

**Operations and Management Agreement
Between One Four Promotions, LLC
and the CITY of Visalia
Regarding Plaza Park
Raceway**

This AGREEMENT is made and effective March 1, 2026, by and between the CITY OF VISALIA, a Municipal Corporation and charter law city of the State of California (hereinafter "CITY"), and One Four Promotions, LLC (hereinafter "VENDOR").

RECITALS

WHEREAS, CITY owns the real property and improvements located at 700 S. Plaza Drive, which is known as the Plaza Park Raceway, hereinafter "ARENA"; and

WHEREAS, the purpose of this AGREEMENT is to document the terms and conditions under which the management and operations of ARENA will occur.

NOW, THEREFORE, based upon the terms contained herein, the parties agree as follows:

1. PURPOSE:

Operate, manage, and maintain ARENA and provide staff and programs, therefore.

The ARENA shall be used by the VENDOR for the purpose of providing vehicular races on the dates and times set annually and at the sole discretion of the CITY. Racing events shall be limited to twenty (20) events per year unless obtaining the prior written consent of CITY at least sixty (60) days in advance of any event in excess. Racing schedules must be submitted with an "Annual Operational Report" to the CITY no later than March 1 of every year. In the event that dates must be canceled due to natural occurrences or unforeseen circumstances, additional dates may be granted by the CITY. The VENDOR is permitted to schedule practice sessions for individual racers on Wednesdays between the hours of 5:30 p.m. to 8:30 p.m. during the racing season which is considered March 1st through November 30th of each year or as otherwise noted in the written annual schedule to be provided in advance to the CITY for approval, which shall not be unreasonably withheld by the CITY. A practice session is defined as a non-competitive use with a single vehicle on the track at a time. The VENDOR is expressly prohibited from providing any other service or producing any other event without obtaining the prior written consent of CITY at least sixty days (60) in advance of the proposed event.

2. HOURS OF OPERATION:

Unless prior arrangements have been made with CITY, the VENDOR shall have the right to use said ARENA for vehicular motor racing and related activities only between the hours of 4:00 p.m. to 10:00 p.m. Mondays through Thursdays and 4:00 p.m. to 11:00 p.m. on Fridays and Saturday scheduled race nights. As noted in Section 1 of this AGREEMENT, vehicle practice sessions shall in most instances only be permitted on Wednesdays . This AGREEMENT does not

authorize overnight camping.

3. TERM OF AGREEMENT:

The term of this AGREEMENT shall be for a period of three (3) years commencing on March 1, 2026, and ending on February 28, 2029, unless earlier terminated as provided herein.

In addition, the CITY and VENDOR may, but are not obligated to extend the term of the AGREEMENT by separate mutual written agreement between the Parties. Parties acknowledge that prior to any extension being executed the timeframe for the completion of the projects listed in Exhibit "A" shall be revised and CITY is not required to agree to any lease extension by VENDOR that does not contain a revised Exhibit "A" that is agreed on by both parties.

4. AUTHORIZED AGENTS:

The primary contact person on behalf of the CITY shall be the Assistant City Manager, City of Visalia 220 N Santa Fe Street, Visalia, California, 93291, (559) 713-4323. The primary contact on behalf of the VENDOR shall be Jake Hagopian, Managing Member, 14332 S. Chestnut, Fresno, CA 93725, (559) 974-8285.

5. TERMINATION:

CITY shall have the right to terminate this AGREEMENT by giving VENDOR ninety (90) days prior written notice by either personal delivery or first-class mail, postage prepaid, specifying the effective date of termination.

Either party shall have the right to terminate this AGREEMENT based on the other's failure to comply with the terms, covenants, and requirements contained herein. Prior to termination, the non-breaching party shall provide written notice to the other identifying the breach and providing for thirty (30) calendar days to cure. If not cured within that timeframe, the AGREEMENT shall be deemed terminated.

6. GROUPS AND FACILITIES:

CITY hereby permits VENDOR to use the ARENA and grounds surrounding same in partial exchange for the operations contemplated herein and under the terms and conditions specified herein. The CITY, its officers, employees, or agents, shall have the right to enter into and upon the ARENA at all times, with CITY identification, and to protect any and all rights of the CITY. VENDOR shall supply CITY with key and alarm code to gain access for repairs and routine maintenance inspections. CITY shall notice VENDOR twenty-four (24) hours in advance of scheduled inspections or access needed for maintenance purposes, emergency situations requiring immediate access exempted.

VENDOR shall conform to all state and/or local laws and ordinances regarding the premises without limitations, including compliance with the local sound ordinance.

VENDOR shall conform to all industry safety standards for racing activities.

7. FACILITY RECONSTRUCTION AND PREVAILING WAGE LAWS:

VENDOR and CITY note that the modifications and additions as proposed for the years 2026 through 2028 and approved by the CITY with the Plaza Park Rebuild Budget and Timeline (Exhibit A), shall be paused while the CITY completes a separate Parks Master Plan. CITY and VENDOR agree that the CITY contribution requirements listed in Exhibit "A" will not be required to be paid by CITY until the City of Visalia Parks Master Plan is complete and this Agreement is revised to include any modifications required under the Parks Master Plan. VENDOR will continue to work on any items listed in Exhibit "A" for years 2024-2025 that have not been completed but no projects scheduled for 2026 and beyond shall be required under this Agreement as modified.

VENDOR is aware of the requirements of the California Labor Code Section 1720, et seq., 1770, et seq., and California Code of Regulations, Title 8, Section 1600, et seq., ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements for work considered "public works" as that term is defined under Prevailing Wage Laws. VENDOR agrees that it shall comply with Prevailing Wage Laws and all of the requirements stated in the City of Visalia Labor Compliance Manual, a copy of which is available online at <https://www.visalia.city/civicax/filebank/blobdload.aspx?BlobID=32904> and the Labor Compliance Manual shall be considered to be included as part of this Agreement and binding on the VENDOR by reference. VENDOR acknowledges that they have reviewed and are aware of these requirements. VENDOR agrees to hold the CITY harmless and to indemnify and defend the CITY, with legal counsel reasonably acceptable to CITY, from all claims arising from the potential application of Prevailing Wage Laws under this Agreement.

8. VENDOR'S MAINTENANCE OF ARENA:

VENDOR shall be responsible for all routine maintenance and repairs of the ARENA. VENDOR shall maintain the ARENA free and clear of all trash, weeds, litter, and other debris and shall power wash the grandstand seating area at least once per year. VENDOR shall be responsible for the elimination of graffiti placed on any of the ARENA structures within forty-eight (48) hours of notice, including, but not limited to walls and fences.

VENDOR shall pay all expenses for the preparation and maintenance of the ARENA. VENDOR must erect and/or maintain safeguards along the track and grandstand area as deemed necessary by the CITY. VENDOR must replace and repair any damage to property and grounds within forty-eight (48) hours after each use to the satisfaction of the CITY.

All areas (grandstands, parking lots, grass areas) used by VENDOR, VENDOR's participants, or spectators, are to be cleaned no later than twenty-four (24) hours following each event. If areas are not cleaned to CITY standards and expectations, the CITY will clean or contract with an agency to perform clean up and will charge the direct cost plus twenty-five percent (25%) to the VENDOR.

The VENDOR shall furnish, install, operate, and maintain all equipment, fixtures, vehicles, and other improvements made to the ARENA in good order, condition, and repair. The VENDOR shall also keep all premises, furniture, fixtures, and equipment in good order, condition, and repair. When this AGREEMENT is

terminated, the VENDOR will vacate the premises leaving them in good order, condition, and repair, free of any hazardous material or waste, and in good condition satisfactory to the CITY.

VENDOR agrees to inspect the grandstand and earthwork supporting the grandstand prior to any event or practice held at the ARENA. This inspection shall be to confirm whether any structural issues, including but not limited to cracking, holes, or other signs of erosion have appeared in these areas. If VENDOR notices any signs of damage, then VENDOR shall cancel the scheduled event and notify CITY to request additional inspection. If cancellation of any scheduled events is due to structural concerns over the earthwork, then VENDOR agrees that it has no right or claim against CITY for any lost profits, contractual losses, or reimbursement of any expenses if termination or cancellation impacts scheduled events.

9. MAINTENANCE OF ARENA:

Maintenance and repairs to the facility shall be the responsibility of the VENDOR; this includes water service to the site, electricity to the site, and maintenance and repairs to permanent structures and CITY-owned improvements. The VENDOR shall make all necessary major repairs and maintenance to the extent authorized by the City with the Plaza Park Rebuild Budget and Timeline. Graffiti in the park or common areas, such as the back of the grandstand concession facility shall be the responsibility of the CITY.

CITY has reviewed the erosion of the earthwork upon which the grandstand is located with the VENDOR. Presently CITY has concluded that the structure is currently sound but will conduct regular inspections of the grandstand and supporting earthwork during the term of this AGREEMENT. VENDOR shall cooperate with CITY in scheduling these inspections. If the erosion continues to worsen then CITY may be required to terminate this AGREEMENT without notice or in the alternative require VENDOR to cancel all events and usage of the ARENA until repairs can be made.

10. OWNERSHIP OF PROPERTY AND EQUIPMENT:

Certain existing property at the ARENA is owned by VENDOR. This personal property includes the following: track (dirt material that comprises race surface), crash wall/rail and catch fence, scoreboard, ticket booths, storage containers, vehicles and equipment, concession appliances, equipment and inventory, and raceway signage. Upon written notice, VENDOR agrees to remove all of their property, supplies, and equipment within ninety (90) days of the conclusion or termination of this AGREEMENT.

11. IMPROVEMENTS:

Throughout the original term of this AGREEMENT and any extension to the AGREEMENT, the CITY agrees that the racetrack is the personal property of the VENDOR. When the AGREEMENT is concluded, the VENDOR shall remove the racetrack at its sole expense. The ARENA must be left clean, flat, and level to its original grade. At the CITY's option, the VENDOR may leave the track and/or other facilities or items that shall become the sole, unencumbered property of the CITY.

VENDOR hereby acknowledges the title of CITY in and to the premises in the AGREEMENT, including legal property improvements erected thereon, and hereby covenants and agrees never to assail, contest, or resist said title with the exception of the said racetrack.

12. EXCLUSIVE RIGHT:

VENDOR may grant others the right to promote special events. If this should occur, the VENDOR shall charge others only those fees and charges for rents, services, and deposits as previously approved, in writing, by the CITY. Said fees and charges shall be submitted and approved by the CITY a minimum of sixty (60) days in advance of the event. Secondary users must provide the CITY with insurance certificates meeting the requirements set forth in Section 24 of this Agreement for Commercial General Liability and Property Damage naming the City of Visalia as 'additionally Insured.'" The City of Visalia shall also require Liquor Liability Insurance if the secondary vendor is proposing to sell alcohol. All secondary vendors must provide a description of proposed activities to the CITY at least sixty (60) days in advance of the event and shall be responsible for meeting any additional insurance requirements requested by the City of Visalia Risk Management Division depending on the specific activities proposed by the secondary vendor.

13. USE BY THE CITY:

The CITY reserves the right to use the ARENA for other programs and events but shall not schedule motorized racing events that would compete with VENDOR's operation. The VENDOR will surrender the premises to the CITY on predetermined dates selected by the CITY giving the VENDOR a minimum of a sixty (60) day notice. At the time that the CITY uses the facility, the VENDOR shall have left the premises free of all litter, trash, and other debris and with all of the fixtures and facilities in good order and repair. A mutually agreed upon utility reimbursement for CITY's use shall be credited to the VENDOR. VENDOR reserves the right to provide concessions for any said event.

14. PAYMENTS TO THE CITY:

For the term of this AGREEMENT and in exchange for the improvements to the ARENA, the CITY will forego all rental payments from VENDOR. If VENDOR fails to proceed with the Plaza Park Rebuild Budget and Timeline (Exhibit A) or falls behind the projected timeline without due reason, rental payments will become due and payable as outlined below. Parties acknowledge that the timeframe for completion of these improvements shall be paused while the CITY completes a separate Parks Master Plan. CITY and VENDOR agree that the CITY contribution requirements listed in Exhibit "A" will not be required to be paid by CITY until the City of Visalia Parks Master Plan is complete and this Agreement this Agreement is revised to include any modifications required under the Parks Master Plan. VENDOR will continue to work on any items listed in Exhibit "A" for years 2024-2025 that have not been completed but no projects scheduled for 2026 and beyond shall be required under this Agreement.

VENDOR shall communicate with CITY in regards to any construction delays and all proper NOTICE shall be given to each party as noted in Section 30 of this agreement.

The payment to the CITY shall be \$36,199 annually, paid in twelve (12) equal payments of \$3,016.58 due on the first of every month following the effective date of this agreement. All payments are due thirty (30) days from invoice by CITY.

Each payment is due to CITY thirty (30) days from the invoice date. All payments not received by the due date shall be subject to a two percent (2%) late fee penalty of the full amount due.

Parties acknowledge that even though the rental amount may not be charged if VENDOR is in proceeding with the items described in Exhibit "A" the rental amounts described in this Section will be subject to annual price adjustment each and every year, beginning on the first anniversary date of this Agreement to reflect the percentage change in the Consumer Price Index, which for purposes of this Agreement shall be the California Consumer Price Index (all urban consumers, all items) as released by the California Division of Labor Statistics and Research. The adjustment will be calculated as follows, the annual rent shall be multiplied by the percentage increase in the Consumer Price Index for the last month released prior to each anniversary date of this Agreement. In no event shall the minimum annual rent be decreased.

VENDOR shall pay all expenses associated with the operation of premises, including utility fees, all necessary staff, offices, security, personnel, tools, supplies, and equipment for the safe and efficient operation of the Raceway program. VENDOR will provide all necessary personnel, equipment, supplies, and concession operations to serve the general public as well as participants in the pit area of the facility, ensuring that the areas meet applicable codes and regulations pertaining to their operation.

15. DESTRUCTION OF THE FACILITIES:

If the ARENA shall be wholly destroyed by fire or other casualty, the CITY may elect not to rebuild the same and may terminate this AGREEMENT by delivering written notice of such election to VENDOR within six (6) months of the occurrence of such destruction. The City shall not be responsible for any property owned by the VENDOR. If any of said ARENA shall be partly or completely destroyed or damaged by fire or other casualty, the CITY shall not be required to repair the same.

16. SURRENDER:

Upon the termination of this AGREEMENT, VENDOR shall surrender possession of the ARENA to the CITY and shall, at the time of surrender, leave the facility in as good order and condition as said facility was at the inception of this AGREEMENT, ordinary wear and tear, and damage by the elements, fire, earthquake, flood, act of God, or public calamity, excepted. Upon written notice, the VENDOR agrees to remove all of their property, supplies, and equipment within ninety (90) days of the conclusion or termination of this AGREEMENT.

17. QUIET ENJOYMENT:

VENDOR shall not cause or permit any act or thing to occur on the premises that shall constitute a nuisance, an unlawful act, or a disturbance to the quiet enjoyment of the CITY or any tenant of the CITY on adjacent or neighboring

properties. The VENDOR must abate or otherwise cause said nuisance to be eradicated within seventy-two (72) hours from receiving a written notice from the CITY that a nuisance exists.

In the event that the VENDOR has not either (a) taken corrective action within seventy-two (72) hours, or (b) filed an appeal with the CITY within seventy-two (72) hours, the CITY may enter and abate said nuisance to the expense of the VENDOR without any liability whatsoever to the CITY for monetary loss or anticipated profits of the VENDOR or others. Said appeal to the CITY shall be made in writing and be received by the CITY within seventy-two (72) hours after the VENDOR received notice of said nuisance.

18. UTILITIES AND SERVICES:

VENDOR shall be responsible for the payment of utility charges including electrical, telephone, and internet service, natural gas, trash collection, and alarm system. CITY shall read electrical meters, calculate utility charges, and invoice VENDOR for actual use on a quarterly basis. Electricity charges will be paid by VENDOR upon invoice from the CITY.

19. FOOD, BEVERAGE AND MERCHANDISE OPERATION:

VENDOR agrees that they will operate and manage the services and facilities in a reasonable business manner during the entire term of this AGREEMENT. Where such facilities are provided, VENDOR agrees that they will furnish and dispense foods and beverages of the best quality and shall maintain a high standard of service at least equal to or exceeding that of other similar establishments and consistent with prevailing industry standards.

VENDOR must obtain and maintain all necessary permits required for the operation of a concession facility, including Health Department Permits, business licenses, alcohol beverage control licenses, and others as applicable.

VENDOR shall be responsible for any and all controlled substances brought onto the premises by VENDOR or by VENDOR's authorization. VENDOR shall comply with all federal, state, and local regulations regarding the use and storage of controlled substances.

CITY reserves the right to prohibit the sale or rental of any item that it deems objectionable or beyond the scope of merchandise deemed necessary for proper services.

20. CODE OF CONDUCT:

VENDOR shall develop rules and regulations for the governing of race events entitled "Code of Conduct," which shall be approved by the CITY and enforced by the VENDOR.

21. SECURITY AND EMERGENCY PERSONNEL:

VENDOR shall provide a minimum of four (4) security guards for each racing event or one security guard for every one hundred and fifty (150) people in attendance, whichever is greater. The CITY has the sole discretion to require the VENDOR to provide more security guards for other types of events.

VENDOR must have an appropriate emergency response system for injury and fire including all applicable personnel.

22. INSTALLATION OF SIGNS:

VENDOR may install, operate, and maintain advertising signs facing the inside of the premises occupied by the VENDOR, and at such other places(s) in the ARENA area as may be mutually agreed upon by the CITY and the VENDOR. Any sign installed, operated, and maintained by the VENDOR will be the VENDOR's total financial responsibility. No signage may be placed in a position so that it faces outside of the ARENA without the written authorization of the CITY. Prior to the installation of any signs, the VENDOR shall obtain the written approval from the CITY as to the sign's size, design, and location, and the VENDOR shall obtain any and all necessary permits from the Planning Division in compliance with the City of Visalia ordinance. No reasonable marketing signage should be denied by the CITY.

23. NEGATION OF PARTNERSHIP

The CITY shall not become or be deemed to be a partner or joint venture with the VENDOR other than the relationship of a landlord or a tenant. The VENDOR shall not be considered an agent, an officer, or an employee of the CITY.

24. STANDARD OF SERVICE:

The VENDOR shall be responsible for the following standards of service:

- a. All employees and other personnel who perform work for the VENDOR shall be neat and clean in appearance and courteous to all persons. The VENDOR shall be neat and clean in appearance and courteous to all persons. The VENDOR shall not permit any of their employees to conduct business in an offensive or objectionable manner.
- b. The VENDOR shall be required to follow all reasonable rules and regulations of the CITY concerning the management, operation, or use of the ARENA, including, but not limited to, the "Code of Conduct".

25. INSURANCE:

- a. Required Policies: VENDOR agrees to immediately secure and maintain during the term of this AGREEMENT, and prior to commencement of any special event or work hereunder, insurance coverage as follows:
 - i. Worker's Compensation: Worker's Compensation Insurance with statutory limits and Employer's Liability Insurance with limits of not less than One Million Dollars (\$1,000,000) per incident. Such insurance shall comply with all applicable state laws.
 - ii. Commercial General Liability and Property Damage: 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 products/ completed operations liability, owner's and agency's protective, blanket contractual liability, personal injury liability, and broad form property damage coverage.
 - iii. Commercial Automobile Public Liability and Property Damage: Automobile Public Liability and Property Damage Insurance with a combined single limit of not less than One Million Dollars (\$1,000,000)

per occurrence.

- iv. Liquor Liability Insurance with a limit of not less than One Million Dollars (\$1,000,000) per occurrence.
- b. Additional Insured: The General Liability/Property Damage & Automobile Liability/Property Damage policies shall:
 - i. Name CITY, its appointed and elected officials, officers, employees, and agents as additional insureds;
 - ii. Be primary with respect to any insurance or self-insurance programs maintained by CITY;
 - iii. Shall apply separately to each insured against whom a claim is made, or suit is brought, except with respect to limits of the insurer's liability;
 - iv. Contain standard cross-liability provisions.
- c. No Material Change, Termination, or Expiration without Notification: Each required policy shall provide that such insurance shall not be materially changed, terminated, or allowed to expire except on thirty (30) days prior written notice to CITY.
- d. No Subrogation: Each required policy shall be endorsed to include a waiver of subrogation against the CITY, its officers, officials, agents, and employees.
- e. Duration: This insurance shall be maintained during the Term of this Agreement until the Term expires if an occurrence policy form is used. If a claims-made policy is used, coverage shall be maintained during the AGREEMENT Term period. VENDOR shall replace such certificates for policies expiring prior to the expiration of the Term of this AGREEMENT and shall continue to furnish certificates on an annual basis when utilizing claims-made form(s).
- f. Failure to Maintain Insurance: If VENDOR for any reason fails to maintain insurance coverage which is required pursuant to this AGREEMENT; the same shall be deemed a material breach of this AGREEMENT. CITY, at its sole discretion, may terminate this AGREEMENT and obtain damages from VENDOR resulting from said breach. Alternatively, CITY may purchase such required insurance coverage, and without further notice to VENDOR, may deduct from monies agreed to be provided to VENDOR hereunder any premium costs advanced by CITY for such insurance.

26. INDEMNIFICATION:

VENDOR agrees to indemnify and save harmless CITY and its officers, appointed and elected officials, agents, employees, and assigns from and against any and all claims, demands, suits, loss, damage, injury, and liability, including cost and expenses incurred in connection therewith, resulting from, arising out of, or in any way connected with the performance of this AGREEMENT, including but not limited to delivery and unloading of supplies and equipment and the use of the ARENA by VENDOR or invitees of VENDOR such as spectators and persons participating in events, regardless of the passive, concurrent negligence on the part of the CITY or anyone acting under

its direction or control or on its behalf. It is further the intent of the parties that this indemnification requirement is not intended to relieve the CITY from liability for the active negligence of the CITY, its officers, appointed and elected officials, agents, and employees. This hold harmless clause is in no way an admission of liability on the part of the CITY, or any of its officers, officials, agents, or employees.

This indemnity and hold harmless provision, insofar as it may be adjudged to be against public policy, shall be void and unenforceable only to the minimum extent necessary so that the remaining terms of this indemnity and hold harmless provision may be within public policy and enforceable.

27. INDEPENDENT CONTRACTOR:

VENDOR represents it is a limited liability corporation and agrees that all employees, agents, subcontractors, and independent contractors hired in furtherance of the programs and activities of VENDOR are hired by VENDOR and not by CITY and are not employees, agents, or subcontractors of CITY.

28. NON-DISCRIMINATION:

VENDOR shall not discriminate in employment practices or provision of services hereunder on the basis of race, color, national origin, ancestry, gender, religion, disability, or political affiliation.

The VENDOR shall furnish its accommodations and/or services on a fair, equal, and just basis to all public users without unjust discrimination on the basis of race, creed, color, age, sex, and/or national origin and comply with public accommodation and access laws. The VENDOR shall charge fair and reasonable prices for each unit of service. The VENDOR may make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers.

29. RECORDS:

Promptly after executing all documents, including, but not limited to leases, subleases, concessions, occupancy agreements, and any amendments or modifications to the amount of payments, the VENDOR shall keep and retain as a record in full, true and exact copy of every document, receipt, and or bill which in any way pertains to or reflects "gross receipts" and "public expenses and charges for and accounting period."

Upon request from the CITY, during the term of this AGREEMENT, VENDOR shall furnish to CITY a verified statement of its cumulative total gross receipts. VENDOR shall at the same time, also furnish to CITY a year-to-date total of gross total receipts.

The VENDOR shall keep true and accurate records of attendance for each event, including paid and unpaid admissions and race car count by class.

The VENDOR shall keep all documents in full compliance as required by Section 7 Prevailing Wage Laws of this document.

30. NOTICES:

Any notice, demand, or communication required or permitted to be given by the terms of this AGREEMENT, or by any law, may be given by either party by depositing said notice, demand, or communication in the U.S. Mail, postage prepaid, addressed to the other at the party's address or any new address provided by such party in writing to the other. Service of said notice, demand, or communication shall be complete five (5) calendar days after deposit of said notice, demand, or communication in the mail.

Notices and communication concerning this AGREEMENT shall be sent to the following addresses:

CITY

City of Visalia
707 W. Acequia
Visalia, CA 93291
Attn: City Clerk

VENDOR

One Four Promotions
14332 S. Chestnut
Fresno, CA 93725
Attn: Jake Hagopian

Either party may, by notice to the other party, change the address specified above. Service of notice of change of address shall be complete when received at the designated address.

31. MISCELLANEOUS PROVISIONS:

- a. Authority: CITY and VENDOR and their respective signatories represent that the signatory holds the position set forth below their signature and that the signatory is authorized to execute this AGREEMENT and to bind said party hereto.
- b. Assignment: Neither this AGREEMENT nor any of the rights hereunder may be assigned without prior written consent of CITY.
- c. Interpretation/Headings: The headings/captions are for convenience and reference only and are not intended to define or limit the scope of any provision and shall have no effect on the AGREEMENT's interpretation. When required by the context of this AGREEMENT, the singular shall include the plural.
- d. Integration/Amendment: This AGREEMENT represents the complete and entire understanding between the parties as to those matters contained herein. This AGREEMENT may only be modified or amended in writing and signed by both parties.
- e. Severability: If any term, condition, covenant, provision, or part thereof of this AGREEMENT is, or is declared, invalid, void, or unenforceable for any reason, the remainder of the AGREEMENT shall continue in full force and effect.
- f. Governing Law: The laws of the State of California shall govern the interpretation and enforcement of this AGREEMENT and any legal actions arising out of the terms of this AGREEMENT shall be brought in Tulare County.
- g. Attorney's Fees/Costs: In the event of legal action arising from this AGREEMENT, the prevailing party may pursue reimbursement for reasonable attorney fees..

- h. Contract Enforcement: The City Manager of CITY shall be responsible for the enforcement of this AGREEMENT on behalf of CITY and shall be assisted therein by those officers and employees of City having duties in connection with the administration thereof.
- i. Cumulative Rights and Remedies: Except as otherwise expressly stated in this AGREEMENT, the rights and remedies of the parties are cumulative, and the exercise by any party of one or more of its rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies.

32. Airport contract language:

- a. REGULATIONS - VENDOR shall not conduct, or allow to be conducted upon the Demised Premises, any dangerous or hazardous activities, or any activities considered to be a nuisance to the airport or its tenants and neighbors, and VENDOR agrees to abide by all applicable F.A.A. and U.S. Government rules and regulations, including, but not limited to the following:
 - i. The VENDOR for himself/herself, their heirs, personal representatives, successors in interest and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that in the event facilities are constructed, maintained, or otherwise operated on the Demised Premises described herein for a purpose for which a Department of Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, the VENDOR shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted programs of the Department of Transportation and as said Regulations may be amended.
 - ii. The VENDOR for himself/herself, their personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that:
 - A. No person on the grounds of race, color, sex, age, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subject to discrimination in the use of said facilities; and
 - B. That in the construction of any improvements on, over, or under such land and the furnishing or services thereon, no person on the grounds of race, color, sex, age, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subject to discrimination; and
 - C. That the VENDOR shall use the Demised Premises in compliance with all other requirements imposed by or pursuant to 49 CFR Part 21, Nondiscrimination in Federally Assisted programs of the Department of Transportation, and as said Regulations may be amended.
 - iii. It is understood and agreed that nothing contained herein shall be

construed to grant or authorize the granting of an exclusive right within the meaning of Section 308 of the Federal Aviation Act of 1958.

- iv. VENDOR agrees to furnish service on a fair, equal, and not unjustly discriminatory basis to all users thereof, and to charge fair, reasonable, and not unjustly discriminatory prices for each unit or service, provided, that VENDOR may make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers.
 - v. The CITY reserves the right (but shall not be obligated to VENDOR to maintain and keep in repair the landing area of the airport and all publicly owned facilities of the airport, together with the right to direct and control all activities of the VENDOR in this regard.
 - vi. The CITY reserves the right to further develop or improve the landing area and all publicly owned air navigation facilities of the airport as it sees fit, regardless of the desires or views of the VENDOR, and without interference or hindrance.
 - vii. The CITY reserves the right to take any action it considers necessary to protect aerial approaches of the airport against obstructions, together with the right to prevent VENDOR from erecting, or permitting to be erected, any building or other structure on the airport which in the opinion of the CITY would limit the usefulness of the airport or constitute a hazard to aircraft.
 - viii. During the time of war or national emergency, the CITY shall have the right to enter into an agreement with the United States Government for military or naval use of part or all of the landing area, the publicly owned air navigation facilities, and/or other areas or facilities of the airport. If any such agreement is executed, the provisions of this Lease, insofar as they are inconsistent with the provisions of the agreement with the Government, shall be suspended.
 - ix. It is understood and agreed that the rights granted by this Lease will not be exercised in such a way as to interfere with or adversely affect the use, operation, maintenance, or development of the airport.
 - x. There is hereby reserved to the CITY, its successors, and assigns, for the use and benefit of the public, a free and unrestricted right of flight for passage of aircraft in the airspace above the surface of the Demised Premises herein conveyed, together with the right to cause in said airspace such noise as may be inherent in the operation of aircraft, now known or hereafter used for navigation of or flight in the air, using said airspace or landing at, taking off from, or operating on or about the airport.
 - xi. The Lease shall become subordinate to provisions of any existing or future agreement between the CITY and the United States of America, or any agency thereof relative to the operation, development, or maintenance of the airport, the execution of which has been or may be required as a condition precedent to the expenditure of federal funds for the development of the airport.
- b. **CURRENT AND FUTURE AIRPORT REGULATIONS** - This Lease and all rights conferred thereby shall at all times be subject to current and future

regulations governing any and all activities at the Visalia Municipal Airport to the same extent that such current and future regulations govern the activities of all persons using the facilities of the Visalia Municipal Airport and occupying structures thereon.

IN WITNESS WHEREOF, the parties hereto have entered into this Agreement on the date first written above.

CITY OF VISALIA

One Four Promotions, LLC

By: _____

Leslie Caviglia, City Manager

Jake Hagopian, General Manager

CONTRACT MANAGER

By: _____

John Lollis, Assistant City Manager

ATTEST

APPROVED AS TO FORM

City Clerk

Attorney for City