



CITY OF VISALIA REQUEST FOR PROPOSAL RFP No: 22-23-45

Professional Services for Preparation of an Industrial Land Inventory Analysis

Description: The City of Visalia (City) is requesting proposals from qualified professional consultants to develop an Industrial Land Inventory Analysis (ILIA).

Proposer Teleconference: A non-mandatory proposer teleconference will be held on **Wednesday, April 26, 2023, at 10:00 a.m.** This is an opportunity to ask questions regarding the Request for Proposal requirements. To register for this teleconference, please email your information to purchasing@visalia.city.

Submittal: One (1) unbound original and three (3) copies must be received on or before: **2:00 p.m. on Thursday, May 11, 2023.**

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

Addressed From: Business Name
Mailing Address

Mark Envelope: RFP No. 22-23-45
Professional Services for Preparation of an Industrial Land Inventory Analysis

Proposals received after the time and date stated above shall be returned unopened to the proposer.

Inquiries:

Direct questions for clarification of this bid document to Purchasing Division (559) 713-4334, Fax (559) 713-4801, or email at purchasing@visalia.city. All questions must be received on or before **May 4, 2023**.



**CITY OF VISALIA
REQUEST FOR PROPOSAL
RFP 22-23-45**

SEALED PROPOSALS will be received by the Purchasing Division located at 707 West Acequia, Visalia, CA 93291, until **2:00 p.m. on Thursday, May 11, 2023**, for the following project:

**PROFESSIONAL SERVICES FOR
PREPARATION OF AN INDUSTRIAL LAND INVENTORY ANALYSIS**

A non-mandatory proposer teleconference will be held at **10:00 a.m. on Wednesday, April 26, 2023**. This is an opportunity to ask questions regarding the Request for Proposal requirements. To register for this teleconference, please email your information to purchasing@visalia.city.

Proposals are being sought from vendors who have a proven record of experience in providing the services required by this Invitation to Bid.

Contract documents may be obtained from the City of Visalia Purchasing Division, 707 W. Acequia Ave., Visalia, California 93291, by calling (559) 713-4334, by FAX (559) 713-4801, web site <http://www.visaliapurchasing.org>, or by emailing purchasing@visalia.city.

Local Vendor Preference: To encourage local vendor participation, five (5) points will be given to proposals submitted by local vendors. A local vendor is any business whose business address is located within Tulare County for the past six months. A P.O. Box will not be accepted as a business address. The City reserves the right to request proof of Tulare County address.

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 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 race, religious creed, color, national origin, ancestry, physical or mental disability, medical condition, genetic information, marital status, gender, gender identity or expression, age, sexual orientation, or military and veteran status in any consideration leading to the award of contract.

No qualified disabled person shall, on the basis of disability, be excluded from participating in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity leading to the award of a contract.

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.

Publication Dates: **April 13, 2023**
April 20, 2023

TABLE OF CONTENTS

<u>TITLE</u>	<u>PAGES</u>
I. Definitions	4
II. Introduction	4
A. Information	4
B. Background	4
C. Purpose, Objective and Services to Be Provided	5
D. RFP/Agreement Schedule	6
III. Scope of Services	6
A. Required Product	6
B. Services of the Consultant	6
C. City Responsibilities	7
IV. Proposal Content and Format Requirements	7
A. General Information	7
B. Proposed Program Approach	7
C. Staff Qualifications and Related Experience	8
D. Proposed Fee Structure	8
E. Conflict of Interest	8
V. Consultant Selection Procedure	9
A. Criteria & Weight of Criteria	9
B. Background Check	9
C. Award of Contract	10
VI. General Conditions	10
A. Important Notice	10
B. Contracting Agency	13
C. Legal Responsibilities	10
D. Permits and Licenses	10
E. Insurance	10
F. Assignment of Contract	12
G. Documents/Data	12
H. Termination of Contract	12
I. Right to Require Performance	13
J. Ethics in Public Contracting	13
K. Independent Contractor	14
L. Equal Employment Opportunity	14
M. Venue	14
N. Proprietary Information	14
O. Incurring Costs	14
VII. Examination of Contract Requirements	14
A. Withdrawal of Proposals	15
B. Rejection of Proposals	15
C. Evaluation/Award of Contract	15

Attachments:

- Non-Collusion Affidavit
- Workers Compensation Insurance Certificate
- Equal Employment Opportunity Compliance Certificate
- Bidder's Statement on Previous Contracts Subject to EEO Clause
- Ownership Disclosure
- Drug-Free Workplace Certificate
- Americans with Disabilities Act Compliance Certificate
- Iran Contracting Act Certification
- California Levine Act Statement
- General Contract Provisions
- Sample Professional Services Agreement

I. DEFINITIONS

For the purposes of this RFP No. 22-23-45 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", "Proposer", "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. 22-23-45.

II. INTRODUCTION

A. Information

The City of Visalia (City) is requesting proposals from qualified professional consultants to develop an Industrial Land Inventory Analysis (ILIA).

A non-mandatory proposer teleconference will be held on **Wednesday, April 26, 2023 at 10:00 a.m.** Attendance at this meeting is not required to submit a proposal in response to this RFP but is encouraged as this is an opportunity for Proposers to ask questions about the program and the Request for Proposal requirements. To register for the teleconference, please email your information to purchasing@visalia.city.

One (1) unbound original and three (3) copies of the proposal are to be submitted to the Purchasing Division, located at 707 W. Acequia, Visalia, CA 93291, on or before **2:00 p.m. Thursday, May 11, 2023.**

This Request for Proposals is being issued by the City of Visalia Purchasing Department. Unless otherwise directed, all communications regarding this Request for Proposals should be directed to the Purchasing Division at (559) 713-4334 or fax (559) 713-4801. However, to prevent misinterpretations, the Purchasing Division would prefer that all questions be sent by email to purchasing@visalia.city.

Local Vendor Preference. To encourage local vendor participation, five (5) points will be given to proposals submitted by local vendors. A local vendor is any business whose business address is located within Tulare County for the past six months. A Post Office Box will not be accepted as a business address. The City reserves the right to request proof of Tulare County address.

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.

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. Background

The City of Visalia is a charter city with a population of 142,091 and an incorporated area covering approximately 38 square miles. It is located in California's Southern San Joaquin Valley and is the county seat of Tulare County. The City is located five miles east of State Highway 99 and is geographically split by State Highway 198. The City's built environment includes a thriving downtown/central business district, a regional retail corridor, a 2,500-acre industrial park, several professional office and medical office districts, community and neighborhood-level shopping centers, and residential neighborhoods. Like many cities in the San Joaquin Valley, Visalia is surrounded on most sides by agriculture and undeveloped lands.

On October 14, 2014, the City Council approved the Visalia General Plan Update (a.k.a. the Visalia 2030 General Plan, found at: https://www.visalia.city/depts/community_development/planning/gp.asp). A key component of the General Plan's economic development strategy is industrial development and corresponding job growth. The General Plan's Economic Development Land Use Objective #1 (LU-O-1) is, "Maintain Visalia's role as the regional commercial and industrial center for Tulare, Kings and southern Fresno counties." Industrial sector job development is critical as these are "basic" or "primary" jobs. In economic development terms, basic jobs are those that make products or services that are consumed outside of the community, thereby generating "new" wealth for local workers and local service or retail sectors. Because Visalia's jobs mainly come from the services, industrial, and retail sectors, prioritizing industrial job development best leverages the City's economic development efforts to realize a growing, diversified local economy. As the City strives to be a "development partner" through its various General Plan elements, this also means the City needs to strive to provide an adequate supply of available sites for industrial job development.

At this time, industrial development and land acquisition activity has accelerated quite rapidly and while there is still considerable vacant land to be developed for industrial uses, available land for purchase is diminishing. With the expansion of larger speculative industrial spaces in the Visalia Industrial Park primarily for warehousing, distribution, and e-commerce, interest in industrial investment in Visalia appears to be at an all-time high. While this means there are now several active speculative industrial developers and new companies invested in Visalia who will deliver new facilities for several years to come, it is also time to conduct an analysis to see where the next phase of available industrial sites should be located.

C. Purpose, Objective and Services to Be Provided

The purpose of this RFP is to seek proposals from interested professional consulting firms and to hire a consultant that will assess the current supply of industrial zoned land and market potential through the completion of an Industrial Land Inventory Analysis (ILIA). The purpose of the ILIA is to aid the City in increasing its supply of industrial land to accommodate future development such that it does not become a barrier to growth. It should both analyze the current inventory's development readiness and identify possible properties to plan for future industrial development and any necessary infrastructure improvements to realize said development. Ideally, the ILIA will also identify potential industrial tenants that could be attracted to or grow within the City. Services associated with this project to be performed by the selected consultant may include:

- Working under the general supervision of the City Planner or their designated project manager ("City Representative").
- Serving as meeting facilitator and subject matter expert for formal and informal meetings or interviews on behalf of stakeholders, citizen's groups, and City and outside agencies that may be appropriate or necessary throughout the process.
- Providing final deliverables (refer to Section III of this RFP) in the required quantities and formats contained in the awarded contract for professional services.

Primarily, the consultant is required to possess knowledge of land use planning and the California Environmental Quality Act (CEQA) and be familiar with the industrial development process in California, preferably the Central Valley, Tulare County or City of Visalia specifically. The consultant should be familiar with the City's General Plan, the industrial park, the City's planned capital improvement projects in the vicinity of the industrial park and any proposed land to consider for future industrial development, and the community as a whole including current residential growth activity and other major commercial nodes. The consultant should be able to substantiate analysis recommendations with their understanding of current industrial sector demands for firms likely to operate in California, regional industrial development activity, the City's General Plan and likely implications for the City's next update to the General Plan, and existing conditions in the industrial park and other industrial zoned areas within the City. The selected consultant will be expected to report to the designated City representative and may be required to present the final product to the City Council.

The firm selected by the City as the most qualified for the cost to perform the requested work will be required to enter into an agreement, similar to the attached, with the City. The interested firms responding to this solicitation are hereinafter referred to as "Consultants". A joint venture of consultants is acceptable to accomplish the anticipated Scope of Services discussed below. In such case one composite proposal shall be submitted by the firm that will perform as the "prime."

D. RFP/Agreement Schedule

<u>Event</u>	<u>Date of Event</u>
RFP Available to the public.....	April 13, 2023
Informational teleconference at 10:00 a.m.	April 26, 2023
Questions due by 5:00 pm	May 4, 2023
RFP due at 2:00 p.m. at 707 W. Acequia Avenue	May 11, 2023
<i>Award of Contract</i>	June 2023
<i>Contract Begins</i>	July 2023
<i>Expected Completion</i>	TBD

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 Product

The selected consultant will have the primary responsibility for preparing an ILIA. The process shall entail assessing the current supply of industrial zoned land and its development readiness factoring in market demand and direct input from property owners, developers, and utility partners, and identifying likely properties to plan for future industrial development along with any necessary infrastructure improvements and entitlements to realize said development.

The ILIA will be presented in the form of a usable plan/document that is frequently consulted by staff, stakeholders, and the public. The document shall be technically sound and accurate while also readable and meaningful to the general public. The final publication of the ILIA shall be provided in print and electronic form in a manner that can be copied and pasted for distribution and review.

B. Services of the Consultant

The selected Consultant will be expected to perform the following tasks related to the preparation of the ILIA under the direction of the City Representative. These tasks represent the expected services that the selected Consultant will provide to the City. The Consultant is also invited to suggest additional and/or alternative tasks which may be suitable for the process. Identify items including (but not limited to):

1. Current and mid-term (0-10 years) industrial sector demand that City may be able to serve
 - a. Survey local industrial brokerage community and other known applicable contacts for general market trends and regional industrial development activity and interest
 - b. Consultant will also want to review the Visalia Economic Development Corporation's recent Visalia Economic Strategic Plan 2021 conducted by Applied Development Economics
 - c. Not required, but ideally will also identify potential industrial tenants that could be attracted to or grow within the City
2. Assessment of existing conditions in the industrial park and other industrial zoned areas within the City, to identify:
 - a. Sites available to accommodate potential demand and potential need for additional sites
 - b. Development readiness of current inventory of vacant land
 - c. Infrastructure needs
3. Possible properties to plan for future industrial land use, and include:
 - a. Any necessary infrastructure improvements to realize industrial development
 - b. Necessary land entitlement process
 - c. Recommendations on how to proceed from a planning perspective

C. City Responsibilities

1. Compensate the Consultant as provided in the contract agreement.
2. Provide first-line supervision and ongoing project management to the Consultant.

3. Provide a "City representative", who will represent the City and who will work with the Consultant in carrying out the provisions of the RFP. The Consultant shall communicate with the City representative who will provide the following services:
 - Provide information consisting of relevant materials and reports from the City's files and databases for the purpose of minimizing background research efforts by the consultant.
 - Examine documents submitted to the City by the Consultant and render timely 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.
 - Process invoices submitted by Consultant.
 - Provide Consultant with information, maps, and other documentation necessary for completion of Consultant's work.
 - Act as coordinator between Consultant and other City representatives.
 - When necessary, actively participate with the Consultant in any interactions with stakeholders.

IV. PROPOSAL CONTENT AND FORMAT REQUIREMENTS

Please provide three (3) bound copies and one (1) unbound copy of your proposal. The following are the proposal requirements. Respondents are requested to organize their proposal into sections with tabs corresponding to the listed selection criteria as follows. You must provide responses in the same sequence as below. A screening committee will evaluate the completeness of the response to the RFP.

A. General Information

- Firm name, address, telephone number and fax number and email address.
- Account Representative or other person to contact for clarification of any item contained in the proposal. Include telephone number, fax numbers and email address if different from above.
- Specify type of organization (individual, partnership or corporation) and if applicable indicate whether you are a:
 - Small Business.
 - Disadvantaged Business.
 - Minority and/or Women-Owned Business.
- Provide your Federal Tax ID Number and City of Visalia Business Tax Certificate Number (must be obtained prior to contract signing).
- Names of company's owners / officers.
- 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.
- Provide surety information for all sureties – General and Automobile Liability, E/O and Worker's Compensation.
- References and Referrals.

B. Proposed Program Approach

Summarize your approach and understanding of the program 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. The contents of this section shall be determined by the proposer but should demonstrate an understanding of the special characteristics of the project. Consultants may provide alternative ideas, programs, formats, and suggestions in the proposal, based on experience with other similar projects.

This section shall outline the proposed approach to the project. This approach or scope of work shall consist of:

- Phase
- Objective(s)
- Task(s) and brief description

- Work products
- Any necessary meetings
- Timeline
- Completion dates

Exceptions to the requirements of the RFP should be clearly delineated in this section. All proposers may 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.** Describe the qualifications of all key members of the project team to be assigned to this project by providing resumes/experience summaries describing their education, credentials, experience, and their proposed roles for this contract. The project manager shall be identified and will not be removed from the project without prior written authorization from the City. All proposed sub-consultants and their tasks in the project shall be identified.

If your firm intends to subcontract any of the services required under this RFP it must be discussed in this section. Detailed information for each subcontractor must be provided. No work may be subcontracted, nor assigned, without prior written approval of the City of Visalia.

2. **Related Experience.** Include descriptive information concerning the qualifications and experience of the firm with an emphasis on experience relative to this project. Include information about previous projects of similar scope and magnitude for which the Consultant has provided the requested services. Be prepared to submit & present example(s) of recent work product which is relevant to this scope of work. For each representative project, identify the client and include a project description, date started, date completed and contact reference person(s) with phone numbers. Examples of previous work may be included.

D. Proposed Fee Structure

*****The Proposed Fee Structure and Schedule shall be provided under separate, sealed cover as a part of the RFP submittal.**

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

- Proposers should review the requirements of this RFP and address all services in this fee schedule that might reasonably be expected to support the project. Indicate how the City will be invoiced for services, i.e., unit or hourly costs. This information should be detailed and broken down by type of service and units of work or other applicable measure. Proposers should endeavor to provide a comprehensive fee schedule, 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. This cost will be used as a basis for negotiations.
- The fee proposal submitted under separate, sealed cover, 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 Consultants in response to the Request for Proposals. The process for selection may occur in the following sequence:

- Review Proposals
- Establish a “short list” of three or more firms
- Identify best qualified firm
- Determine which, if any, alternates will be selected, and negotiate a fee
- Award contract

A project Selection Committee, as deemed necessary, will be formed to evaluate the proposals and to make recommendations for selection consideration. This committee may consist of representatives of the user department, members of the community, members of the Council and the Community Development Department. 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. The City may interview firms for this work and the Consultants to be interviewed will be selected based on the information provided in the proposals received in response to the RFP. Only the Consultant's proposed project manager and key staff should be brought to the potential interviews. The final selection will occur as a result of the Committee's review and any potential interviews that may occur.

A. Criteria & Weight of Criteria

The Committee will address the following criteria in evaluation of proposals in order to gauge the ability of a Consultant 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.

Criteria	As Demonstrated By	Weight
Merit of Proposal / Presentation	Proposal thoroughness and approach	25
Knowledge and Expertise	Capability of personnel, firm qualifications, experience, adequacy of staff to perform the work	30
Understanding of Project	Proposer's approach to providing the required services, including proposed schedule	25
Record of Past Performance	References. Ability to work effectively with City staff, other public agencies, and related parties	15
Local Vendor Preference Points	Five (5) points will be given to Local Vendors (as outlined in Section II (A))	5
TOTAL		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 consultants who have secured same. However, it will be the responsibility of each consultant, prior to submitting their proposal, to contact the Purchasing Division, located at 707 W. Acequia, Visalia, CA 93291, (559) 713-4334 to determine if addendums were issued and to make such addendum a part of the proposal.

B. Contracting Agency

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

C. Legal Responsibilities

1. All proposals must be submitted, filed, made, and executed in accordance with State of California and Federal laws relating to proposals for contracts of this nature whether the same or expressly referred to herein or not. By submitting a proposal, Consultant certifies that he or she will comply with all Federal laws and requirements, including but not limited to Equal Employment Opportunity, Disadvantaged Business Enterprise, Labor Protection and other laws and regulations applicable to contracts utilizing Federal funds.
2. **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.

D. Permits and Licenses

1. **Business Tax Certificate.** Possession of a City of Visalia Business Tax Certificate (license) is not required to submit a proposal in response to this invitation. However, *Consultant shall be required to possess, at his/her own expense, a valid and current City of Visalia Business Tax Certificate prior to commencing work.* Fee is based on gross receipts for all business transactions in the City of Visalia. For additional information, contact the City of Visalia Business Tax Division 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.

E. Insurance

Indemnification and Insurance

As respects acts, errors, or omissions in the performance of services, CONSULTANT 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 Consultant'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 CONSULTANT, 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, CONSULTANT

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 Consultant's (or Consultant'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 CONSULTANT 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).
- 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 cancelled, 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) day 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.

F. Assignment of Contract

No assignment by the consultant 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.

G. Documents/Data

1. Ownership of Documents: All original papers and documents, produced as a result of this Agreement, shall become the property of the CITY. In addition, CITY shall be provided with access and use of any other

papers and documents consistent with the purpose and scope of services covered by this Agreement. Any additional copies, not otherwise provided for herein, shall be the responsibility of the CITY.

Documents, including drawings and specifications, prepared by CONSULTANT pursuant to this Agreement, are not intended or represented to be suitable for reuse by CITY or others on extensions of the PROJECT or on any other project. Any use of the completed documents for other projects and any use of incomplete documents without the specific written authorization from CONSULTANT will be at CITY's sole risk and without liability to CONSULTANT. Further, any and all liability arising out of changes made to CONSULTANT's deliverables under this Agreement by CITY or persons other than CONSULTANT is waived as against CONSULTANT, and the CITY assumes full responsibility for such changes unless the CITY has given CONSULTANT prior notice and has received from CONSULTANT written consent for such changes.

2. **Publication:** No report, information, or other data given or prepared or assembled by the CONSULTANT pursuant to this Agreement, shall be made available to any individual or organization by the CONSULTANT without the prior written approval of the CITY. Notwithstanding the foregoing, however, the CONSULTANT shall not be required to protect or hold in confidence and confidential information which (1) is or becomes available to the public with the prior written consent of the CITY; (2) must be disclosed to comply with law; or (3) must be disclosed in connection with any legal proceedings.
3. **Copyrights:** The CONSULTANT shall be free to copyright material developed under this Agreement with the provision that the CITY be given a nonexclusive and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use the material for government or public purposes.

H. Termination of Contract

The nature of this services contract requires that the City and the consultant must work closely as a mutually supporting team without conflict. Also, the City needs to be able to terminate this agreement at any time the City may feel this working relationship has been impaired or should the City no longer have complete confidence and satisfaction in the quality and performance of services by the proposer. Therefore:

The right to terminate this Agreement, with or without cause, may be exercised without prejudice to any other right or remedy to which the terminating party may be entitled at law or under this Agreement.

1. **Termination By Either Party Without Cause:** The CITY or CONSULTANT may terminate this Agreement at any time by giving written notice to the other of such termination and specifying the effective date thereof, at least thirty (30) days before the effective date of such termination. Should the contract be terminated for convenience, the proposer shall be paid for all authorized services provided, including reasonable charges for de-mobilization. However, the proposer shall not be paid any anticipated profit or fees for services not provided.
2. **Termination of Agreement for Cause:** The CITY may by written notice to the CONSULTANT specifying the effective date thereof, at least fifteen (15) days before the effective date of such termination, terminate the whole or any part of this Agreement in any of the following circumstances:
 - a. If the proposer shall fail to provide services or perform satisfactorily the work required by the terms and conditions of the contract, or materially breaches any of its obligations under this agreement the City may terminate the contract, in whole or in part.
 - b. Any assignment, subletting or transfer of the interest of the Consultant, either in whole or in part, without the written consent of the City shall be cause for the City to immediately terminate the agreement for default.
 - c. Notwithstanding any other provisions of this agreement, this agreement may be terminated by the City upon a single violation of this agreement.
3. **Post-Termination:**
 - a. In the event the CITY terminates this Agreement with or without cause, the CITY may procure, upon such terms and such manner as it may determine appropriate, services similar to those terminated.

- b. Except with respect to defaults of subconsultants, the CONSULTANT shall not be liable for any excess costs if the failure to perform this Agreement arises out of causes beyond the control and without the fault or negligence of the CONSULTANT. Such causes include, but are not limited to, acts of God or of the public enemy, floods, epidemics, quarantine restrictions, strikes, and unusually severe weather; but in the event the failure to perform is caused by the default of a subconsultant, the CONSULTANT shall not be liable for failure to perform, unless the services to be furnished by the subconsultant were obtainable from other sources in sufficient time and within budgeted resources to permit the CONSULTANT to meet the required delivery schedule or other performance requirements.
- c. Should the Agreement be terminated with or without cause, the CONSULTANT shall provide the CITY with all finished and unfinished documents, data, studies, services, drawings, maps, models, photographs, reports, etc., prepared by the CONSULTANT pursuant to this Agreement.
- d. Upon termination, with or without cause, CONSULTANT will be compensated for the services satisfactorily completed to the date of termination according to compensation provisions contained herein. In no event, shall the total compensation paid CONSULTANT exceed the total compensation agreed to herein.
- e. If, after notice of termination of this Agreement, as provided for in this article, it is determined for any reason that the CONSULTANT was not in default under the provisions of this article, then the rights and obligations of the parties shall be the same as if the Agreement was terminated without cause.
- f. Termination of this Agreement shall not terminate any obligation to indemnify, to maintain and make available any records pertaining to the Agreement, to cooperate with any audit, to be subject to offset, or to make any reports of pre-termination activities.

I. 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.

J. 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.

K. Independent Contractor

In the performance of the services herein provided for, the Consultant shall be, and is an independent contractor and is not an agent or employee of the CITY. The Consultant has and shall retain the right to exercise full control and supervision of all persons assisting the Consultant in the performance of said services hereunder. The Consultant shall be solely responsible for all matters relating to the payment of its employees including compliance with social security and income tax withholding and all other regulations governing such matters.

L. 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.

M. 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.

N. 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 the City 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.

O. Incurring Costs

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

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 consultant; 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 consultant, so as to select the consultant 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. Contract, should it be awarded, shall be interpreted, construed, and given effect in all respects according to the laws of the State of California.
2. 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.
3. 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.
4. 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.

NON-COLLUSION AFFIDAVIT

(SUBMIT WITH PROPOSAL)

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:

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

(SUBMIT WITH PROPOSAL)

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:

EQUAL EMPLOYMENT OPPORTUNITY COMPLIANCE CERTIFICATE

(SUBMIT WITH PROPOSAL)

Equal Opportunity Clause

Unless exempted by rules, regulations or orders of the Secretary of Labor issued pursuant to Executive Orders 28925, 11114 or Section 204 of Executive Order 11246 of September 24, 1965, during the performance of each contract with the City of Visalia, the contractor agrees as follows:

1. The consultant will not discriminate against any employee or applicant for employment because of race, color, religion, gender, national origin or political affiliation. The contractor 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 contractor 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 consultant will, in all solicitations or advertisements for employees, placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, gender, national origin or political affiliation.
3. The consultant 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 contractors' commitments under Section 202 of Executive order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
4. The consultant 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.

Consultant 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.

5. In the event of the consultant'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 consultant 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.
6. The consultant 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 Subcontractor or consultant. The contractor 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 contractor becomes involved in, or is threatened with litigation with a subcontractor or consultant as a result of such direction by the contracting agency, the contractor may request the United States to enter into such litigation to protect the interest of the United States.

Certification of Non-Segregated Facilities

The contractor hereby certifies that it does not or will not maintain segregated facilities nor permit its employees to work at locations where facilities are segregated on the basis of race, color, religion, gender, national origin or political affiliation.

Name of Firm

Authorized Signature

Date

**BIDDER'S STATEMENT ON PREVIOUS CONTRACTS
SUBJECT TO EQUAL EMPLOYMENT OPPORTUNITY CLAUSE
(EXECUTIVE ORDER 11246)**

(SUBMIT WITH PROPOSAL)

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 that 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-I" 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: _____



CITY OF VISALIA

Ownership Disclosure

(SUBMIT WITH PROPOSAL)

NAME OF PRINCIPALS, PARTNERS, AND/OR TRUSTEES:

Firm Name: _____

Firm Address: _____

List the names of all principals, partners, and/or trustees. For corporations provide names of officers, directors and all stockholders owning more than 10% equity interest in corporation:

Submitted by: Name _____

Date _____

DRUG-FREE WORKPLACE CERTIFICATION**CERTIFICATION**

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 AND TITLE OF PERSON SIGNING	TELEPHONE NUMBER (Include Area Code) ()
TITLE	
CONTRACTOR/BIDDER 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(c), 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, then 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.

AMERICANS WITH DISABILITIES ACT COMPLIANCE CERTIFICATE

(SUBMIT WITH PROPOSAL)

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: _____

IRAN CONTRACTING ACT CERTIFICATION

(Public Contract Code Section 2200 et seq.)

(SUBMIT WITH PROPOSAL)

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

(SUBMIT WITH PROPOSAL)

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

SAMPLE PROFESSIONAL SERVICES AGREEMENT – *Subject to Changes*

RFP No. 22-23-45

Professional Services for
Preparation of an Industrial Land Inventory Analysis

This Agreement, entered into this _____ day of _____, 2023, by and between the City of Visalia, hereinafter referred to as the "CITY", and _____ hereinafter referred to as the "CONSULTANT".

WITNESSETH

WHEREAS, the CITY is authorized and empowered to employ consultants and specialists in the performance of its duties and functions; and

WHEREAS, the CITY has the desire to secure certain technical and professional services to assist in the preparation and completion of the items of work described as "Scope of Work" in Exhibit "A", and hereinafter referred to as the "PROJECT"; and

WHEREAS, the CONSULTANT represents it is licensed, qualified and willing to provide such services pursuant to terms and conditions of this Agreement.

NOW, THEREFORE, CITY and CONSULTANT agree as follows:

I. SERVICES TO BE PERFORMED BY THE CONSULTANT

- A. Authorized Scope of Work: The CONSULTANT agrees to perform all work necessary to complete in a manner satisfactory to the CITY those tasks described in Exhibit "A" - Scope of Work, for the cost identified in Exhibit "B" - Project Fee.
- B. Additional Services: Incidental work related to the PROJECT and not provided for in Exhibit "A" may be needed during the performance of this Agreement. The CONSULTANT agrees to provide any and all additional services at the rates identified in attached Exhibit "C" - Schedule of Fees for Professional Services. Such additional services shall not be performed by CONSULTANT without the written consent of CITY.

II. TIME OF PERFORMANCE

The CONSULTANT shall commence performance of this Agreement within ten (10) days of Consultant's Notice to Proceed following City Council approval of this Agreement and shall complete the work within the timeframes outlined in Exhibit "A", unless otherwise extended in writing by CITY, in its sole discretion.

If the CONSULTANT fails to complete the PROJECT within the time specified, plus any extensions of time which may be granted, the CITY shall determine the percent of each work item completed and shall pay the CONSULTANT on that basis.

CONSULTANT shall not be responsible for delays which are due to causes beyond the CONSULTANT's reasonable control. In the case of any such delay, the time of completion shall be extended accordingly in a writing signed by both parties.

III. COMPENSATION

- A. Total Compensation: For services performed pursuant to this Agreement, the CITY agrees to pay and the CONSULTANT agrees to accept, as payment in full, a sum not to exceed _____. This amount shall constitute complete compensation, including document

production and out-of-pocket expenses for all services for the work and PROJECT identified in Exhibits "A" and "B".

B. Payment of Compensation: The CONSULTANT shall be compensated no more than monthly upon completion of percentage of each noted phase. The CONSULTANT shall be paid no later than thirty (30) days following submission of a written, verified billing to the CITY. Said billing shall include the percentage of each task completed to date and since the date of the preceding billing, if any.

IV. AUTHORIZED REPRESENTATIVE

A. CITY: The Project Manager shall represent the CITY in all matters pertaining to the services to be rendered under this Agreement, except where approval of the City Council of the City of Visalia is specifically required.

B. CONSULTANT: _____ shall represent and act as principle for CONSULTANT in all matters pertaining to the services to be rendered by it under this Agreement.

V. TERMINATION

The right to terminate this Agreement, with or without cause, may be exercised without prejudice to any other right or remedy to which the terminating party may be entitled at law or under this Agreement.

A. Termination By Either Party Without Cause: The CITY or CONSULTANT may terminate this Agreement at any time by giving written notice to the other of such termination and specifying the effective date thereof, at least fifteen (15) days before the effective date of such termination.

B. Termination of Agreement for Cause: The CITY may by written notice to the CONSULTANT specifying the effective date thereof, at least fifteen (15) days before the effective date of such termination, terminate the whole or any part of this Agreement in any of the following circumstances:

1. If the CONSULTANT fails to perform the services called for by this Agreement within time(s) specified herein or any extension thereof; or
2. If the CONSULTANT fails to make progress under this Agreement as to endanger performance of this Agreement in accordance with its terms, and does not correct such failure within a period of ten (10) days (or longer period as the CITY may authorize in writing) after receipt of notice from the CITY specifying such failure.

C. Post-Termination:

1. In the event the CITY terminates this Agreement with or without cause, the CITY may procure, upon such terms and such manner as it may determine appropriate, services similar to those terminated.
2. Except with respect to defaults of subconsultants, the CONSULTANT shall not be liable for any excess costs if the failure to perform this Agreement arises out of causes beyond the control and without the fault or negligence of the CONSULTANT. Such causes include, but are not limited to, acts of God or of the public enemy, floods, epidemics, quarantine restrictions, strikes, and unusually severe weather; but in the event the failure to perform is caused by the default of a subconsultant, the CONSULTANT shall not be liable for failure to perform, unless the services to be furnished by the subconsultant were obtainable from other sources in sufficient time and within budgeted resources to permit the CONSULTANT to meet the required delivery schedule or other performance requirements.
3. Should the Agreement be terminated with or without cause, the CONSULTANT shall provide the CITY with all finished and unfinished documents, data, studies, services,

drawings, maps, models, photographs, reports, etc., prepared by the CONSULTANT pursuant to this Agreement.

4. Upon termination, with or without cause, CONSULTANT will be compensated for the services satisfactorily completed to the date of termination according to compensation provisions contained herein. In no event, shall the total compensation paid CONSULTANT exceed the total compensation agreed to herein.
5. If, after notice of termination of this Agreement, as provided for in this article, it is determined for any reason that the CONSULTANT was not in default under the provisions of this article, then the rights and obligations of the parties shall be the same as if the Agreement was terminated without cause.
6. Termination of this Agreement shall not terminate any obligation to indemnify, to maintain and make available any records pertaining to the Agreement, to cooperate with any audit, to be subject to offset, or to make any reports of pre-termination activities.

VI. INTEREST OF OFFICIALS AND THE CONSULTANT

- A. No officer, member, or employee of the CITY who exercises any functions or responsibilities in the review or approval of this Agreement shall:
 1. Participate in any decision relating to this Agreement which effects his personal interest or the interest of any corporation, partnership, or association in which he has, directly or indirectly, any interest; or
 2. Have any interest, direct or indirect, in this Agreement or the proceeds thereof during his tenure or for one year thereafter.
- B. The CONSULTANT hereby covenants that he has, at the time of the execution of this Agreement, no interest, and that he shall not acquire any interest in the future, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed pursuant to this Agreement. The CONSULTANT further covenants that in the performance of this work, no person having any such interest shall be employed.

VII. NO PERSONNEL, AGENCY OR COMMISSION

The CONSULTANT warrants, by execution of this Agreement, that no personnel agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide established commercial or selling agencies maintained by the CONSULTANT for the purpose of securing business. For breach or violation of this warranty, the CITY shall have the right to annul this Agreement without liability or, in its discretion, to deduct from this Agreement price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

VIII. SUBCONTRACTING

- A. The CONSULTANT shall not subcontract or otherwise assign any portion of the work to be performed under this Agreement without the prior written approval of the CITY.
- B. In no event shall the CONSULTANT subcontract work in excess of 50% of the contract amount, excluding specialized services. Specialized services are those items not ordinarily furnished by a consultant performing the particular type of project.

IX. INDEPENDENT CONTRACTOR

In the performance of the services herein provided for, the CONSULTANT shall be, and is, an independent contractor and is not an agent or employee of the CITY. The CONSULTANT has and shall retain the right to exercise full control and supervision of all persons assisting the CONSULTANT in the performance of said services

hereunder. The CONSULTANT shall be solely responsible for all matters relating to the payment of its employees including compliance with social security and income tax withholding and all other regulations governing such matters.

X. SPECIFICATIONS

All specifications, manuals, standards, etc., either attached to this Agreement or incorporated by reference, are binding as to the performance of the work specified in this Agreement unless they are changed by written amendment to this Agreement modified in writing to incorporate such changes.

XI. DOCUMENTS/DATA

A. Ownership of Documents: All original papers and documents, produced as a result of this Agreement, shall become the property of the CITY. In addition, CITY shall be provided with access and use of any other papers and documents consistent with the purpose and scope of services covered by this Agreement. Any additional copies, not otherwise provided for herein, shall be the responsibility of the CITY.

Documents, including drawings and specifications, prepared by CONSULTANT pursuant to this Agreement, are not intended or represented to be suitable for reuse by CITY or others on extensions of the PROJECT or on any other project. Any use of the completed documents for other projects and any use of incomplete documents without the specific written authorization from CONSULTANT will be at CITY's sole risk and without liability to CONSULTANT. Further, any and all liability arising out of changes made to CONSULTANT's deliverables under this Agreement by CITY or persons other than CONSULTANT is waived as against CONSULTANT, and the CITY assumes full responsibility for such changes unless the CITY has given CONSULTANT prior notice and has received from CONSULTANT written consent for such changes.

B. Publication: No report, information, or other data given or prepared or assembled by the CONSULTANT pursuant to this Agreement, shall be made available to any individual or organization by the CONSULTANT without the prior written approval of the CITY. Notwithstanding the foregoing, however, the CONSULTANT shall not be required to protect or hold in confidence and confidential information which (1) is or becomes available to the public with the prior written consent of the CITY; (2) must be disclosed to comply with law; or (3) must be disclosed in connection with any legal proceedings.

C. Copyrights: The CONSULTANT shall be free to copyright material developed under this Agreement with the provision that the CITY be given a nonexclusive and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use the material for government or public purposes.

XII. INDEMNIFICATION AND INSURANCE

A. As respects acts, errors, or omissions in the performance of services, CONSULTANT 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 CONSULTANT'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.

B. CITY agrees to indemnify and hold harmless CONSULTANT, 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.

- C. 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, CONSULTANT 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 CONSULTANT's (or CONSULTANT'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.
- D. Without limiting CITY's right to indemnification, it is agreed that CONSULTANT shall secure prior to commencing any activities under this Agreement, and maintain during the term of this Agreement, insurance coverage as follows:
 - 1. **Workers' Compensation** insurance as required by California statutes.
 - 2. **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).
 - 3. **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.
 - 4. **Professional Liability** insurance coverage, in an amount not less than One Million Dollars (\$1,000,000).
- E. CITY'S Risk Manager is hereby authorized to reduce the requirements set forth above in the event he/she determines that such reduction is in the CITY'S best interest.
- F. 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 Clerk, City of Visalia, 707 W. Acequia, Visalia, CA 93291."

In addition, the commercial general liability and comprehensive automobile liability policies 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 insureds as respects operations and activities of, or on behalf of the named insured, performed under contract with the City of Visalia."

- G. Prior to commencing any work under this Agreement, CONSULTANT shall deliver to CITY insurance certificates confirming the existence of the insurance required by this Agreement, and including the applicable clauses referenced above. Within thirty (30) days of the execution date of this Agreement, CONSULTANT shall provide to CITY endorsements to the above-required policies, which add to these policies the applicable clauses referenced above. Said endorsements shall be signed by an authorized representative of the insurance company and shall include the signatory's company affiliation and title. Should it be deemed necessary by CITY, it shall be CONSULTANT's responsibility to see that CITY receives documentation acceptable to CITY which sustains that the

individual signing said endorsements is indeed authorized to do so by the insurance company. CITY has the right to demand, and to receive within a reasonable time period, copies of any insurance policies required under this Agreement.

H. 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.

Exercise of any of the above remedies, however, is an alternative to other remedies CITY may have and is not the exclusive remedy for CONSULTANT's failure to maintain insurance or secure appropriate endorsements.

Nothing herein contained shall be construed as limiting in any way the extent to which CONSULTANT may be held responsible for payments of damages to persons or property resulting from CONSULTANT's or its subcontractor's performance of the work covered under this Agreement.

XIII. NON-DISCRIMINATION

CONSULTANT and all subcontractors shall not discriminate against any employee or applicant for employment on the basis of race, color, national origin, or sex in the performance of this Agreement. The CONSULTANT shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this Agreement, which may result in the termination of this Agreement.

XIV. MISCELLANEOUS 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 the CITY nor CONSULTANT shall assign, delegate or transfer their rights and duties in this Agreement without the written consent of the other party.
- C. Dispute/Governing Law: Any dispute not resolvable by informal arbitration between the parties to this Agreement shall be adjudicated in a Court of Law under the laws of the State of California.
- D. Notices: Notice shall be sufficient hereunder if personally served upon the City Clerk of the CITY or an officer or principal of the CONSULTANT, 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

CONSULTANT

- 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 that State. 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 CONSULTANT 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 exhibits referenced herein, which are incorporated by reference, represents the entire understanding of the CITY and the CONSULTANT 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 CITY and the CONSULTANT.
- 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. 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.
- I. Construction: This Agreement is the product of negotiation and compromise on the part of each party and the parties agree, notwithstanding Civil Code Section 1654 that in the event of uncertainty the language will not be construed against the party causing the uncertainty to exist.
- J. Authority: Each signatory to this Agreement represents that it is authorized to enter into this Agreement and to bind the party to which its signature represents.
- 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.

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

CITY OF VISALIA

CONSULTANT

City Manager

Approved as to Form

City Attorney

Risk Manager

Project Manager

Attachments:

Exhibit "A": Scope of Work

Exhibit "B": Project Fees

Exhibit "C": Schedule of Fees for Professional Services

Exhibit "D": Progress Payment Schedule