provide as required by Government Code Section 8355©, that every employee who works on the proposed contract or grant:
 - (a) Will receive a copy of the company's drug-free workplace policy statement, and
 - (b) Will agree to abide by the terms of the company's statement as a condition of employment on the contract or grant.
4. At the election of the contractor or grantee, from and after the "Date Executed" and until _____ (NOT TO EXCEED 36 MONTHS), the state will regard this certificate as valid for all contracts or grants entered into between the contractor or grantee and this state agency without requiring the contractor or grantee to provide a new and individual certificate for each contract or grant. If the contractor or grantee elects to fill in the blank date, than the terms and conditions of this certificate shall have the same force, meaning effect and enforceability as if a certificate were separately, specifically, and individually provided for each contract or grant between the contractor or grantee and this state agency.

IRAN CONTRACTING ACT CERTIFICATION
(Public Contract Code Section 2200 et seq.)

As required by California Public Contract Code Section 2204, the Contractor certifies subject to penalty for perjury that the option checked below relating to the Contractor's status in regard to the Iran Contracting Act of 2010 (Public Contract Code Section 2200 et seq.) is true and correct:

- The Contractor is not:
 - (1) Identified on the current list of persons and entities engaged in investment activities in Iran prepared by the California Department of General Services in accordance with subdivision (b) of Public Contract Code Section 2203; or
 - (2) A financial institution that extends, for 45 days or more, credit in the amount of \$20,000,000 or more to any other person or entity identified on the current list of persons and entities engaging in investment activities in Iran prepared by the California Department of General Services in accordance with subdivision (b) of Public Contract Code Section 2203, if that person or entity uses or will use the credit to provide goods or services in the energy sector in Iran.
- The City has exempted the Contractor from the requirements of the Iran Contracting Act of 2010 after making a public finding that, absent the exemption, the City will be unable to obtain the goods and/or services to be provided pursuant to the Contract.
- The amount of the Contract payable to the Contractor for the Project does not exceed \$1,000,000 over the life of the contract (up to 5 years).

Signature: _____ Printed Name: _____

Title: _____ Agency Name: _____

Date: _____

Note: In accordance with Public Contract Code Section 2205, false certification of this form shall be reported to the California Attorney General and may result in civil penalties equal to the greater of \$250,000 or twice the Contract amount, termination of the Contract and/or eligibility to bid on contracts for three years.

CALIFORNIA LEVINE ACT STATEMENT

California Government Code Section 84308, commonly referred to as the "Levine Act," can prohibit members of the City Council of the City of Visalia from participating in any action related to a contract if he or she receives any political contributions totaling more than \$250 within the previous twelve (12) months, and for twelve (12) months following the date a final decision concerning the contract has been made, from the person or company awarded the contract. The Levine Act also requires disclosure of such contribution(s) by a party to be awarded a specific contract.

The following website contains a list of current Visalia City Council Members, https://www.visalia.city/government/city_council/default.asp. You are responsible for reviewing the names of Visalia City Council Members prior to making the following disclosure:

- 1. Have you or your company, or any agent on behalf of you or your company, made any political contributions of more than \$250 to a Visalia City Council Member in the twelve (12) months preceding the date of the submission of your proposals or the anticipated date of any City Council action related to this contract?

YES:_____ NO:_____. If yes, please identify the City Council Member(s) and date(s) of contribution in the space below:

Answering YES to the question above does not preclude the City of Visalia from awarding a contract to your firm or from taking any subsequent action related to the contract. It does, however, preclude the identified Visalia City Council Member(s) from participating in any actions related to this contract.

NOTICE: The disclosure duty under state law continues for twelve (12) months after the award. If the above information regarding contributions changes during this time after the award, then the awardee is required to update this disclosure form.

Signature of Authorized Individual

Date

Printed or Typed Name of Authorized Individual

Print or Type Name of Company

**PLAYGROUND STRUCTURES REPLACEMENT PROJECT
(VISALIA RIVERWAY SPORTS PARK - JIM BYRD PLAYGROUND)**

(City of Visalia RFP No 22-23-33)

This Agreement, entered into and effective this _____ day of _____, 2023, by and between the City of Visalia, hereinafter referred to as the "CITY", and _____ hereinafter referred to as the "VENDOR", "CONTRACTOR", "BIDDER", or "SUBRECIPIENT".

RECITALS

WHEREAS, VENDOR is an _____ (insert individual or entity type) with a primary business address of _____ and SSN or EIN: _____; and

WHEREAS, CITY is a municipal corporation and Charter Law City; and

WHEREAS, CITY desires Playground Replacement Services at Riverway Sports Park (Jim Byrd Playground) as evidenced by RFP No. 22-23-33, Playground Replacements Project; and

WHEREAS, City of Visalia reviewed and evaluated responses to the Proposal and determined to award a contract to VENDOR for the Playground Replacements Project at Riverway Sports Park Jim Byrd Playground and

WHEREAS, VENDOR represents it is licensed, qualified and willing to complete the Project pursuant to terms and conditions of this Agreement,

NOW, THEREFORE, CITY and VENDOR agree as follows:

1. TERM:

The term of this Agreement shall commence on the Effective Date and expire upon completion of all obligations of the parties, unless earlier terminated by the parties. The indemnification and defense provisions shall survive expiration and termination. Suspension or termination of this Agreement may occur if CONTRACTOR materially fails to comply with any term of the award. Additionally, this Agreement may be terminated for convenience. In the event of termination or expiration of this Agreement, CONTRACTOR shall transfer to CITY any funds and/or accounts receivable on hand attributable to the use of CITY funds.

2. ATTACHMENTS INCORPORATED:

The following are attachments for this Agreement. Said attachments are incorporated into this Agreement as if included in full in the body:

ATTACHMENT NO.	DESCRIPTION OF ATTACHMENT
Attachment 1	General Contract Provisions
Attachment 2	Insurance Requirements
Attachment 3	City of Visalia RFP 22-23-33, Playground Replacement Project (name/location of playground identified here)
Attachment 4	Vendor's proposal in response to RFP No. 22-23-33
Attachment 5	Project Cost and Schedule of Fees for Professional Services
Attachment 6	City of Visalia Labor Compliance Manual

3. VENDOR SCOPE OF SERVICES and COMMITMENTS*:

CONTRACTOR shall provide the following services for the stated compensation ("Scope of Services"):

A. The CONTRACTOR agrees to perform all work necessary to complete in a manner satisfactory to the CITY those tasks described as Scope of Services in RFP-22-23-33, for the cost identified in Attachment 5 of this Agreement.

B. Additional Services: Incidental work related to the PROJECT and not described in RFP-22-23-33, may be needed during the performance of this Agreement. The CONTRACTOR agrees to provide any and all additional services at the rates identified in Attachment 2 - Schedule of Fees for Professional Services. Such additional services shall not be performed by CONTRACTOR without the written consent of CITY's CHANGE ORDER COMMITTEE.

4. CITY COMMITMENTS:

CITY shall perform the following tasks on or before the stated completion dates:

TASK	COMPLETION DATE
Pay Contractor as work is completed and invoiced	As requested by Contractor

5. COMPENSATION:

CITY shall pay CONTRACTOR compensation for services requested; however, CITY shall pay not more than the following amount under this Agreement, unless otherwise agreed in writing. Such sum shall be expended and paid by CITY on a reimbursement basis for services actually performed based on the monthly report and similar documents presented by CONTRACTOR to CITY.

Cost	\$ (insert Council Awarded Amount)
Source of Funds:	Local Revenues
Payment Schedule:	<u>Within 30 days from receipt of approved invoice for completed work, less 5% retention until 35 days after work is completed and accepted by CITY as evidenced by the recordation of a Notice of Completion*</u>

IN WITNESS WHEREOF, this Agreement is executed on the day and year first above written.

VENDOR

Dated: _____

By: _____

Authorized Officer: I certify under penalty of perjury under the laws of the State of California that I am fully authorized to execute this Agreement for VENDOR in the capacity I have stated, and that such execution is sufficient to bind the CONTRACTOR.

CITY OF VISALIA

Dated: _____

By: _____

City Manager

Dated: _____

By: _____

City Attorney

Dated: _____

By: _____

City of Visalia Risk Manager

Dated: _____

By: _____

City of Visalia Project Manager

Attachment 1
GENERAL CONTRACT PROVISIONS

- A. **Successors and Assigns:** This Agreement shall be binding upon and shall inure to the benefit of any successors to or assigns of the parties.
- B. **Prohibition of Assignment:** Neither party shall assign, delegate or transfer their rights and duties in this Agreement without the written consent of the other party.
- C. **Notices:** Notice shall be sufficient hereunder if personally served upon the City Clerk of the CITY or an officer or principal of the CONTRACTOR, or if sent via the United States Postal Service, postage prepaid, addressed as follows:

CITY OF VISALIA
707 W. Acequia Ave.
Visalia, CA 93291
Attention: City Clerk

Attention: _____

- D. **Independent Contractor:** It is understood and agreed by the parties herein that CONTRACTOR, in the performance of this Agreement, shall act as an independent contractor, and therefore shall obtain no rights to any fringe benefits that accrue to regular full-time CITY employees.
- E. **Jurisdiction/Venue/Waiver Of Removal:** This Agreement shall be administered and interpreted under the laws of the State of California. Jurisdiction of litigation arising from this Agreement shall be in California. Any action brought to interpret or enforce this Agreement, or any of the terms or conditions hereof, shall be brought in Tulare County, California. The CONTRACTOR hereby expressly waives any right to remove any action to a county other than Tulare County as permitted pursuant to Section 394 of the California Code of Civil Procedure.
- F. **Integration/Modification:** This Agreement and each of the documents and exhibits or attachments referenced herein, which are incorporated by reference, 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 not be modified or altered except in writing signed by the parties, unless otherwise explicitly authorized.
- G. **Conflict With Law:** If any part of this Agreement is found to be in conflict with applicable laws, such part shall be inoperative, null and void insofar as it is in conflict with said law, but the remainder of the Agreement shall be in full force and effect.
- H. **Indemnification:** The CONTRACTOR waives any and all claims and recourse against the CITY, including the right of contribution of loss or damage to person or property arising from, growing out of, or in any way connected with or incidental to the CONTRACTOR's performance of this Agreement, except claims arising from the concurrent or sole negligence of the CITY or its officers, agents or employees. The CONTRACTOR will indemnify, hold harmless, and defend (at CITY's option) the CITY against any and all claims, demands, damages, costs, expenses, or liability arising out of the CONTRACTOR's performance of this Agreement except for liability arising out of the concurrent or sole negligence of the CITY or its officers, agents, or employees.
- I. **Guarantees and Warranties:**
 - 1. **IN GENERAL:** All guarantees and warranties specifically called for by the specifications and/or this Agreement shall expressly run to the benefit of the CITY.
 - 2. **ONE YEAR GUARANTEE:** Besides guarantees required elsewhere, CONTRACTOR shall and hereby does guarantee the project work for a period of one year after the date of acceptance by CITY.
 - 3. **WARRANTIES:** Warranties required by this Agreement shall commence on the date of acceptance of the work by CITY, unless otherwise provided in a Certificate of Substantial Completion.

CONTRACTOR warrants that the materials and equipment furnished under the Agreement will be new and of recent manufacturer unless otherwise specified, and that all work will be of good quality, free from faults and defects, and in conformance with the Agreement. Work that does not conform may be considered defective. This warranty excludes remedy for damage or defect caused by abuse, modifications not executed by the CONTRACTOR, improper or insufficient maintenance, improper operation, or normal wear and tear under normal usage.

CONTRACTOR warrants that title to all work covered by an application for payment will pass to the CITY either by incorporation in the construction or upon the receipt of payment by the CONTRACTOR, whichever occurs first, free and clear of all liens.

CONTRACTOR warrants and guarantees that title to all work, materials, and equipment covered by any application for payment, whether incorporated in the project or not, will pass to CITY no later than the time of payment free and clear of all liens.

No materials or supplies for the project shall be purchased by the CONTRACTOR or SUBCONTRACTOR subject to any mortgage or under a condition of sale contract or other agreement by which an interest is retained by the seller. CONTRACTOR warrants that it has good title to all materials and supplies used by it in the project, free from all liens.

CONTRACTOR shall indemnify and hold CITY harmless from all claims growing out of the lawful demands of SUBCONTRACTORS, laborers, workers, mechanics, material persons, and furnishers of machinery and parts thereof, equipment, power tools, and all supplies, incurred in furtherance of the performance of this Agreement. CONTRACTOR shall, at CITY's request, furnish satisfactory evidence that all obligations of the nature here and above designated have been paid, discharged, or waived. If CONTRACTOR fails to do so, then CITY may, after having served written notice on the CONTRACTOR, either pay directly unpaid bills, of which the CITY has written notice, or withhold from the CONTRACTOR's unpaid compensation a sum of money deemed reasonably sufficient to pay any and all such lawful claims until satisfactory evidence is furnished that all liabilities have been fully discharged where upon payment to the CONTRACTOR shall be resumed, in accordance of the terms of this Agreement, but in no event shall the provisions of this sentence be construed to impose any obligations on the CITY to either the CONTRACTOR or its surety. In paying any unpaid bills of the CONTRACTOR, the CITY shall be deemed the agent of the CONTRACTOR and any payment so made by the CITY shall be considered as payment made under the contract by the CITY to the CONTRACTOR and the CITY shall not be liable to the CONTRACTOR for any such payments made in good faith.

Any defective work that is either corrected or replaced shall be warrantied and guaranteed for a period of one year from the date of such correction or replacement.

- J. **Attorney's Fees:** In the event either party commences any action, arbitration or legal proceedings for the enforcement of this Agreement, the prevailing party, as determined by the court or arbitrator, shall be entitled to recovery of its attorney's fees and court costs incurred in the action brought thereon.
- K. **Headings:** Section headings are provided for organizational purposes only and do not in any manner affect the scope or intent of the provisions thereunder.
- L. **Firearms Prohibited:** Guns may not be carried by contractors /vendors/consultants while working on City of Visalia premises without the expressed written approval of a City of Visalia Department Head, or an exemption in the contract. If a contractor/vendor/consultant is caught carrying a gun, without City permission, their contract will be terminated.
- M. **Executive Order N-6-22 – Russia Sanctions** On March 4, 2022, Governor Gavin Newsom issued Executive Order N-6-22 (the EO) regarding Economic Sanctions against Russia and Russian entities and individuals. "Economic Sanctions" refers to sanctions imposed by the U.S. government in response to Russia's actions in Ukraine, as well as any sanctions imposed under state law. The EO directs state agencies to terminate contracts with, and to refrain from entering any new contracts with, individuals or entities that are determined to be a target of Economic Sanctions. Accordingly, should the State determine Contractor is a target of Economic Sanctions or is conducting prohibited transactions with sanctioned

individuals or entities, that shall be grounds for termination of this agreement. The State shall provide Contractor advance written notice of such termination, allowing Contractor at least 30 calendar days to provide a written response. Termination shall be at the sole discretion of the State.

Attachment 2
INSURANCE REQUIREMENTS

1. **Contractor Insurance.** CONTRACTOR, at its sole cost and expense, for the full term of this Agreement (and any extensions thereof), shall obtain and maintain at a minimum compliance with all of the following insurance coverage(s) and requirements. Such insurance coverage shall be primary coverage as respects CITY and any insurance or self-insurance maintained by CITY shall be in excess of CONTRACTOR's insurance coverage and shall not contribute to it.
2. **Subcontractor(s)' Insurance.** If CONTRACTOR utilizes one or more subcontractors in the performance of this Agreement, CONTRACTOR shall obtain and maintain independent insurance as to each subcontractor or otherwise provide evidence of insurance coverage for each subcontractor equivalent to that required of CONTRACTOR.
3. **Types of Insurance and Minimum Limits.** The following types of insurance and minimum limits are required providing at least the following minimum coverage and limits of liability:
 - a. **Worker's Compensation** written in accordance with the laws of the State of California providing coverage for any and all employees of CONTRACTOR in the minimum statutorily required coverage amounts;
 - b. **Automobile Liability Insurance** for each of CONTRACTOR's vehicles used in the performance of this Agreement, including owned, non-owned (e.g. owned by CONTRACTOR's employees or contractors), leased or hired vehicles, in the minimum amount of \$1,000,000 combined single limit per occurrence for bodily injury and property damage.
 - c. **Professional Liability Insurance** coverage, in an amount not less than One Million Dollars (\$1,000,000).
 - d. **Comprehensive or Commercial General Liability Insurance** coverage in the minimum amount of \$1,000,000 combined single limit, including coverage for:
 - (1) bodily injury;
 - (2) personal injury;
 - (3) broad form property damage;
 - (4) contractual liability;
 - (5) cross-liability;
 - (6) products and completed operations liability
4. **Other Insurance Provisions.**

If any insurance coverage required in this Agreement is provided on a "Claims Made" rather than "Occurrence" form, CONTRACTOR agrees to maintain the required coverage for a period of three (3) years after the expiration of this Agreement (hereinafter "post agreement coverage") and any extensions thereof. CONTRACTOR may maintain the required post agreement coverage by renewal or purchase of prior acts or tail coverage. This provision is contingent upon post agreement coverage being both available and reasonably affordable in relation to the coverage provided during the term of this Agreement. For purposes of interpreting this requirement, a cost not exceeding 100% of the last annual policy premium during the term of this Agreement in order to purchase prior acts or tail coverage for post agreement coverage shall be deemed to be reasonable.
5. **Endorsements.**

All required Automobile and Comprehensive or Commercial General Liability Insurance shall be endorsed to contain the following clauses:

 - a. The City of Visalia, its officers, agents, employees, representatives, and volunteers are added as additional insureds as respects operations and activities of, or on behalf of the named insured, performed under contract with the City of Visalia.

- b. It is agreed that any insurance maintained by the City of Visalia shall apply in excess of and not contribute with insurance provided by this policy.
- c. This insurance shall not be canceled, limited in scope or coverage, or non-renewed until after thirty (30) days prior written notice has been given to the City Clerk, City of Visalia, 707 W. Acequia, Visalia, CA, 93291.

6. Proof of Coverage.

CONTRACTOR agrees to provide its insurance broker(s) with a full copy of these insurance provisions and provide CITY on or before the effective date of this Agreement with Certificate(s) of Insurance for all required coverages. Copies of all the required Endorsements shall be attached to the Certificate(s) of Insurance or other evidence of insurance acceptable to the City of Visalia, which shall be provided by CONTRACTOR's insurance company as evidence of the stipulated coverages. This Proof of Coverage shall then be mailed to the City of Visalia at the following address:

City of Visalia Purchasing Division
707 W. Acequia
Visalia, CA 93291

SAMPLE CONTRACTOR AFFIDAVIT

I, _____ declare under penalty of perjury
(Affidavit's Name)

under the laws of the State of California and the provisions of the California Labor Code §1771, §1773.1, §1775, §1776, §1777.5, §1813 and §1815 that:

1. I am the _____ of _____ and I
(Officer, Owner, Partner) (Company)
am responsible for the payment of persons employed by _____
(Company)
who performed work on the City of Visalia Project entitled: _____

2. During all payroll periods from _____ through _____,
(first work date) (last work date)

All persons employed by _____ on this project
(Company)

have at all times been paid, at a minimum, the specified general prevailing rate of per diem wages and any amounts due.

3. During all payroll periods on this project, all apprenticeship requirements have been complied with.

Executed and sworn to this _____ day of _____, _____
(Day) (Month) (Year)

(Signature)

(Date)