CITY OF ARVIN

Notice Inviting Bids For The Construction of:

URBAN GREENING PATHWAYS PROJECT

City capital project #: 1902

Bid Opening: Thursday, July 30, 2020, 2:00 p.m.
Pre-bid Meeting: Friday, July 24, 2020, 11:00 a.m.
Disadvantaged Business Enterprise Goal: 5%
Engineer’s estimate: $375,000
Project Funding Sources: Urban Greening Program – California Department of Natural Resources
Prime Contractor license requirement: A

City of Arvin
200 Campus Drive
Arvin, CA, 93203
Tel: 661-854-3134
Fax: 661-854-0817

Approved _______________ 2020

By ____________________________
Adam Ojeda, City Engineer
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NOTICE INVITING SEALED PROPOSALS (BIDS)

BIDS MUST BE RECEIVED BY: 2:00 p.m., on July 30, 2020

BIDS TO BE OPENED AT: 2:00 p.m., on July 30, 2020

PLACE OF BID RECEIPT: Office of City Clerk
                        200 Campus Drive
                        Arvin, California, 93203

NOTICE IS HEREBY GIVEN that the City of Arvin, County of Kern, California, will receive up to, but not later than the time set forth above, sealed contract bids for the award of a contract for the **Urban Greening Pathways Project**. All bids shall be made on the form furnished by the City and shall be opened and publicly read aloud at the above-stated time at the place of bid receipt identified above.

Sealed bids must be placed in a sealed package with the word “Bids,” the project name and identification number typed or clearly printed on the lower left corner of the package.

PROJECT IDENTIFICATION AND NAME:
Urban Greening Pathways Project

DESCRIPTION OF WORK: The work consists of the construction of an approximate one acre park and open green space at the north-eastern corner of Walnut Drive and 4th Street as well as construction of an approximate 0.2 mile pedestrian walking and bike path between the current 4th Street terminus and Walnut Drive. General improvements will include clearing and grubbing, earthwork, construction of curb, gutter, sidewalk, installation of park furnishings and water fountains, placement of porous asphalt for walking paths, installation of underground utilities for electrical and water services, and the placement of new landscaping and irrigation systems.

COMPENSATION: Payments shall be in the amounts listed on the Bid Sheet as awarded by the City.

PRE-BID MEETING: A non-mandatory pre-bid meeting has been scheduled for 11:00 a.m. on Friday, July 24th, 2020. Due to local and state mandates regarding social distancing in an effort to prevent the spread of Covid-19, this meeting will be held remotely, and information on how to join from a phone or computer will be provided to plan holders prior to the meeting.

OBTAINING BID DOCUMENTS: Also in an effort to promote social distancing, bid documents may be obtained in digital format only from the City of Arvin Engineering website. There is no cost to download the documents, but all printing costs shall be the responsibility of the bidders. Go to the following web address and look under the BID PROPOSALS” section: https://www.arvin.org/government/city-engineering/

PROPOSAL REQUIREMENTS: Proposals shall comply with the Instructions to Bidders.
INSTRUCTIONS TO BIDDERS

PROPOSAL REQUIREMENTS

1. **Plan Holder.** Only official plan holders are eligible to bid on this project. Bids received by contractors not on the plan holder list will not be opened and discarded. The official plan holder list will also be used to distribute addenda (if any), rfi responses, and information on how to join the pre-bid meeting and the public opening of bids. In order to be placed on the plan holder list, contractors must either call or email the City Engineer to add your name to the list. The City Engineer information is as follows:

   **Adam Ojeda – City Engineer**

   **Phone: 661-606-6060**

   **Email: aojeda@arvin.org**

2. **Form of Proposal.** The proposal shall include all items on the Proposal Checklist herein. The proposal shall be enclosed in a sealed envelope bearing the name of the bidder and the name of the project as described in the Notice Inviting Sealed Bids.

3. **Discrepancies in Proposals.** For each item of work, the bidder shall set forth, in clearly legible figures, a unit or line item bid for the item in the respective spaces provided on the Bid Sheet. In case of discrepancy between the unit price and the total set forth for the item, the unit price shall prevail, provided, however, that if the amount set forth as a unit price is ambiguous, unintelligible or uncertain for any reason, or is omitted, or in the case where the unit price is the same amount as the entry in the "Total" column, then the amount set forth in the "Total" column for the item shall prevail in accordance with the following:

   a. **As to lump sum items,** the amount set forth in the "Total" column shall be the unit price.

   b. **As to unit price items,** the amount set forth in the "Total" column shall be divided by the estimated quantity for the item and the price thus obtained shall be the unit price.

   In case of discrepancy between words and figures, the words shall prevail.

4. **Competency of Bidders.** In selecting the lowest responsible bidder, consideration will be given not only to the amount of the bid, but also to the general competency of the bidder for the performance of the work covered by the proposal, and the competency of its subcontractors, where applicable. To this end, each proposal shall be supported by a statement of the bidder's experience, as well as a list of subcontractors, on the form entitled "Information Required of Bidder" included herein, and any other information requested in the General Provisions and Special Provisions. City reserves the right to request additional information and/or clarifications from any and all bidders.
No agreement for the work will be executed with a bidder who is not licensed in accordance with the laws of the State of California. Any bidder or contractor not so licensed shall be subject to all legal penalties imposed by law, pursuant to Public Contract Code § 20103.5. The licensing requirements for contractors shall apply also to subcontractors. Failure of the bidder to obtain proper and adequate licensing for an award of the contract shall constitute failure to execute the contract and shall result in the forfeiture of the bidder’s bid security.

5. Bidder’s Security. Each bid shall be accompanied either by cash, a certified or cashier's check payable to the City, or a satisfactory bid bond in favor of the City executed by the bidder as principal and a California admitted surety as surety or substitute security pursuant to Section 995.710 of the Code of Civil Procedure, in an amount not less than ten percent (10%) of the amount set forth in the base bid. The cash, check, or bid bond shall be given as a guarantee that the bidder shall execute the contract if it is awarded to the bidder in conformity with the Contract Documents and shall provide the evidence of insurance and furnish the necessary bonds as specified in the Contract Documents, within ten (10) calendar days from the date of mailing of written notice of the award, except that such time shall be extended for delay caused by the City. In case of the bidder's refusal or failure to do so, the cash, check, or bond, as the case may be, shall be forfeited to the City. No bidder's bond will be accepted unless it conforms substantially to the form provided herein.

6. Conflict of Interest. Each bidder shall provide the name of entities associated with the bidder who may have a conflict of interest with the City, as well as a detailed explanation of the reasons for such possible conflict. Bidders are subject to disqualification on the basis of conflicts of interest as determined by the City.

7. Bidder’s Examination of Site and Contract Documents. Bidders must satisfy themselves by personal examination of the location of the proposed work and by such other means as they may prefer as to the proposal, plans, specifications, contract form and actual conditions and requirements of the work, and shall not at any time after submission of the bid, dispute, complain, or assert that there was any misunderstanding in regard to the conditions to be encountered, the character, quality, and quantities of work to be performed and materials to be furnished, and the requirements of the proposal, plans, specifications, and the contract form. The submission of a proposal shall be considered conclusive evidence that the bidder has made such examination.
8. **Pre-Bid Meeting.** A non-mandatory pre-bid meeting has been scheduled for **11:00 a.m. on Friday, July 24, 2020** to discuss the project's general requirements, including any federal funding or special requirements (if applicable). While attendance at this conference is not mandatory, it is highly recommended. Due to local and state mandates regarding social distancing in an effort to prevent the spread of Covid-19, this meeting will be held remotely, and information on how to join from a phone or computer will be provided to plan holders prior to the meeting. **Following the approximate one hour remote meeting, the City Engineer will be at the site at 2:00 p.m. for any contractors interested in touring the site together where all interactions will be contactless and face coverings will be required.** Contractors are free to tour the site at any time before or after this site meeting as the site is open to the public at all times.

9. **Modifications to Contract Documents.** The complete proposal forms shall be without interlineations, alterations or erasures, unless each such correction is suitably authenticated by affixing in the margin immediately opposite the correction the surname or surnames of the person or persons signing the bid. Unauthorized conditions, limitations or provisos attached to a proposal will render it informal and may be cause for rejection. **In no event will modifications be considered to any provision in the Contract Documents not identified by the bidder as part of their Proposal.** No oral, telegraphic or telephonic proposals or modifications will be considered.

10. **Signatures on Behalf of Entities.** If bidder is a corporation, the legal name of the corporation shall be set forth, together with the signature of the officer or officers authorized to sign contracts on behalf of the corporation, their title(s), and the corporate seal, if any; if bidder is a partnership, the true name of the partnership shall be set forth, together with the signature of the partner or partners (with titles) authorized to sign contracts on behalf of the partnership; if the bidder is an individual, his or her signature shall be sufficient; if the bidder is a joint venture, the name of the joint venture shall be set forth with the signature of an authorized representative of each venture. The City may request additional documentation of authority to sign on behalf of an entity.

11. **Delivery of Proposals.** The proposal shall be delivered by the time and to the place stipulated in the Notice Inviting Sealed Bids. It is the bidder's sole responsibility to see that its proposal is received by the proper time. Any proposal received after the scheduled closing time for receipt of proposals will be returned to the bidder unopened unless an extension has been granted by the City. Please note that the official time will be as shown on the clock in the office of the City Clerk where bids shall be opened. It shall be the responsibility of the prospective bidders to verify with the Clerk what the official time is on the day of the bid opening. Note that due to local and state mandates for social distancing to prevent the spread of Covid-19, hand deliveries of bids up to the due date and time should be scheduled with the City Engineer as shown in the “Plan Holder” section. The City offices are currently closed to the public, and the bidders should plan well in advance to assure that bids are received by the city in a timely fashion. Failure to do so will result in a bid not being opened and discarded.

12. **Opening of the Bids.** Bidder's or their representatives are invited to be present at the opening of the bids. Due to the aforementioned Covid-19 protocols, a remote bid opening will be conducted, and information will be emailed to companies on the official plan holder list approximately 24 hours prior to the bid opening, and people will be able to
join by phone or with a computer. During the bid opening, only the bid prices will be announced publicly as well as the names of the individual bidders. No additional details of the bids will be discussed in the interest of time. While the apparent low bidder will be identified, this shall not be construed as a guarantee of award of the contract. The City will review all bids received thoroughly prior to making a recommendation to the City Council for the award of a contract.

13. **Withdrawal of Proposal.** The proposal may be withdrawn upon request by the bidder without prejudice to the bidder prior to, but not after, the time fixed for opening of bids, provided that the request is in writing, has been executed by the bidder or its duly authorized representative, and is filed with the City Clerk. No proposal may be withdrawn during the period of ninety (90) calendar days after the opening of proposals.

14. **Registration With Department of Industrial Relations:** As noted in the General Provisions, all prime contractors and sub-contractors must have a current registration with the Department of Industrial Relations at the time bids are received and throughout the duration of the project. **For bidders whose prime contractors or sub-contractors are not registered at the time of bid submittal, bids will be deemed non-responsive unless the said contractors register within 24 hours of bid opening.** Information and registration materials may be found at the DIR website at: [www.dir.ca.gov/Public-Works/PublicWorksLawsRegsDetDec.html](http://www.dir.ca.gov/Public-Works/PublicWorksLawsRegsDetDec.html) and [efiling.dir.ca.gov/PWCR/ActionServlet?action=displayPWCREgistrationForm](http://efiling.dir.ca.gov/PWCR/ActionServlet?action=displayPWCREgistrationForm).
GENERAL PROVISIONS

INTERPRETATION OF AND ADDENDA TO CONTRACT DOCUMENTS

1. Definitions. The following definitions shall apply to all Contract Documents:

1.1 Agreement. “Agreement” means the Agreement for Public Works Services herein, or another contract substantially similar to it.


1.3 Proposal. “Proposal” means the set of documents included on the Proposal Checklist herein.

2. Quantities Are Approximate. The quantities shown on the Bid Sheet, or any other amounts of work or materials listed in the Contract Documents, shall be considered as approximate only, being listed therein for the purpose of serving as a general indication of the amount of work or materials to be performed or furnished, and as a basis for the comparison of bids. The City does not guarantee nor agree, either expressly or by implication, that the actual amount of work or materials required will correspond therewith, but reserves the right to increase or decrease the amount of any item or portion of work or material to be performed or furnished, or to omit any such item or portion, without in any way invalidating the contract, should such increase, decrease, or omission be deemed necessary or expedient.

3. Public Work – Prevailing Wages and Labor Laws: The Project to be performed by bidder is a public works project. As such, the successful bidder shall comply with all prevailing wage and labor laws governing public works projects including those stated in the Agreement for Public Works Services herein.

4. Requests for an Interpretation or Correction. If any person contemplating submitting a bid for the proposed contract is in doubt as to the true meaning of any of the Contract Documents, or finds discrepancies in or omissions from the drawings and specifications, he or she may submit to the City Engineer a written request for an interpretation or correction by 5:00 p.m. on Friday, July 24th, 2020. The person submitting the request will be responsible for its prompt delivery. Any interpretation or correction of the Contract Documents will be made only by an addendum duly issued, and a copy of such addendum will be emailed, delivered or faxed to each person receiving a set of the contract documents no later than 5:00 p.m. on Tuesday, July 28th, 2020. No oral interpretation of any provision in the Contract Documents shall be binding.
Email shall be the only acceptable method to transmit requests for interpretation. Such requests shall be addressed to the City Engineer, Adam Ojeda: aojeda@arvin.org

Note that submission of a request for interpretation by the deadline above does not guarantee that a response will be provided. The City will make every effort to provide a response by the deadline to provide a response noted above. However, in the event that a request cannot be answered, the Contractor(s) shall provide a bid based on the best information available to them.

5. **Addenda.** Independent of any such request for interpretation or correction, the City Engineer may, from time to time, issue addenda to the contract documents during the period of advertising for bids. Securers of contract documents shall be notified of, and furnished with, copies of such addenda, either by fax, certified mail, or personal delivery during the period of advertising, at no additional cost.

6. **Disadvantaged Business Enterprise (DBE) Requirements.** This project may have DBE requirements and goals set, and it will be the prospective bidders’ responsibility to comply with those requirements and goals which generally involves meeting the set goals or showing a good faith effort was made to meet the goal. Refer to Exhibit B of the sample contract contained in these bid documents for more information.

**AWARDING THE CONTRACT**

1. **Award of Contract; Right to Reject All Bids.** The award of the contract, if made by the City, will be to the lowest responsive and qualified bidder. If additive alternate bids are called for, the contract shall be awarded to the lowest responsive bidder on the **total** bid which shall be defined as the **base bid and any number of additive alternates that the city wishes to award** as funding will allow. The award, if made, will be made within ninety (90) calendar days after the opening of the proposals; provided that the award may be made after said period if the successful bidder has not given the City written notice of the withdrawal of his bid.

2. **Right to Reject All Bids.** The City reserves the right to reject any or all bids or any parts thereof or to waive any irregularities or informalities in any bid or in the bidding to the extent permitted by law.

3. **Base Bid and Alternate Bid Items.** The project, if awarded, will be based upon the total bid, which includes all work contemplated in the base bid, plus any alternate bid items as may be added by the City in no particular order. The City reserves the right to perform the work included in the entire base project plus any combination of work detailed in the additive alternates. Bids are required for the entire project and for the performance of separate designated parts of the entire project, but subject to available funds.

4. **Disqualification of Bidders.** No person, firm, or corporation shall be allowed to make, file or be interested in more than one bid for the same work, unless alternate bids are specifically called for. A person, firm or corporation that has submitted a subproposal to a bidder, or that has quoted prices of materials to a bidder is not hereby disqualified from
submitting a subproposal or quoting prices to other bidders or making a prime proposal. If there is a reason to believe that collusion exists among the bidders, all bids will be rejected.

5. **Address for Notice.** The address given in the bidder’s proposal is the place to which all notices to the bidder shall be mailed or delivered. The mailing to or delivering at the above named place of any notice shall be deemed sufficient service thereof upon the bidder, and the date of that service shall be the date of such mailing or delivery. Such address may be changed at any time by written notice signed by the bidder and delivered to the City Clerk.

**POST-AWARD PROCESS**

1. **Return of Bid Security.** The successful bidder's bid security shall be held until the contract is executed, and must be requested by the bidder in writing to the City Engineer. Bid security shall be returned to unsuccessful bidders within forty (40) calendar days after the successful bidder has signed the contract, and must be requested in writing to the City Engineer.

2. **Execution of Agreement.** The bidder to whom award is made shall be required to enter into a written contract in a form substantially similar to the Agreement for Public Works Services included herein and shall secure and provide to City all insurance and bonds as herein specified within ten (10) calendar days from the date of mailing of written notice of the award, except that such time shall be extended for delay caused by the City. Agreements are not effective until approved by the appropriate City official(s). Any work performed prior to the receipt of a fully executed Agreement shall be at the bidder’s own risk.

3. **Failure or Refusal to Execute Agreement.** In the event the bidder to whom an award is made fails or refuses to execute the Agreement For Public Works Services within the required time and conform with any of the stipulated requirements, including all required bonds and insurance, the City may declare the bidder’s security forfeited, and it may award the work to the next lowest bidder, or may call for new bids. If the second lowest responsible bidder refuses to execute the contract, the City may award the contract to the third lowest responsible bidder to execute the contract; in such case, the second lowest responsible bidder’s securities shall be likewise forfeited to the City.

4. **Insurance and Bonds.** Insurance, performance bond, and payment bond requirements are listed in Article V (as may be amended by Exhibit B) of the Agreement for Public Works Services included herein. Be sure to check for special, superceding, provisions in Exhibit B of the Agreement.

**MISCELLANEOUS**

1. **Proposals Become the Property of the City.** Proposals shall become the property of the City and information contained therein shall become public property subject to disclosure laws after City notifies bidder of intent to award the contract. The City reserves the right to make use of any information or ideas contained in the proposal.
2. **Confidential Material.** Bidder shall notify the City in advance of any proprietary or confidential material contained in the proposal and provide justification for not making such material public. The City shall have sole discretion to disclose or not disclose such material subject to any protective order obtained by bidder.

3. **No Assignment.** The bidder shall not assign, transfer, convey, sublet, or otherwise dispose of (collectively, “transfer”) any award or any or all rights, title, or interest therein, without the prior consent of the City. Any such unapproved transfer shall be null and void.

4. **Expenses Incurred in Preparing Proposals.** The City accepts no responsibility for any expense incurred by the bidder in the preparation and presentation of a proposal. Such expenses shall be borne exclusively by the bidder.

5. **Business License Requirement.** The bidder to whom an award is made shall obtain a business license from the City prior to commencing work under the Agreement. All subcontractors must also obtain a business license as well.

6. **Registration With Department of Industrial Relations.** All prime contractors and subcontractors must have a current registration with the Department of Industrial Relations at the time bids are received and throughout the duration of the project. For bidders whose prime contractors or sub-contractors are not registered at the time of bid submittal, bids will be deemed non-responsive unless the said contractors register within 24 hours of bid opening.
SPECIAL PROVISIONS

1. STANDARDS AND MEASURES

All work embraced herein shall be accomplished in accordance with the applicable portions of the the most currently adopted edition of the “Caltrans Standard Specifications,” herein referred to as “Standard Specifications,” except as modified by these Special Provisions, the General Specifications, and Technical Specifications.

The U.S. Standard Measures, also called U.S. Customary System is the principal measurement system in these Special Provisions, unless otherwise stated.

2. PROJECT PLANS

The location of the work, its general nature, extent, form and detail of the various features are listed as a part of these Special Provisions, including any attachments or appendices referenced herein.

3. COVID-19 PREVENTATIVE MEASURES

This project is being bid out publicly during what is generally known as the “Covid-19 Pandemic”. The bidders should generally be aware that various local and state requirements and mandates are in place, and may also have policies in place to protect their own personell from the spread of infectious diseases at this time. The City of Arvin currently has protocols in place which are subject to change, and generally promote social distancing of 6 feet or more and includes requirements that all city employees wear face coverings at all times when communicating directly with the public including contractor personell whether such interactions are at city facilities or not. At the same time, contractor personnel are expected to follow City of Arvin protocol at all times when coming into contact with city employees. It shall be the responsibility of the contractor to develop and enact their own policies when working within the designated job site. The City of Arvin shall not require any such protocols and will not be responsible for enforcing any contractor protocols, if any. Any and all costs related to the development and execution of such protocols shall be borne by the contractor at no additional cost to the City of Arvin.

4. NOTICE TO PROCEED

Upon award of this contract and signing the contract documents, the City shall issue the Contractor a Notice to Proceed. The contract period shall commence on the date in the Notice to Proceed. Working days are defined as Monday through Friday, with the exception that no work may take place on the following City holidays:

New Year’s Day
Memorial Day
4th of July
Day after 4th of July (if July 4th falls on a weekend)
Labor Day
Thanksgiving Day
Day after Thanksgiving Day
Christmas Day

In addition, no work will be allowed on any special election day which may be declared. Should a special day be declared, a time extension of one working day will be granted for each day.

The City will not authorize any work to be done under these Special Provisions before the contract agreement has been fully executed and the Notice to Proceed has been issued; any work that is done by the Contractor in advance of such time shall be considered as being done at Contractor's own risk and responsibility, and as a consequence will be subject to rejection by not having been done in the presence of the City representative.

In the event that the City Engineer shall be of the opinion that the work is being inadequately or improperly executed in any respect, he/she may demand that the Contractor improve or change the execution of the work in such manner as to assure proper and timely completion.

5. UTILITIES

The Contractor shall exercise due care to ensure that existing utility facilities are not damaged during its operations. When an existing utility will be affected, the Contractor shall contact the utility concerned before proceeding further, and provide access to the worksite for the affected utility company.

6. LICENSE CLASSIFICATION

The Contractor’s license classification(s) required for this project are as follows: General Contractor, Class A

7. SCOPE OF WORK

A. Project Location: Intersection of Walnut Drive and 4th Street in Arvin, California.

B. Project Description: The work consists of the construction of an approximate one acre park and open green space at the north-western corner of Walnut Drive and 4th Street as well as construction of an approximate 0.2 mile pedestrian walking and bike path between the current 4th Street terminus and Walnut Drive. General improvements will include clearing and grubbing, earthwork, construction of curb, gutter, sidewalk, installation of park furnishings and drinking fountains, placement of porous asphalt for walking paths, installation of underground utilities for electrical and water services, and the placement of new landscaping and irrigation systems.
8. **SCHEDULE OF COMPENSATION:** Compensation shall be paid consistent with Exhibit “C” (Schedule of Compensation) to the Agreement for Public Works Services.

9. **COMPLIANCE WITH DRUG-FREE WORKPLACE POLICY (Government Code § 8355)**

   It is the policy of the City of Arvin to maintain a drug-free workplace. The unlawful manufacture, distribution, dispensation, possession and/or use of controlled substances in the workplace are prohibited. Controlled substances are those defined in 21 USC Section 812 and include, but are not limited to, such substances as marijuana, heroin, cocaine and amphetamines. The workplace is presumed to include all City of Arvin facilities and premises where City of Arvin employees may visit in the execution of their job duties such as homes, schools, hospitals, etc. All City of Arvin employees are required to comply with this policy as an essential condition of employment. Individuals who are not considered City of Arvin employees, but who perform work at City worksites for the City’s benefit are required to comply with this policy. Such individuals who unlawfully manufacture, distribute, dispense, possess or use controlled substances in the City workplace may be barred from further work for and in the City’s facilities as well as from future consideration.

   Contractor shall publish and distribute to all employees, workers and subcontractors (hereinafter worker) a statement notifying worker that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited. Any worker under the effect or residual effect of such controlled substance is considered a hazard and shall be removed from the job site immediately. This notice shall state that the worker has an obligation to abide by the terms of this Contract and to notify the Contractor in writing of any violation of a criminal drug statute occurring in the workplace or at the job site. Contractor shall notify City of such incident and take appropriate action within thirty (30) days. Contractor is responsible to see that this requirement is included in all subcontractor contracts.

10. **MINIMUM WAGE.** Minimum wage rates as determined by the Secretary of Labor are set forth in the specifications. The State of California Department of Industrial Relations has determined the general **prevailing wage rates** in this County, copies of which may be obtained at the website for the Department of Industrial Relations.

11. **DISADVANTAGED BUSINESS ENTERPRISE (DBE) REQUIREMENTS.** The City of Arvin is committed to promoting the inclusion of certified DBE contractors and vendors, as required by law, with each capital improvement project. In some cases, federal, state, or granting agency requirements shall also apply which may be more stringent than City requirements. Requirements are subject to variation from project to project.

   The basis for applicable DBE requirements are as codified by 49 CFR 26, which requirements are incorporated into these bid specifications by reference unless specifically amended herein. Additional reference and incorporation is made to the
Caltrans Standard Specifications, currently adopted edition, section 2-1.12 DISADVANTAGED BUSINESS ENTERPRISES, unless specifically amended by the Contract Documents.

DBE GOAL. **The DBE goal for this project is 5%.** Bidders shall make all applicable good faith efforts to satisfy this goal, and shall provide documentation of said efforts should the goal not be able to be met.

DBE DATABASE. Bidders shall utilize the Caltrans California Unified Certification Program (UCP) DBE Database to search for qualified DBEs to contact in the process of good faith efforts to satisfy the project DBE goal. The database can be accessed at the following url: [http://www.dot.ca.gov/hq/bep/find_certified.htm](http://www.dot.ca.gov/hq/bep/find_certified.htm).

**Bidders shall complete and provide the following as part of the bid package:**

*Caltrans Exhibit 15-G: Construction Contract DBE Commitment*
PROPOSAL CHECKLIST

All of the following items must be included in the Proposal:

___ Signed Proposal Certification
___ Complete Bid Sheets
___ Statement Acknowledging Penal And Civil Penalties Concerning The Contractors' Licensing Laws
___ Information Required of Bidder
___ Designation of Subcontractors
___ Bidder’s Industrial Safety Record
___ Bid Security (at least 10% of Total Aggregate Bid Price)
___ Bid Bond Form (if Submitting Bid Bond)
___ Non-Collusion Declaration
___ Bidders Reference
___ Bidders Reference Financial
___ Public Contract Code Section 10285.1 Statement
___ Public Contract Code Section 10162 Questionnaire
___ Public Contract Code Section 10232 Statement
___ Equal Employment Opportunity Certification
___ Compliance with Immigration Reform and Control (IRCA)
___ Caltrans Exhibit 15-G
___ Caltrans Exhibit 15-H (if necessary)
___ Acknowledgement of Addenda
PROPOSAL CERTIFICATION

CITY OF ARVIN

PROJECT: URBAN GREENING PATHWAYS PROJECT

TO THE CITY COUNCIL OF THE CITY OF ARVIN:

The undersigned, as bidder, declares that: (1) this proposal is made without collusion with any other person, firm or corporation, and that the only persons or parties interested as principals are those named herein; (2) bidder has carefully examined the Contract Documents as well as the site of the proposed work; and (3) bidder has investigated and is satisfied as to the conditions to be encountered, the character, quality and quantities of work to be performed, and the materials to be furnished. Furthermore, bidder agrees that submission of this proposal shall be conclusive evidence that such examination and investigation have been made and agrees, in the event this contract be awarded to bidder, to enter into a contract with the City of Arvin in a form substantially similar to the Agreement for Public Works Services included herein for the stated unit prices or lump-sum price submitted on the Bid Sheet.

Accompanying this proposal is cash, a certified or cashier’s check, or a Bid Bond (“bid security”) in the amount of $______________________ , which amount is at least ten percent (10%) of the total aggregate bid price hereof based on the quantities shown and the unit prices quoted on the Bid Sheet.

The undersigned further agrees that if he/she/it is awarded the contract on the basis hereof and thereafter defaults in executing the required contract, with necessary insurance, bonds, and documents, within ten (10) calendar days from the date of mailing of written notice of the award, said bid security shall become the property of the City of Arvin and this proposal and the acceptance thereof may be considered null and void. Such time shall be extended for delay caused by the City.

Legal Business Name: __________________________________________________________
Address: ____________________________________________________________________
Telephone: __________________________  Fax: _______ ________________________
Contact: ____________________________________________________________________
Signature(s)* of bidder: _________________________   Name:__________________________
   _________________________   Name:____________ ______________
Bid Date: ___________________

*Persons signing on behalf of an entity on behalf (such as a corporation) must also submit evidence of their authority to sign on behalf of the entity.
Bidder agrees to enter into a contract to furnish all labor, materials, equipment and supplies for the project identified as URBAN GREENING PATHWAYS PROJECT in accordance with the Contract Documents to the satisfaction of the City at the following prices:

### BASE BID

<table>
<thead>
<tr>
<th>Item No.</th>
<th>Quantity</th>
<th>Unit</th>
<th>Item description (Unit Cost in Words)</th>
<th>Unit Price (Figures)</th>
<th>Total Price</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>1</td>
<td>LS</td>
<td>Mobilization, bonds, insurance, permits, security, storm/dust control</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>1</td>
<td>LS</td>
<td>Traffic Control and Site Safety</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>1</td>
<td>LS</td>
<td>Clearing, grubbing, miscellaneous demolition, and construction work</td>
<td></td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>1,065</td>
<td>SF</td>
<td>4&quot; Concrete Sidewalk</td>
<td></td>
<td></td>
</tr>
<tr>
<td>5</td>
<td>215</td>
<td>LF</td>
<td>6&quot; Curb with 24&quot; Gutter</td>
<td></td>
<td></td>
</tr>
<tr>
<td>6</td>
<td>1</td>
<td>EA</td>
<td>Curb Ramp</td>
<td></td>
<td></td>
</tr>
<tr>
<td>7</td>
<td>17,456</td>
<td>SF</td>
<td>Decomposed granite walking surface</td>
<td></td>
<td></td>
</tr>
<tr>
<td>8</td>
<td></td>
<td></td>
<td>4&quot; Concrete Sidewalk</td>
<td></td>
<td></td>
</tr>
<tr>
<td>9</td>
<td></td>
<td></td>
<td>6&quot; Curb with 24&quot; Gutter</td>
<td></td>
<td></td>
</tr>
<tr>
<td>10</td>
<td></td>
<td></td>
<td>Curb Ramp</td>
<td></td>
<td></td>
</tr>
<tr>
<td>11</td>
<td></td>
<td></td>
<td>Decomposed granite walking surface</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Item No.</td>
<td>Quantity</td>
<td>Unit</td>
<td>Item description (Unit Cost in Words)</td>
<td>Unit Price (Figures)</td>
<td>Total Price</td>
</tr>
<tr>
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<td>----------</td>
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<td>----------------------------------------</td>
<td>----------------------</td>
<td>-------------</td>
</tr>
<tr>
<td>8</td>
<td>2</td>
<td>EA</td>
<td>6' Bench</td>
<td></td>
<td></td>
</tr>
<tr>
<td>9</td>
<td>4</td>
<td>EA</td>
<td>4' Bench</td>
<td></td>
<td></td>
</tr>
<tr>
<td>10</td>
<td>6</td>
<td>EA</td>
<td>Trash Receptacles</td>
<td></td>
<td></td>
</tr>
<tr>
<td>11</td>
<td>5</td>
<td>EA</td>
<td>Road Signs</td>
<td></td>
<td></td>
</tr>
<tr>
<td>12</td>
<td>4</td>
<td>EA</td>
<td>Funding acknowledgement signs</td>
<td></td>
<td></td>
</tr>
<tr>
<td>13</td>
<td>1</td>
<td>LS</td>
<td>Landscape Planting</td>
<td></td>
<td></td>
</tr>
<tr>
<td>14</td>
<td>1</td>
<td>LS</td>
<td>Landscape Irrigation System</td>
<td></td>
<td></td>
</tr>
<tr>
<td>15</td>
<td>1</td>
<td>LS</td>
<td>On-site Electrical Conduit, Wiring, Pull Boxes Complete at</td>
<td></td>
<td></td>
</tr>
<tr>
<td>16</td>
<td>12</td>
<td>EA</td>
<td>Pole mounted lights</td>
<td></td>
<td></td>
</tr>
<tr>
<td>17</td>
<td>20</td>
<td>EA</td>
<td>Bollard lights</td>
<td></td>
<td></td>
</tr>
<tr>
<td>18</td>
<td>17</td>
<td>EA</td>
<td>Pathway lights</td>
<td></td>
<td></td>
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</tbody>
</table>
ADDITIVE ALTERNATES

BID SUMMARY:

TOTAL BASE BID:$______________________________

TOTAL ADDITIVE ALTERNATE 1:$______________________________

TOTAL ADD ALT 1 WITH BASE BID (LESS LINE 7):$______________________________

*Mobilization shall not exceed 5% of the total for all other bid items.*

A. Contract selection will be determined based on lowest responsible bidder for the total base bid and any number of alternates that the city wishes to fund as funding allows only.

B. If funding allows for the construction of additive alternate 1, line item 7 (decomposed granite) shall be removed from the base bid.

C. Bidder acknowledges that estimated quantities are not guaranteed, and are solely for the purpose of comparison of Bids, and final payment for all Unit Price Bid items will be based on actual quantities provided, determined as provided in the Contract Documents.
I, the undersigned, certify that I am aware of the following provisions of California law and that I, or the entity on whose behalf this certification is given, hold a currently valid California contractor's license as set forth below:

Business & Professions Code 7028.15:

(a) It is a misdemeanor for any person to submit a bid to a public agency in order to engage in the business or act in the capacity of a contractor within this state without having a license therefore, except in any of the following cases:

(1) The person is particularly exempted from this chapter.

(2) The bid is submitted on a state project governed by Section 10164 of the Public Contract Code or on any local agency project governed by Section 20103.5 of the Public Contract Code.

(b) If a person has been previously convicted of the offense described in this section, the court shall impose a fine of 20 percent of the price of the contract under which the unlicensed person performed contracting work, or four thousand five hundred dollars ($4,500), whichever is greater, or imprisonment in the county jail for not less than 10 days nor more than six months, or both.

In the event the person performing the contracting work has agreed to furnish materials and labor on an hourly basis, "the price of the contract" for the purposes of this subdivision means the aggregate sum of the cost of materials and labor furnished and the cost of completing the work to be performed.

(c) This section shall not apply to a joint venture license, as required by Section 7029.1. However, at the time of making a bid as a joint venture, each person submitting the bid shall be subject to this section with respect to his or her individual licensure.

(d) This section shall not affect the right or ability of a licensed architect, land surveyor, or registered professional engineer to form joint ventures with licensed contractor to render services within the scope of their respective practices.

(e) Unless one of the foregoing exceptions applies, a bid submitted to a public agency by a contractor who is not licensed in accordance with this chapter shall be considered non-responsive and shall be rejected by the public agency. Unless one of the foregoing exceptions applies, a local public agency shall, before awarding a
contract or issuing a purchase order, verify that the contractor was properly licensed when the contractor submitted the bid. Notwithstanding any other provision of law, unless one of the foregoing exceptions applies, the registrar may issue a citation to any public officer or employee of a public entity who knowingly awards a contract or issues a purchase order to a contractor who is not licensed pursuant to this chapter. The amount of civil penalties, appeal, and finality of such citations shall be subject to Sections 7028.7 to 7028.13 inclusive. Any contract awarded to, or any purchase order issued to, a contractor who is not licensed pursuant to this chapter is void.

(f) Any compliance or noncompliance with subdivision (e) of this section, as added by Chapter 863 of the Statutes of 1989, shall not invalidate any contract or bid awarded by a public agency during which time that subdivision was in effect.

(g) A public employee or officer shall not be subject to a citation pursuant to this section if the public employee, officer, or employing agency made an inquiry to the board for the purposes of verifying the license status of any person or contractor and the board failed to respond to the inquiry within three business days. For purposes of this section, a telephone response by the board shall be deemed sufficient.

Public Contract Code 20103.5:

In all contracts subject to this part where federal funds are involved, no bid submitted shall be invalidated by the failure of the bidder to be licensed in accordance with the laws of this state. However, at the time the contract is awarded, the contractor shall be properly licensed in accordance with the laws of this state. The first payment for work or material under any contract shall not be made unless and until the Registrar of Contractors verifies to the agency that the records of the Contractor's State License Board indicate that the contractor was properly licensed at the time the contract was awarded. Any bidder or contractor not so licensed shall be subject to all legal penalties imposed by law including, but not limited to, any appropriate disciplinary action by the Contractor's State License Board. The agency shall include a statement to that effect in the standard form of prequalification questionnaire and financial statement. Failure of the bidder to obtain proper and adequate licensing for an award of a contract shall constitute a failure to execute the contract and shall result in the forfeiture of the security of the bidder.

License No.: ________________________________

Class: ________________________________

Expiration Date: ________________________________

Date: ________________________________

Signature: ________________________________
INFORMATION REQUIRED OF BIDDER

The bidder is required to supply the following information: (Additional sheets may be attached if necessary.)

1. **Address:**
   
2. **Telephone:**
   
3. **Type of firm – Individual, Partnership, or Corporation:**
   
4. **Corporation organized under the laws of the State of:**
   
5. **List the names and addresses of all members of the firm or names and titles of all officers of the corporation:**
   
6. **Number of years’ experience as a contractor in this type of work:**
   
7. **List at least three (3) similar projects completed as of recent date:**

<table>
<thead>
<tr>
<th>Contract No.</th>
<th>Class of Work</th>
<th>Date Completed</th>
<th>Name, Address of Owner, &amp; Telephone</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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</tbody>
</table>

-24-
(8) Name of the person who inspected the site of the proposed work for your firm and the date of inspection:
________________________________________________________________

(9) List the name of any entity or person associated with the bidder who may have a conflict of interest with the City and provide a detailed explanation of the reasons for such possible conflict. Attach additional sheets of paper is necessary.
______________________________________________________________________________
______________________________________________________________________________
______________________________________________________________________________
______________________________________________________________________________
______________________________________________________________________________
______________________________________________________________________________

(10) Project-Specific Information. The following additional information is required:

   No Additional Information is Required
DESIGNATION OF SUBCONTRACTORS  
[Public Contract Code § 4104]

List all subcontractors who will perform work or labor or render service to the Contractor in or about the construction of the work or improvement, or a subcontractor licensed by the State of California who, under subcontract to the Contractor, specially fabricates and installs a portion of the work or improvement in an amount in excess of one-half of one percent (0.5%) of the Contractor’s total Bid or, in the case of bids or offers for the construction of streets or highways, including bridges, in excess of one-half of one percent (0.5%) of the Contractor’s total Bid or $10,000, whichever is greater. If all subcontractors do not fit on this page, attach another page listing all information for all other subcontractors.

<table>
<thead>
<tr>
<th>NAME</th>
<th>ADDRESS &amp; PHONE NUMBER</th>
<th>CA CONTRACTOR LICENSE NUMBER</th>
<th>TYPE OF WORK (E.G., ELECTRICAL)</th>
<th>% OF TOTAL BID (E.G., 10%)</th>
</tr>
</thead>
<tbody>
<tr>
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<td></td>
</tr>
</tbody>
</table>

-26-
**BIDDER'S INDUSTRIAL SAFETY RECORD**

Bidder’s Name _______________________________________

<table>
<thead>
<tr>
<th>Current Year of Record</th>
<th>2019</th>
<th>2018</th>
<th>2017</th>
<th>2016</th>
<th>2015</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of contracts</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total dollar amount of contracts (in thousands of dollars)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Number of fatalities</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Number of lost workday cases</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Number of lost workday cases involving permanent transfer to another job or termination of employment</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

The above information was compiled from the records that are available to me at this time and I declare under penalty of perjury that the information is true and accurate within the limitations of those records.

Signature:__________________________________________  Signature:__________________________________________

Title:______________________________________________  Title:______________________________________________

Date:______________________________________________  Date:______________________________________________
BID BOND

KNOW ALL PERSONS BY THESE PRESENTS that:

WHEREAS the City of Arvin (“Public Agency”), has issued an invitation for bids for the work described as follows as URBAN GREENING PATHWAYS PROJECT; and

WHEREAS ____________________________ ,

(Name and address of Bidder)

(“Principal”), desires to submit a bid to Public Agency for the work; and

WHEREAS, bidders are required under the provisions of the California Public Contract Code to furnish a form of bidder's security with their bid.

NOW, THEREFORE, we, the undersigned Principal, and ____________________________ (“Surety”),

(Name and address of Surety)

a duly admitted surety insurer under the laws of the State of California, as Surety, are held and firmly bound unto the Public Agency in the penal sum of

Dollars ($_________________________), being not less than ten percent (10%) of the total base bid price, in lawful money of the United States of America, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH THAT, if the hereby bounded Principal is awarded a contract for the work by the Public Agency and, within the time and in the manner required by the bidding specifications, enters into the written form of contract included with bidding specifications, furnishes the required bonds, one to guarantee faithful performance and the other to guarantee payment for labor and materials, and furnishes the required insurance coverages, then this obligation shall become null and void; otherwise, it shall be and remain in full force and effect.

In case suit is brought upon this bond, Surety further agrees to pay all court costs incurred by the Public Agency in the suit and reasonable attorneys’ fees in an amount fixed by the court. Surety hereby waives the provisions of California Civil Code 2845.

///

///
IN WITNESS WHEREOF, this instrument has been duly executed by Principal and Surety, on the date set forth below, the name of each corporate party being hereto affixed and these presents duly signed by its undersigned representative(s) pursuant to authority of its governing body.

Dated: ____________________________

“Principal”

______________________________  ______________________________

______________________________  ______________________________

By: ____________________________  By: ____________________________

  Its                           Its

“Surety”

______________________________  ______________________________

______________________________  ______________________________

By: ____________________________  By: ____________________________

  Its                           Its

(Seal)                        (Seal)

Note: This bond must be dated, all signatures must be notarized, and evidence of the authority of any person signing as attorney-in-fact must be attached.
NON-COLLUSION DECLARATION TO BE EXECUTED BY BIDDER AND
SUBMITTED WITH BID
[Public Contract Code § 7106]

The undersigned declares:

I am the __________________________(position) of _______________________________,
the party making the foregoing bid.

The bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation. The bid is genuine and not collusive or sham. The bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham bid. The bidder has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham bid, or to refrain from bidding. 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. All statements contained in the bid are true. 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, to any corporation, partnership, company, association, organization, bid depository, or to any member or agent thereof, to effectuate a collusive or sham bid, and has not paid, and will not pay, any person or entity for such purpose.

Any person executing this declaration on behalf of a bidder that is a corporation, partnership, joint venture, limited liability company, limited liability partnership, or any other entity, hereby represents that he or she has full power to execute, and does execute, this declaration on behalf of the bidder.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration is executed on ___________________ [date], at __________________________ [city], __________________________ [state].

*Signature(s) of bidder:

By: __________________________
Name: __________________________
Title: __________________________
Date: __________________________

*Bidder’s signatures must be notarized.
CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

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 __________, 2020 before me, ________________, personally appeared ________________, proved to me on the basis of satisfactory evidence to be the person(s) whose names(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: _____________________________________

OPTIONAL
Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form

CAPACITY CLAIMED BY SIGNER

☐ INDIVIDUAL

☐ CORPORATE OFFICER

☐ PARTNER(S) ☐ LIMITED

☐ GENERAL

☐ ATTORNEY-IN-FACT

☐ TRUSTEE(S)

☐ GUARDIAN/CONSERVATOR

☐ OTHER _______________________________

DESCRIPTION OF ATTACHED DOCUMENT

TITLE OR TYPE OF DOCUMENT

______________________________

NUMBER OF PAGES

______________________________

DATE OF DOCUMENT

______________________________

SIGNER(S) OTHER THAN NAMED ABOVE

______________________________

(SIGNER IS REPRESENTING:
(NAME OF PERSON(S) OR ENTITY(IES))

______________________________

______________________________

______________________________

______________________________

______________________________

______________________________

______________________________

______________________________

______________________________

______________________________

______________________________

______________________________
Bidders Reference

URBAN GREENING PATHWAYS PROJECT

The following statements as to experience of the bidder are submitted in conjunction with the bid as part thereof and the truthfulness and accuracy of the information is guaranteed by the bidder.

The bidder has been engaged in the contracting business, under the present business name for _____ years. Experience in work of a nature similar to that covered in the bid extends over a period of _____ years.

The bidder, as a contractor, has never failed to satisfactorily complete a contract awarded to bidder except as follows (name any and all exceptions and reasons therefore):

The following contracts have been satisfactorily completed in the last three (3) years for the persons, firms, or authorities indicated, and to whom reference is made (name five (5) contracts):

<table>
<thead>
<tr>
<th>Year</th>
<th>Type of Work</th>
<th>Contract Amount</th>
<th>Location and for Whom Performed</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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</tbody>
</table>

Signature(s) of bidder:

By: _________________________      By: _________________________
Name:__________________________  Name:__________________________
Title: _________________________  Title: _________________________
Date: _________________________  Date: _________________________
**Bidders Reference: Financial**

**URBAN GREENING PATHWAYS PROJECT**

Reference is hereby made to the following bank or banks as to the financial responsibility of the bidder:

<table>
<thead>
<tr>
<th>Name of Bank</th>
<th>Address</th>
</tr>
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<tbody>
<tr>
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</tbody>
</table>

Reference is hereby made to the following surety companies as to the financial responsibility and general reliability of the bidder:

Name of Surety Company ________________________________________________________

Name of Surety Company ________________________________________________________

Signature(s) of bidder:

By: _________________________      By: _________________________

Name: _________________________  Name: _________________________

Title: _________________________  Title: _________________________

Date: _________________________  Date: _________________________
Public Contract Code Section 10285.1 Statement

In conformance with Public Contract Code Section 10285.1 (Chapter 376, Stats. 1985), the bidder hereby declares under penalty of perjury under the laws of the State of California that the bidder has ___ , has not ___ been convicted within the preceding three years of any offenses referred to in that section, including any charge of fraud, bribery, collusion, conspiracy, or any other act in violation of any state or Federal antitrust law in connection with the bidding upon, award of, or performance of, any public works contract, as defined in Public Contract Code Section 1101, with any public entity, as defined in Public Contract Code Section 1100, including the Regents of the University of California or the Trustees of the California State University. The term "bidder" is understood to include any partner, member, officer, director, responsible managing officer, or responsible managing employee thereof, as referred to in Section 10285.1.

Note: The bidder must place a check mark after "has" or "has not" in one of the blank spaces provided. The above Statement is part of the Proposal. Signing this Proposal on the signature portion thereof shall also constitute signature of this Statement. Bidders are cautioned that making a false certification may subject the certifier to criminal prosecution.

Signature(s) of bidder:

By: _________________________      By: _________________________
Name:__________________________  Name:__________________________
Title: __________________________  Title: __________________________
Date: __________________________  Date: __________________________
Public Contract Code Section 10162 Questionnaire

In conformance with Public Contract Code Section 10162, the bidder shall complete, under penalty of perjury, the following questionnaire:

Has the bidder, any officer of the bidder, or any employee of the bidder who has a proprietary interest in the bidder, ever been disqualified, removed, or otherwise prevented from bidding on, or completing a federal, state, or local government project because of a violation of law or a safety regulation?

Yes _____ No _____

If the answer is yes, explain the circumstances in the following space.

______________________________________________________________________________
______________________________________________________________________________
______________________________________________________________________________
______________________________________________________________________________

Note: The bidder must place a check mark after "Yes" or "No" in one of the blank spaces provided. The above Statement is part of the Proposal. Signing this Proposal on the signature portion thereof shall also constitute signature of this Statement. Bidders are cautioned that making a false certification may subject the certifier to criminal prosecution.

Signature(s) of bidder:

By: _________________________      By: _________________________
Name:__________________________  Name:__________________________
Title: __________________________  Title: __________________________
Date: __________________________  Date: __________________________
Public Contract Code Section 10232 Statement

In conformance with Public Contract Code Section 10232, the bidder hereby states under penalty of perjury, that no more than one final unappealable finding of contempt of court by a federal court has been issued against the bidder within the immediately preceding two year period because of the bidder's failure to comply with an order of a federal court which orders the bidder to comply with an order of the National Labor Relations Board.

Note: The above Statement and Questionnaire are part of the Proposal. Signing this Proposal on the signature portion thereof shall also constitute signature of this Statement. Bidders are cautioned that making a false certification may subject the certifier to criminal prosecution.

Signature(s) of bidder:

By: _________________________      By: _________________________
Name:__________________________  Name:__________________________
Title: __________________________  Title: __________________________
Date: __________________________  Date:___________________________
Equal Employment Opportunity Certification

(THE BIDDER'S EXECUTION ON THE SIGNATURE PORTION OF THIS PROPOSAL SHALL ALSO CONSTITUTE AN ENDORSEMENT AND EXECUTION OF THOSE CERTIFICATIONS WHICH ARE A PART OF THIS PROPOSAL)

The bidder ____________________________________________, proposed subcontractor ____________________________, hereby certifies that he/she/it has____, has not___, participated in a previous contract or subcontract subject to the equal opportunity clauses, as required by Executive Orders 10925, 11114, or 11246, and that, where required, he/she/it has filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance, a Federal Government contracting or administering agency, or the former President's Committee on Equal Employment Opportunity, all reports due under the applicable filing requirements.

Note: The above certification is required by the Equal Employment Opportunity Regulations of the Secretary of Labor (41 CFR 60-1.7(b) (1)), and must be submitted by bidders and proposed subcontractors only in connection with contracts and subcontracts, which are subject to the equal opportunity clause. Contracts and subcontracts which are exempt from the equal opportunity clause are set forth in 41 CFR 60-1.5. (Generally only contracts or subcontracts of $10,000 or under are exempt.)

Currently, Standard Form 100 (EEO-1) is the only report required by the Executive Orders or their implementing regulations.

Proposed prime contractors and subcontractors who have participated in a previous contract or subcontract subject to the Executive Orders and have not filed the required reports should note that 41 CFR 60-1.7(b) (1) prevents the award of contracts and subcontracts unless such contractor submits a report covering the delinquent period or such other period specified by the Federal Highway Administration or by the Director, Office of Federal Contract Compliance, U.S. Department of Labor.

Signature(s) of bidder:
By: _________________________      By: _________________________
Name:__________________________  Name:__________________________
Title: __________________________  Title: __________________________
Date: __________________________  Date: __________________________

Signature(s) of subcontractor:
By: _________________________      By: _________________________
Name:__________________________  Name:__________________________
Title: __________________________  Title: __________________________
Date: __________________________  Date: __________________________
Compliance With Immigration Reform And Control Act ("IRCA")

Bidder acknowledges that bidder, and all subcontractors hired by bidder to perform services under the Agreement for Public Works Services, are aware of and understand the Immigration Reform and Control Act ("IRCA"). Bidder is and shall remain in compliance with the IRCA and shall ensure that any subcontractors hired by Bidder to perform services under the Agreement for Public Works Services are in compliance with the IRCA. In addition, bidder agrees to indemnify, defend and hold harmless the City, its agents, officers and employees, from any liability, damages or causes of action arising out of or relating to any claims that bidder’s employees, or the employees of any subcontractor hired by bidder, are not authorized to work in the United States for bidder or its subcontractor and/or any other claims based upon alleged IRCA violations committed by bidder or bidder's subcontractor(s).

Signature(s) of bidder:

By: _________________________  By: _________________________
Name:__________________________  Name:__________________________
Title: __________________________  Title: __________________________
Date: __________________________  Date: __________________________
ACKNOWLEDGMENT OF ADDENDA

Bidder’s Name: ________________________________________

The Bidder shall signify receipt of all Addenda here, if any:

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If there are more Addenda than there is room in the chart above, attach another page acknowledging receipt of the Addenda.

Signature(s) of bidder:

By: _________________________      By: _________________________
Name:__________________________  Name:_____________ _____________
Title: _________________________  Title: _________ _______________
Date: _________________________  Date: ___________ _______________

- 10 -
AGREEMENT FOR PUBLIC WORKS SERVICES
BETWEEN THE CITY OF ARVIN AND

THIS AGREEMENT FOR PUBLIC WORKS SERVICES (herein “Agreement”) is made and entered into this ____ day of ________, 2020 (“Effective Date”) by and between the City of Arvin, a California municipal corporation (“City”) and ______________________________ (“Contractor”). City and Contractor are sometimes hereinafter individually referred to as “Party” and hereinafter collectively referred to as the “Parties.”

RECITALS

A. City has sought, by issuance of a Request for Proposals or Invitation for Bids, the performance of the services defined and described particularly in Article 1 of this Agreement.

B. Contractor, following submission of a proposal or bid for the performance of the services defined and described particularly in Article 1 of this Agreement, was selected by the City to perform those services.

C. Pursuant to the City of Arvin Municipal Code, City has authority to enter into and execute this Agreement.

D. The Parties desire to formalize the selection of Contractor for performance of those services defined and described particularly in Article 1 of this Agreement and desire that the terms of that performance be as particularly defined and described herein.

OPERATIVE PROVISIONS

NOW, THEREFORE, in consideration of the mutual promises and covenants made by the Parties and contained herein and other consideration, the value and adequacy of which are hereby acknowledged, the Parties agree as follows:

ARTICLE 1. WORK OF CONTRACTOR

1.1 Scope of Work.

In compliance with all terms and conditions of this Agreement, the Contractor shall provide those services specified in the “Scope of Work” attached hereto as Exhibit “A” and incorporated herein by this reference, which may be referred to herein as the “services” or “work” hereunder. As a material inducement to the City entering into this Agreement, Contractor represents and warrants that it has the qualifications, experience, and facilities necessary to properly perform the work required under this Agreement in a thorough, competent, and professional manner, and is experienced in performing the work and services contemplated herein. Contractor shall at all times faithfully, competently and to the best of its ability, experience and talent, perform all services described herein. Contractor covenants that it shall follow the highest professional standards in performing the work and services required hereunder and that all materials will be both of good quality as well as fit for the purpose intended. For
purposes of this Agreement, the phrase “highest professional standards” shall mean those standards of practice recognized by one or more first-class firms performing similar work under similar circumstances.

1.2 Bid Documents.

The Scope of Work shall include the “General Provisions”, “Special Provisions”, Engineered Drawings, “General Specifications”, and “Technical Specifications” in the bid documents for the project entitled URBAN GREENING PATHWAYS PROJECT including any documents or exhibits referenced therein. The Engineered Drawings, “General Specifications”, and “Technical Specifications” shall be incorporated herein by this reference as though fully set forth herein. In the event of any inconsistency between the terms of such documents and this Agreement, the terms of this Agreement shall govern.

1.3 Compliance with Law.

Contractor shall keep itself informed concerning, and shall render all services hereunder in accordance with, all ordinances, resolutions, statutes, rules, and regulations of the City and any Federal, State or local governmental entity having jurisdiction in effect at the time service is rendered.

1.4 Compliance with California Labor Law.

(a) Public Work. The Parties acknowledge that the work to be performed under this Agreement is a “public work” as defined in Labor Code Section 1720 and that this Agreement is therefore subject to the requirements of Division 2, Part 7, Chapter 1 (commencing with Section 1720) of the California Labor Code relating to public works contracts and the rules and regulations established by the Department of Industrial Relations (“DIR”) implementing such statutes. The work performed under this Agreement is subject to compliance monitoring and enforcement by the DIR. Contractor shall post job site notices, as prescribed by regulation.

(b) Prevailing Wages. Contractor shall pay prevailing wages to the extent required by Labor Code Section 1771. Pursuant to Labor Code Section 1773.2, copies of the prevailing rate of per diem wages are on file at City Hall and will be made available to any interested party on request. By initiating any work under this Agreement, Contractor acknowledges receipt of a copy of the Department of Industrial Relations (DIR) determination of the prevailing rate of per diem wages, and Contractor shall post a copy of the same at each job site where work is performed under this Agreement.

(c) Penalty for Failure to Pay Prevailing Wages. Contractor shall comply with and be bound by the provisions of Labor Code Sections 1774 and 1775 concerning the payment of prevailing rates of wages to workers and the penalties for failure to pay prevailing wages. The Contractor shall, as a penalty to the City, forfeit two hundred dollars ($200) for each calendar day, or portion thereof, for each worker paid less than the prevailing rates as determined by the DIR for the work or craft in which the worker is employed for any public work done pursuant to this Agreement by Contractor or by any subcontractor.
(d) **Payroll Records.** Contractor shall comply with and be bound by the provisions of Labor Code Section 1776, which requires Contractor and each subcontractor to: keep accurate payroll records and verify such records in writing under penalty of perjury, as specified in Section 1776; certify and make such payroll records available for inspection as provided by Section 1776; and inform the City of the location of the records.

(e) **Apprentices.** Contractor shall comply with and be bound by the provisions of Labor Code Sections 1777.5, 1777.6, and 1777.7 and California Code of Regulations Title 8, Section 200 et seq. concerning the employment of apprentices on public works projects. Contractor shall be responsible for compliance with these aforementioned Sections for all apprenticeable occupations. Prior to commencing work under this Agreement, Contractor shall provide City with a copy of the information submitted to any applicable apprenticeship program. Within sixty (60) days after concluding work pursuant to this Agreement, Contractor and each of its subcontractors shall submit to the City a verified statement of the journeyman and apprentice hours performed under this Agreement.

(f) **Eight-Hour Work Day.** Contractor acknowledges that eight (8) hours labor constitutes a legal day's work. Contractor shall comply with and be bound by Labor Code Section 1810.

(g) **Penalties for Excess Hours.** Contractor shall comply with and be bound by the provisions of Labor Code Section 1813 concerning penalties for workers who work excess hours. The Contractor shall, as a penalty to the City, forfeit twenty-five dollars ($25) for each worker employed in the performance of this Agreement by the Contractor or by any subcontractor for each calendar day during which such worker is required or permitted to work more than eight (8) hours in any one calendar day and forty (40) hours in any one calendar week in violation of the provisions of Division 2, Part 7, Chapter 1, Article 3 of the Labor Code. Pursuant to Labor Code section 1815, work performed by employees of Contractor in excess of eight (8) hours per day, and forty (40) hours during any one week shall be permitted upon public work upon compensation for all hours worked in excess of 8 hours per day at not less than one and one-half (1½) times the basic rate of pay.

(h) **Workers' Compensation.** California Labor Code Sections 1860 and 3700 provide that every employer will be required to secure the payment of compensation to its employees if it has employees. In accordance with the provisions of California Labor Code Section 1861, Contractor certifies as follows:

“"I am aware of the provisions of Section 3700 of the Labor Code which require 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 of this contract."

Contractor’s Authorized Initials

(i) **Contractor’s Responsibility for Subcontractors.** For every subcontractor who will perform work under this Agreement, Contractor shall be responsible for
such subcontractor's compliance with Division 2, Part 7, Chapter 1 (commencing with Section 1720) of the California Labor Code, and shall make such compliance a requirement in any contract with any subcontractor for work under this Agreement. Contractor shall be required to take all actions necessary to enforce such contractual provisions and ensure subcontractor's compliance, including without limitation, conducting a review of the certified payroll records of the subcontractor on a periodic basis or upon becoming aware of the failure of the subcontractor to pay the subcontractor’s workers the specified prevailing rate of wages. Consultant shall diligently take corrective action to halt or rectify any such failure by any subcontractor.

1.5 Licenses, Permits, Fees and Assessments.

Contractor shall obtain at its sole cost and expense such licenses, permits, registrations, and approvals as may be required by law for the performance of the services required by this Agreement. Contractor shall have the sole obligation to pay for any fees, assessments and taxes, plus applicable penalties and interest, which may be imposed by law and arise from or are necessary for the Contractor’s performance of the services required by this Agreement, and shall indemnify, defend and hold harmless City, its officials, officers, employees or agents of City, against any such fees, assessments, taxes, penalties or interest levied, assessed or imposed against City hereunder.

1.6 Familiarity with Work.

(a) By executing this Agreement, Contractor warrants that Contractor (i) has thoroughly investigated and considered the scope of work to be performed, (ii) has carefully considered how the services should be performed, and (iii) fully understands the facilities, difficulties and restrictions attending performance of the services under this Agreement. If the services involve work upon any site, Contractor warrants that Contractor has or will investigate the site and is or will be fully acquainted with the conditions there existing, prior to commencement of services hereunder.

(b) Contractor shall promptly, and before the following conditions are disturbed, notify the City, in writing, of any: (i) material Contractor believes may be hazardous waste as defined in Section 25117 of the Health & Safety Code required to be removed to a Class I, II, or III disposal site in accordance with existing law; (ii) subsurface, unknown or latent conditions, materially different from those indicated; or (iii) unknown physical conditions at the site of any unusual nature, different from those ordinarily encountered and generally recognized as inherent in work of the character provided for in this Agreement, and will materially affect the performance of the services hereunder.

(c) City shall promptly investigate the conditions, and if it finds that the conditions do materially differ, or do involve hazardous waste, and cause a decrease or increase in Contractor's cost of, or the time required for, performance of any part of the work, shall issue a change order per Section 1.10 of this Agreement.

(d) In the event that a dispute arises between City and Contractor whether the conditions materially differ, or involve hazardous waste, or cause a decrease or increase in Contractor's cost of, or time required for, performance of any part of the work,
1.7 Protection and Care of Work and Materials.

The Contractor shall adopt reasonable methods, including providing and maintaining storage facilities, during the life of the Agreement to furnish continuous protection to the work, and the equipment, materials, papers, documents, plans, studies and/or other components thereof to prevent losses or damages, and shall be responsible for all such damages, to persons or property, until acceptance of the work by City, except such losses or damages as caused by City’s own negligence. Stored materials shall be reasonably accessible for inspection. Contractor shall not, without City’s consent, assign, sell, mortgage, hypothecate, or remove equipment or materials which have been installed or delivered and which may be necessary for the completion of the work.

1.8 Warranty.

Contractor warrants all work under the Agreement (which for purposes of this Section shall be deemed to include unauthorized work which has not been removed and any non-conforming materials incorporated into the work) to be of good quality and free from any defective or faulty material and workmanship. Contractor agrees that for a period of one year (or the period of time specified elsewhere in the Agreement or in any guarantee or warranty provided by any manufacturer or supplier of equipment or materials incorporated into the work, whichever is later) after the date of final acceptance, Contractor shall within ten (10) days after being notified in writing by the City of any defect in the work or non-conformance of the work to the Agreement, commence and prosecute with due diligence all work necessary to fulfill the terms of the warranty at its sole cost and expense. Contractor shall act as soon as requested by the City in response to an emergency. In addition, Contractor shall, at its sole cost and expense, repair, remove and replace any portions of the work (or work of other contractors) damaged by its defective work or which becomes damaged in the course of repairing or replacing defective work. For any work so corrected, Contractor's obligation hereunder to correct defective work shall be reinstated for an additional one year period, commencing with the date of acceptance of such corrected work. Contractor shall perform such tests as the City may require to verify that any corrective actions, including, without limitation, redesign, repairs, and replacements comply with the requirements of the Agreement. All costs associated with such corrective actions and testing, including the removal, replacement, and reinstitution of equipment and materials necessary to gain access, shall be the sole responsibility of the Contractor. All warranties and guarantees of subcontractors, suppliers and manufacturers with respect to any portion of the work, whether express or implied, are deemed to be obtained by Contractor for the benefit of the City, regardless of whether or not such warranties and guarantees have been transferred or assigned to the City by separate agreement and Contractor agrees to enforce such warranties and guarantees, if necessary, on behalf of the City. In the event that Contractor fails to perform its obligations under this Section, or under any other warranty or guaranty under this Agreement, to the reasonable satisfaction of the City, the City shall have the right to correct and replace any defective or non-conforming work and any work damaged by such work or the replacement or
correction thereof at Contractor's sole expense. Contractor shall be obligated to fully reimburse the City for any expenses incurred hereunder upon demand.

1.9 Further Responsibilities of Parties.

Both parties agree to use reasonable care and diligence to perform their respective obligations under this Agreement. Both parties agree to act in good faith to execute all instruments, prepare all documents and take all actions as may be reasonably necessary to carry out the purposes of this Agreement. Unless hereafter specified, neither party shall be responsible for the service of the other.

1.10 Additional Work and Change Orders.

(a) City shall have the right at any time during the performance of the services, without invalidating this Agreement, to order extra work beyond that specified in the Scope of Work or make changes by altering, adding to or deducting from said work. No such extra work may be undertaken unless a written change order is first given by the Contract Officer to the Contractor, incorporating therein any adjustment in (i) the Contract Sum, and/or (ii) the time to perform this Agreement, which said adjustments are subject to the written approval of the Contractor (“Change Order”). All Change Orders must be signed by the Contractor and Contract Officer prior to commencing the extra work thereunder.

(b) Any increase in compensation of up to ten percent (10%) of the Contract Sum; or any increase in the time to perform of up to one hundred eighty (180) days; and does not materially affect the Work and which are not detrimental to the Work or to the interest of the City, may be approved by the Contract Officer. Any greater increases, taken either separately or cumulatively, must be approved by the City Council.

(c) Any adjustment in the Contract Sum for a Change Order must be in accordance with the rates set forth in the Schedule of Compensation in Exhibit “C”. If the rates in the Schedule of Compensation do not cover the type of work in the Change Order, the cost of such work shall not exceed an amount agreed upon in writing and signed by Contractor and Contract Officer. If the cost of the Change Order cannot be agreed upon, the City will pay for actual work of the Change Order completed, to the satisfaction of the City, as follows:

(i) Labor: the cost of labor shall be the actual cost for wages of workers and subcontractors performing the work for the Change Order at the time such work is done. The use of labor classifications that would increase the cost of such work shall not be permitted.

(ii) Materials and Equipment: the cost of materials and equipment shall be at cost to Contractor or lowest current price which such materials and equipment are reasonably available at the time the work is done, whichever is lower.

(iii) If the cost of the extra work cannot be agreed upon, the Contractor must provide a daily report that includes invoices for labor, materials and equipment costs for the work under the Change Order. The daily report must include: list of names of workers, classifications, and hours worked; description and list of quantities of materials used;
type of equipment, size, identification number, and hours of operation, including loading and transportation, if applicable; description of other City authorized services and expenditures in such detail as the City may require. Failure to submit a daily report by the close of the next working day may, at the City’s sole and absolute discretion, waive the Contractor’s rights for that day.

(d) It is expressly understood by Contractor that the provisions of this Section 1.10 shall not apply to services specifically set forth in the Scope of Work. Contractor hereby acknowledges that it accepts the risk that the services to be provided pursuant to the Scope of Work may be more costly or time consuming than Contractor anticipates and that Contractor shall not be entitled to additional compensation therefor. City may in its sole and absolute discretion have similar work done by other contractors.

(e) No claim for an increase in the Contract Sum or time for performance shall be valid unless the procedures established in this Section are followed.

1.11 Special Requirements.

Additional terms and conditions of this Agreement, if any, which are made a part hereof are set forth in the “Special Requirements” attached hereto as Exhibit “B” and incorporated herein by this reference. In the event of a conflict between the provisions of Exhibit “B” and any other provisions of this Agreement, the provisions of Exhibit “B” shall govern.

1.12 Trenching and Excavation.

In accordance with Public Contract Code Section 7104, whenever the digging of trenches or other excavations extend deeper than four feet below the surface, the Contractor shall promptly, and before the following conditions are disturbed, notify the City in writing of any: 1) Material that the Contractor believed may be material that is hazardous waste, as defined in Health and Safety Code Section 25117, that is required to be removed to a Class I, Class II, or Class III disposal site in accordance with provisions of existing law: 2) Subsurface or latent physical conditions at the site differing from those indicated; or 3) Unknown physical conditions at the site of any unusual nature, different materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the contract. The City shall promptly investigate the conditions, and if it finds that the conditions do materially so differ, or do involve hazardous waste and cause a decrease or increase in the Contractor’s cost of, or the time required for, performance of any part of the work, the City shall issue a change order under the procedures described in the Contract. In the unlikely event that a dispute arises between the City and the Contractor regarding whether the conditions materially differ, or involve hazardous waste, or cause a decrease or increase in the Contractor’s cost of, or time required for, performance of any part of the work, the Contractor shall not be excused from any scheduled completion date provided for by the Contract, but shall proceed with all work to be performed under the Contract. The Contractor shall retain any and all rights provided either by contract or by law which pertain to the resolution of disputes and protests between the contracting parties. Where applicable, Contractor shall comply with the trench or excavation
permit requirement found in Labor Code Section 6500 and the excavation safety requirements found in Labor Code Section 6705.

ARTICLE 2. COMPENSATION AND METHOD OF PAYMENT.

2.1 Contract Sum.

Subject to any limitations set forth in this Agreement, City agrees to pay Contractor the amounts specified in the “Schedule of Compensation” attached hereto as Exhibit “C” and incorporated herein by this reference. The total compensation, including reimbursement for actual expenses, shall not exceed $____________ (the “Contract Sum”), unless additional compensation is approved pursuant to Section 1.10.

2.2 Method of Compensation.

The method of compensation may include: (i) a lump sum payment upon completion, (ii) payment in accordance with specified tasks or the percentage of completion of the services less the contract retention;, (iii) payment for time and materials based upon the Contractor’s rates as specified in the Schedule of Compensation, provided that (a) time estimates are provided for the performance of sub tasks, (b) contract retention is maintained and (c) the Contract Sum is not exceeded; or (iv) such other methods as may be specified in the Schedule of Compensation.

2.3 Reimbursable Expenses.

Compensation may include reimbursement for actual and necessary expenditures for reproduction costs, telephone expenses, and travel expenses approved by the Contract Officer in advance, or actual subcontractor expenses of an approved subcontractor pursuant to Section 4.5, and only if specified in the Schedule of Compensation. The Contract Sum shall include the attendance of Contractor at all project meetings reasonably deemed necessary by the City. Coordination of the performance of the work with City is a critical component of the services. If Contractor is required to attend additional meetings to facilitate such coordination, Contractor shall not be entitled to any additional compensation for attending said meetings.

2.4 Invoices.

Each month Contractor shall furnish to City an original invoice for all work performed and expenses incurred during the preceding month in a form approved by City’s Director of Finance. By submitting an invoice for payment under this Agreement, Contractor is certifying compliance with all provisions of the Agreement. The invoice shall detail charges for all necessary and actual expenses by the following categories: labor (by sub-category), travel, materials, equipment, supplies, and sub-contractor contracts. Sub-contractor charges shall also be detailed by such categories. Contractor shall not invoice City for any duplicate services performed by more than one person.

City shall, as soon as practicable, independently review each invoice submitted by the Contractor to determine whether the work performed and expenses incurred are in
compliance with the provisions of this Agreement. Except as to any charges for work performed or expenses incurred by Contractor which are disputed by City, or as provided in Section 7.3, City will cause Contractor to be paid, subject to the Schedule of Compensation (Exhibit “C”), within thirty (30) days of receipt of Contractor’s correct and undisputed invoice; however, Contractor acknowledges and agrees that due to City warrant run procedures, the City cannot guarantee that payment will occur within this time period. In the event that City does not cause Contractor to be paid within thirty (30) days of receipt of an undisputed and properly submitted invoice, Contractor shall be entitled to the payment of interest to the extent allowed under Public Contract Code Section 20104.50. In the event any charges or expenses are disputed by City, the original invoice shall be returned by City to Contractor, not later than seven (7) days after receipt by the City, for correction and resubmission. Returned invoices shall be accompanied by a document setting forth in writing the reasons why the payment request was rejected. Review and payment by the City of any invoice provided by the Contractor shall not constitute a waiver of any rights or remedies provided herein or any applicable law. Notwithstanding, if the work is being funded by grant or other funding administered by a third party outside the control of the City, such as the County of Kern, Contractor acknowledges and agrees this may increase processing time for payment, and no payment of interest shall accrue if the City has used reasonable efforts to cause the Contractor to be paid within thirty (30) days.

2.5 Waiver.

Payment to Contractor for work performed pursuant to this Agreement shall not be deemed to waive any defects in work performed by Contractor.

ARTICLE 3. PERFORMANCE SCHEDULE

3.1 Time of Essence.

Time is of the essence in the performance of this Agreement.

3.2 Schedule of Performance.

Contractor shall commence the services pursuant to this Agreement upon receipt of a written notice to proceed and shall perform all services within the time period(s) established in the “Schedule of Performance” attached hereto as Exhibit “D” and incorporated herein by this reference. When requested by the Contractor, extensions to the time period(s) specified in the Schedule of Performance may be approved in writing by the Contract Officer but not exceeding one hundred eighty (180) days cumulatively.

3.3 Force Majeure.

The time period(s) specified in the Schedule of Performance for performance of the services rendered pursuant to this Agreement shall be extended because of any delays due to unforeseeable causes beyond the control and without the fault or negligence of the Contractor, including, but not restricted to, acts of God or of the public enemy, unusually severe weather, fires, earthquakes, floods, epidemics, quarantine restrictions, riots, strikes, freight embargoes, wars, litigation, and/or acts of any governmental agency, including the City, if the Contractor shall within ten (10) days of the commencement of such delay notify the Contract Officer in
writing of the causes of the delay. The Contract Officer shall ascertain the facts and the extent of delay, and extend the time for performing the services for the period of the enforced delay when and if in the judgment of the Contract Officer such delay is justified. The Contract Officer’s determination shall be final and conclusive upon the parties to this Agreement. In no event shall Contractor be entitled to recover damages against the City for any delay in the performance of this Agreement, however caused, Contractor’s sole remedy being extension of the Agreement pursuant to this Section.

3.4 Inspection and Final Acceptance.

City may inspect and accept or reject any of Contractor’s work under this Agreement, either during performance or when completed. City shall reject or finally accept Contractor’s work within forty-five (45) days after submitted to City. City shall accept work by a timely written acceptance, otherwise work shall be deemed to have been rejected. City’s acceptance shall be conclusive as to such work except with respect to latent defects, fraud and such gross mistakes as to amount to fraud. Acceptance of any work by City shall not constitute a waiver of any of the provisions of this Agreement including, but not limited to, Articles 1 and 5, pertaining to warranty and indemnification and insurance, respectively.

3.5 Term.

Unless earlier terminated in accordance with Article 7 of this Agreement, this Agreement shall continue in full force and effect until completion of the services but not exceeding one (1) years from the date hereof, except as otherwise provided in the Schedule of Performance (Exhibit “D”).

ARTICLE 4. COORDINATION OF WORK

4.1 Representatives and Personnel of Contractor.

The following principals of Contractor (“Principals”) are hereby designated as being the principals and representatives of Contractor authorized to act in its behalf with respect to the work specified herein and make all decisions in connection therewith:

________________________ ________________________
(Name) (Title)

________________________ ________________________
(Name) (Title)

________________________ ________________________
(Name) (Title)

It is expressly understood that the experience, knowledge, capability and reputation of the foregoing Principals were a substantial inducement for City to enter into this Agreement. Therefore, the Principals shall be responsible during the term of this Agreement for directing all activities of Contractor and devoting sufficient time to personally supervise the
services hereunder. All personnel of Contractor, and any authorized agents, shall at all times be under the exclusive direction and control of the Principals. For purposes of this Agreement, the Principals may not be replaced nor may their responsibilities be substantially reduced by Contractor without the express written approval of City. Additionally, Contractor shall make every reasonable effort to maintain the stability and continuity of Contractor’s staff and subcontractors, if any, assigned to perform the services required under this Agreement. Contractor shall notify City of any changes in Contractor’s staff and subcontractors, if any, assigned to perform the services required under this Agreement, prior to and during any such performance.

4.2 Status of Contractor.

Contractor shall have no authority to bind City in any manner, or to incur any obligation, debt or liability of any kind on behalf of or against City, whether by contract or otherwise, unless such authority is expressly conferred under this Agreement or is otherwise expressly conferred in writing by City. Contractor shall not at any time or in any manner represent that Contractor or any of Contractor’s officers, employees, or agents are in any manner officials, officers, employees or agents of City. Neither Contractor, nor any of Contractor’s officers, employees or agents, shall obtain any rights to retirement, health care or any other benefits which may otherwise accrue to City’s employees. Contractor expressly waives any claim Contractor may have to any such rights.

4.3 Contract Officer.

The Contract Officer shall be the City Manager or such person as may be designated by the City Manager. It shall be the Contractor’s responsibility to assure that the Contract Officer is kept informed of the progress of the performance of the services and the Contractor shall refer any decisions which must be made by City to the Contract Officer. Unless otherwise specified herein, any approval of City required hereunder shall mean the approval of the Contract Officer. The Contract Officer shall have authority, if specified in writing by the City Manager, to sign all documents on behalf of the City required hereunder to carry out the terms of this Agreement.

4.4 Independent Contractor.

Neither the City nor any of its employees shall have any control over the manner, mode or means by which Contractor, its agents or employees, perform the services required herein, except as otherwise set forth herein. City shall have no voice in the selection, discharge, supervision or control of Contractor’s employees, servants, representatives or agents, or in fixing their number, compensation or hours of service. Contractor shall perform all services required herein as an independent contractor of City and shall remain at all times as to City a wholly independent contractor with only such obligations as are consistent with that role. Contractor shall not at any time or in any manner represent that it or any of its agents or employees are agents or employees of City. City shall not in any way or for any purpose become or be deemed to be a partner of Contractor in its business or otherwise or a joint venturer or a member of any joint enterprise with Contractor.
4.5 Prohibition Against Subcontracting or Assignment.

The experience, knowledge, capability and reputation of Contractor, its principals and employees were a substantial inducement for the City to enter into this Agreement. Therefore, Contractor shall not contract with any other entity to perform in whole or in part the services required hereunder without the express written approval of the City. All subcontractors shall obtain, at its or Contractor’s expense, such licenses, permits, registrations and approvals (including from the City) as may be required by law for the performance of any services or work under this Agreement. In addition, neither this Agreement nor any interest herein may be transferred, assigned, conveyed, hypothecated or encumbered voluntarily or by operation of law, whether for the benefit of creditors or otherwise, without the prior written approval of City. Transfers restricted hereunder shall include the transfer to any person or group of persons acting in concert of more than twenty five percent (25%) of the present ownership and/or control of Contractor, taking all transfers into account on a cumulative basis. In the event of any such unapproved transfer, including any bankruptcy proceeding, this Agreement shall be void. No approved transfer shall release the Contractor or any surety of Contractor of any liability hereunder without the express consent of City.

ARTICLE 5. INSURANCE, INDEMNIFICATION AND BONDS

5.1 Insurance Coverages.

The Contractor shall procure and maintain, at its sole cost and expense, in a form and content satisfactory to City, during the entire term of this Agreement including any extension thereof, the following policies of insurance which shall cover all elected and appointed officers, employees and agents of City:

(a) Commercial General Liability Insurance (Occurrence Form CG0001 or equivalent). A policy of comprehensive general liability insurance written on a per occurrence basis for bodily injury, personal injury and property damage. The policy of insurance shall be in an amount not less than $1,000,000.00 per occurrence or if a general aggregate limit is used, then the general aggregate limit shall be twice the occurrence limit.

(b) Workers Compensation Insurance. A policy of workers compensation insurance in such amount as will fully comply with the laws of the State of California and which shall indemnify, insure and provide legal defense for the Contractor against any loss, claim or damage arising from any injuries or occupational diseases occurring to any worker employed by or any persons retained by the Contractor in the course of carrying out the work or services contemplated in this Agreement.

(c) Automotive Insurance (Form CA 0001 (Ed 1/87) including “any auto” and endorsement CA 0025 or equivalent). A policy of comprehensive automobile liability insurance written on a per occurrence for bodily injury and property damage in an amount not less than $1,000,000.00. Said policy shall include coverage for owned, non-owned, leased, hired cars and any automobile.

(d) Professional Liability. Professional liability insurance appropriate to the Contractor’s profession. This coverage may be written on a “claims made” basis, and
must include coverage for contractual liability. The professional liability insurance required by
this Agreement must be endorsed to be applicable to claims based upon, arising out of or related
to services performed under this Agreement. The insurance must be maintained for at least 5
consecutive years following the completion of Contractor’s services or the termination of this
Agreement. During this additional 5-year period, Contractor shall annually and upon request of
the City submit written evidence of this continuous coverage.

(e) Additional Insurance. Policies of such other insurance, as may be
required in the Special Requirements in Exhibit “B”.

(f) Subcontractors. Contractor shall include all subcontractors as
insureds under its policies or shall furnish separate certificates and certified endorsements for
each subcontractor. All coverages for subcontractors shall be subject to all of the requirements
stated herein. For Commercial General Liability (CGL) coverage, subcontractors shall provide
coverage with a format at least as broad as CG 20 38 04 13.

5.2 General Insurance Requirements.

All of the above policies of insurance shall be primary insurance and shall name
the City, its elected and appointed officers, employees and agents as additional insureds and any
insurance maintained by City or its officers, employees or agents may apply in excess of, and not
contribute with Contractor’s insurance. The insurer is deemed hereof to waive all rights of
subrogation and contribution it may have against the City, its officials, officers, employees and
agents and their respective insurers. Moreover, the insurance policy must specify that where the
primary insured does not satisfy the self-insured retention, any additional insured may satisfy the
self-insured retention.

All of said policies of insurance shall provide that said insurance may not be
amended or cancelled by the insurer or any party hereto without providing at least ten (10) days
prior written notice to City, or at least ten (10) days prior written notice to City in the case of
cancellation for nonpayment. In the event any of said policies of insurance are cancelled, the
Contractor shall, prior to the cancellation date, submit new evidence of insurance in conformance
with Section 5.1 to the Contract Officer.

No work or services under this Agreement shall commence until the Contractor
has provided the City with Certificates of Insurance, additional insured endorsement forms or
appropriate insurance binders evidencing the above insurance coverages and said Certificates of
Insurance or binders are approved by the City. City reserves the right to inspect complete,
certified copies of and endorsements to all required insurance policies at any time. Any failure
to comply with the reporting or other provisions of the policies including breaches or warranties
shall not affect coverage provided to City.

All certificates shall name the City as additional insured (providing the
appropriate endorsement) and shall conform to the following “cancellation” notice:
“CANCELLATION:

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATED THEREOF, AT LEAST TEN (10) DAYS ADVANCED WRITTEN NOTICE OF CANCELLATION SHALL BE DELIVERED TO CITY AT (EXCEPT CANCELLATION DUE TO NONPAYMENT SHALL REQUIRE TEN (10) DAYS ADVANCED WRITTEN NOTICE).”

Contractor’s Authorized Initials _______

City, its respective elected and appointed officers, directors, officials, employees, agents and volunteers are to be covered as additional insureds as respects: liability arising out of activities Contractor performs; products and completed operations of Contractor; premises owned, occupied or used by Contractor; or any automobiles owned, leased, hired or borrowed by Contractor. The coverage shall contain no special limitations on the scope of protection afforded to City, and their respective elected and appointed officers, officials, employees or volunteers. Contractor’s insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

Any deductibles or self-insured retentions must be declared to and approved by City. At the option of City, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects City or its respective elected or appointed officers, officials, employees and volunteers or the Contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration, defense expenses and claims. The Contractor agrees that the requirement to provide insurance shall not be construed as limiting in any way the extent to which the Contractor may be held responsible for the payment of damages to any persons or property resulting from the Contractor’s activities or the activities of any person or persons for which the Contractor is otherwise responsible nor shall it limit the Contractor’s indemnification liabilities as provided in Section 5.3.

In the event the Contractor subcontracts any portion of the work in compliance with Section 4.5 of this Agreement, the contract between the Contractor and such subcontractor shall require the subcontractor to maintain the same policies of insurance that the Contractor is required to maintain pursuant to Section 5.1, and such certificates and endorsements shall be provided to City.

In the event of a conflict, the terms of Section 5.1 and 5.2 shall have precedence and prevail over any form of Certificate of Insurance, or any Insurance Endorsement, included in the Contract Documents.

5.3 Indemnification.

To the full extent permitted by law, Contractor agrees to indemnify, defend and hold harmless the City, its officers, employees, volunteers and agents (“Indemnified Parties”) against, and will hold and save them and each of them harmless from, any and all actions, either judicial, administrative, arbitration or regulatory claims, damages to persons or property, losses, costs, penalties, obligations, errors, omissions or liabilities whether actual or threatened (herein
“claims or liabilities”) that may be asserted or claimed by any person, firm or entity arising out of or in connection with the negligent performance of the work, operations or activities provided herein of Contractor, its officers, employees, agents, subcontractors, or invitees, or any individual or entity for which Contractor is legally liable (“indemnitors”), or arising from Contractor’s or indemnitors’ reckless or willful misconduct, or arising from Contractor’s or indemnitors’ negligent performance of or failure to perform any term, provision, covenant or condition of this Agreement, and in connection therewith:

(a) Contractor will defend any action or actions filed in connection with any of said claims or liabilities and will pay all costs and expenses, including legal costs and attorneys’ fees incurred in connection therewith;

(b) Contractor will promptly pay any judgment rendered against the Indemnified Parties for any such claims or liabilities arising out of or in connection with the negligent performance of or failure to perform such work, operations or activities of Contractor hereunder; and Contractor agrees to save and hold the Indemnified Parties harmless therefrom;

(c) In the event any Indemnified Party is made a party to any action or proceeding filed or prosecuted against Contractor for such damages or other claims arising out of or in connection with the negligent performance of or failure to perform the work, operation or activities of Contractor hereunder, Contractor agrees to pay to the Indemnified Party any and all costs and expenses incurred by the Indemnified Party in such action or proceeding, including but not limited to, legal costs and attorneys’ fees.

In addition, Contractor agrees to indemnify, defend and hold harmless the Indemnified Parties from any and all claims and liabilities for any infringement of patent rights, copyrights or trademark on any person or persons in consequence of the use by the Indemnified Parties of articles to be supplied by Contractor under this Agreement, and of which the Contractor is not the patentee or assignee or has not the lawful right to sell the same.

Contractor shall incorporate similar indemnity agreements with its subcontractors and if it fails to do so Contractor shall be fully responsible to indemnify City hereunder therefore, and failure of City to monitor compliance with these provisions shall not be a waiver hereof. This indemnification includes claims or liabilities arising from any negligent or wrongful act, error or omission, or reckless or willful misconduct of Contractor in the performance of professional services and work hereunder. The provisions of this Section do not apply to claims or liabilities occurring as a result of City’s sole negligence or willful acts or omissions, but, to the fullest extent permitted by law, shall apply to claims and liabilities resulting in part from City’s negligence, except that design professionals’ indemnity hereunder shall be limited to claims and liabilities arising out of the negligence, recklessness or willful misconduct of the design professional. The indemnity obligation shall be binding on successors and assigns of Contractor and shall survive termination of this Agreement.
5.4 Notification of Third-Party Claims.

City shall timely notify Contractor of the receipt of any third-party claim relating to the work under this Agreement. City shall be entitled to recover from Contractor its reasonable costs incurred in providing such notification.

5.5 Performance and Labor Bonds.

Concurrently with execution of this Agreement Contractor shall deliver to the City, the following:

(a) A performance bond in the amount of the Contract Sum of this Agreement, in the form provided in the bid packet, which secures the faithful performance of this Agreement.

(b) A labor and materials bond in the amount of the Contract Sum of this Agreement, in the form provided in the bid packet, which secures the payment of all persons furnishing labor and/or materials in connection with the work under this Agreement.

Both the performance and labor bonds required under this Section 5.5 shall contain the original notarized signature of an authorized officer of the surety and affixed thereto shall be a certified and current copy of his power of attorney. The bond shall be unconditional and remain in force during the entire term of the Agreement and shall be null and void only if the Contractor promptly and faithfully performs all terms and conditions of this Agreement, pays all labor and materials for work and services under this Agreement, and meets the requirements of Section 5.8.

5.6 Sufficiency of Insurer or Surety.

Insurance and bonds required by this Agreement shall be satisfactory only if issued by companies qualified to do business in California, rated “A” or better in the most recent edition of Best’s Rating Guide, The Key Rating Guide or in the Federal Register, and only if they are of a financial category Class VII or better, unless such requirements are waived by the City Manager or Finance Director of the City (“Risk Manager”) due to unique circumstances. If this Agreement continues for more than 3 years duration, or in the event the Risk Manager determines that the work or services to be performed under this Agreement creates an increased or decreased risk of loss to the City, the Contractor agrees that the minimum limits of the insurance policies and the performance bond required by Section 5.5 may be changed accordingly upon receipt of written notice from the Risk Manager.

5.7 Substitution of Securities.

Pursuant to Public Contract Code Section 22300, substitution of eligible equivalent securities for any funds withheld to ensure performance under this Agreement may be permitted at the request and sole expense of the Contractor unless otherwise required by Section 22300. Alternatively, the Contractor may, pursuant to an escrow agreement in a form prescribed by Public Contract Code Section 22300, request payment of retentions funds earned directly to the escrow agent at the sole expense of the Contractor unless otherwise required by Section
22300. The escrow agreement for security deposits in lieu of retention shall be substantially similar to the form provided in Public Contract Code Section 22300(f), which is incorporated herein by this reference.

5.8 Release of Securities.

City shall release the Performance and Labor Bonds when the following have occurred:

(a) Contractor has made a written request for release and provided evidence of satisfaction of all other requirements under Article 5 of this Agreement;

(b) the work has been accepted; and

(c) after passage of the time within which lien claims are required to be made pursuant to applicable laws; if lien claims have been timely filed, City shall hold the Labor Bond until such claims have been resolved, Contractor has provided statutory bond, or otherwise as required by applicable law.

ARTICLE 6. RECORDS, REPORTS, AND RELEASE OF INFORMATION

6.1 Records.

Contractor shall keep, and require subcontractors to keep, such ledgers, books of accounts, invoices, vouchers, canceled checks, reports, studies, certified and accurate copies of payroll records in compliance with all applicable laws, or other documents relating to the disbursements charged to City and services performed hereunder (the “books and records”), as shall be necessary to perform the services required by this Agreement and enable the Contract Officer to evaluate the performance of such services. Any and all such documents shall be maintained in accordance with generally accepted accounting principles and shall be complete and detailed. The Contract Officer shall have full and free access to such books and records at all times during normal business hours of City, including the right to inspect, copy, audit and make records and transcripts from such records. Such records shall be maintained for a period of 3 years following completion of the services hereunder, and the City shall have access to such records in the event any audit is required. In the event of dissolution of Contractor’s business, custody of the books and records may be given to City, and access shall be provided by Contractor’s successor in interest. Notwithstanding the above, the Contractor shall fully cooperate with the City in providing access to the books and records if a public records request is made and disclosure is required by law including but not limited to the California Public Records Act.

6.2 Reports.

Contractor shall periodically prepare and submit to the Contract Officer such reports concerning the performance of the services required by this Agreement as the Contract Officer shall require. Contractor hereby acknowledges that the City is greatly concerned about the cost of work and services to be performed pursuant to this Agreement. For this reason, Contractor agrees that if Contractor becomes aware of any facts, circumstances, techniques, or events that may or will materially increase or decrease the cost of the work or services
contemplated herein or, if Contractor is providing design services, the cost of the project being
designed, Contractor shall promptly notify the Contract Officer of said fact, circumstance,
technique or event and the estimated increased or decreased cost related thereto and, if
Contractor is providing design services, the estimated increased or decreased cost estimate for
the project being designed.

6.3 Ownership of Documents.

All drawings, specifications, maps, designs, photographs, studies, surveys, data,
notes, computer files, reports, records, documents and other materials (the “documents and
materials”) prepared by Contractor, its employees, subcontractors and agents in the performance
of this Agreement shall be the property of City and shall be delivered to City upon request of the
Contract Officer or upon the termination of this Agreement, and Contractor shall have no claim
for further employment or additional compensation as a result of the exercise by City of its full
rights of ownership use, reuse, or assignment of the documents and materials hereunder. Any
use, reuse or assignment of such completed documents for other projects and/or use of
uncompleted documents without specific written authorization by the Contractor will be at the
City’s sole risk and without liability to Contractor, and Contractor’s guarantee and warranties
shall not extend to such use, reuse or assignment. Contractor may retain copies of such
documents for its own use. Contractor shall have an unrestricted right to use the concepts
embodied therein. All subcontractors shall provide for assignment to City of any documents or
materials prepared by them, and in the event Contractor fails to secure such assignment,
Contractor shall indemnify City for all damages resulting therefrom. Moreover, Contractor with
respect to any documents and materials that may qualify as “works made for hire” as defined in
17 U.S.C. § 101, such documents and materials are hereby deemed “works made for hire” for the
City.

6.4 Confidentiality and Release of Information.

(a) information gained or work product produced by Contractor in
performance of this Agreement shall be considered confidential, unless such information is in the
public domain or already known to Contractor. Contractor shall not release or disclose any such
information or work product to persons or entities other than City without prior written
authorization from the Contract Officer.

(b) Contractor, its officers, employees, agents or subcontractors, shall
not, without prior written authorization from the Contract Officer or unless requested by the City
Attorney, voluntarily provide documents, declarations, letters of support, testimony at
depositions, response to interrogatories or other information concerning the work performed
under this Agreement. Response to a subpoena or court order shall not be considered
"voluntary" provided Contractor gives City notice of such court order or subpoena.

(c) If Contractor, or any officer, employee, agent or subcontractor of
Contractor, provides any information or work product in violation of this Agreement, then City
shall have the right to reimbursement and indemnity from Contractor for any damages, costs and
fees, including attorneys fees, caused by or incurred as a result of Contractor’s conduct.
(d) Contractor shall promptly notify City should Contractor, its officers, employees, agents or subcontractors be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any party regarding this Agreement and the work performed there under. City retains the right, but has no obligation, to represent Contractor or be present at any deposition, hearing or similar proceeding. Contractor agrees to cooperate fully with City and to provide City with the opportunity to review any response to discovery requests provided by Contractor. However, this right to review any such response does not imply or mean the right by City to control, direct, or rewrite said response.

ARTICLE 7. ENFORCEMENT OF AGREEMENT AND TERMINATION

7.1 California Law.

This Agreement shall be interpreted, construed and governed both as to validity and to performance of the parties in accordance with the laws of the State of California. Legal actions concerning any dispute, claim or matter arising out of or in relation to this Agreement shall be instituted in the Superior Court of the County of Bakersfield, State of California, or any other appropriate court in such county, and Contractor covenants and agrees to submit to the personal jurisdiction of such court in the event of such action. In the event of litigation in a U.S. District Court, venue shall lie exclusively in the Eastern District of California, in the County of Fresno, State of California.

7.2 Disputes and Claims.

(a) Default; Cure. In the event that Contractor is in default under the terms of this Agreement, the City shall not have any obligation or duty to continue compensating Contractor for any work performed after the date of default. Instead, the City may give notice to Contractor of the default and the reasons for the default. The notice shall include the timeframe in which Contractor may cure the default. This timeframe is presumptively thirty (30) days, but may be extended, though not reduced, if circumstances warrant. During the period of time that Contractor is in default, the City shall hold all invoices and shall proceed with payment on the invoices only when the default is cured. In the alternative, the City may, in its sole discretion, elect to pay some or all of the outstanding invoices during the period of default. If Contractor does not cure the default, the City may take necessary steps to terminate this Agreement under this Article. Any failure on the part of the City to give notice of the Contractor’s default shall not be deemed to result in a waiver of the City’s legal rights or any rights arising out of any provision of this Agreement.

(b) Public Contract Code Sec. 9204 Claims Procedure (AB 626). AB 626, approved by the Governor on September 29, 2016, created a new Public Contract Code Section 9204, which specifies new procedural requirements for the filing of claims by a contractor, or by a contractor on behalf of a subcontractor, on any public works project effective January 1, 2017. The parties shall comply with the provisions of Public Resources Code Section 9204, which are fully set forth in Exhibit “E.”
Dispute Resolution. This Agreement is subject to the provisions of Article 1.5 (commencing at Section 20104) of Division 2, Part 3 of the California Public Contract Code regarding the resolution of public works claims of less than $375,000. Article 1.5 mandates certain procedures for the filing of claims and supporting documentation by the Contractor, for the response to such claims by the City, for a mandatory meet and confer conference upon the request of the Contractor, for mandatory non-binding mediation in the event litigation is commenced, and for mandatory judicial arbitration upon the failure to resolve the dispute through mediation. This Agreement hereby incorporates the provisions of Article 1.5 as though fully set forth herein.

7.3 Retention of Funds.

Contractor hereby authorizes City to deduct from any amount payable to Contractor (whether or not arising out of this Agreement) (i) any amounts the payment of which may be in dispute hereunder or which are necessary to compensate City for any losses, costs, liabilities, or damages suffered by City, and (ii) all amounts for which City may be liable to third parties, by reason of Contractor’s acts or omissions in performing or failing to perform Contractor’s obligation under this Agreement. In the event that any claim is made by a third party, the amount or validity of which is disputed by Contractor, or any indebtedness shall exist which shall appear to be the basis for a claim of lien, City may withhold from any payment due, without liability for interest because of such withholding, an amount sufficient to cover such claim. The failure of City to exercise such right to deduct or to withhold shall not, however, affect the obligations of the Contractor to insure, indemnify, and protect City as elsewhere provided herein.

7.4 Waiver.

Waiver by any party to this Agreement of any term, condition, or covenant of this Agreement shall not constitute a waiver of any other term, condition, or covenant. Waiver by any party of any breach of the provisions of this Agreement shall not constitute a waiver of any other provision or a waiver of any subsequent breach or violation of any provision of this Agreement. Acceptance by City of any work or services by Contractor shall not constitute a waiver of any of the provisions of this Agreement. No delay or omission in the exercise of any right or remedy by a non-defaulting party on any default shall impair such right or remedy or be construed as a waiver. Any waiver by either party of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of this Agreement.

7.5 Rights and Remedies are Cumulative.

Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the parties are cumulative and the exercise by either party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other party.
7.6 Legal Action.

In addition to any other rights or remedies, either party may take legal action, in law or in equity, to cure, correct or remedy any default, to recover damages for any default, to compel specific performance of this Agreement, to obtain declaratory or injunctive relief, or to obtain any other remedy consistent with the purposes of this Agreement. Notwithstanding any contrary provision herein, Contractor shall file a claim pursuant to Government Code Sections 905 et seq. and 910 et seq., in order to pursue a legal action under this Agreement.

7.7 Liquidated Damages.

Since the determination of actual damages for any delay in performance of this Agreement would be extremely difficult or impractical to determine in the event of a breach of this Agreement, the Contractor and its sureties shall be liable for and shall pay to the City the sum of **one thousand dollars ($1,000.00)** as liquidated damages for each working day of delay in the performance of any service required hereunder, as specified in the Schedule of Performance (Exhibit “D”). The City may withhold from any monies payable on account of services performed by the Contractor any accrued liquidated damages.

7.8 Termination Prior to Expiration of Term.

This Section shall govern any termination of this Contract except as specifically provided in the following Section for termination for cause. The City reserves the right to terminate this Contract at any time, with or without cause, upon thirty (30) days’ written notice to Contractor, except that where termination is due to the fault of the Contractor, the period of notice may be such shorter time as may be determined by the Contract Officer. In addition, the Contractor reserves the right to terminate this Contract at any time, with or without cause, upon sixty (60) days’ written notice to City, except that where termination is due to the fault of the City, the period of notice may be such shorter time as the Contractor may determine. Upon receipt of any notice of termination, Contractor shall immediately cease all services hereunder except such as may be specifically approved by the Contract Officer. Except where the Contractor has initiated termination, the Contractor shall be entitled to compensation for all services rendered prior to the effective date of the notice of termination and for any services authorized by the Contract Officer thereafter in accordance with the Schedule of Compensation or such as may be approved by the Contract Officer, except as provided in Section 7.3. In the event the Contractor has initiated termination, the Contractor shall be entitled to compensation only for the reasonable value of the work product actually produced hereunder. In the event of termination without cause pursuant to this Section, the terminating party need not provide the non-terminating party with the opportunity to cure pursuant to Section 7.2.

7.9 Termination for Default of Contractor.

If termination is due to the failure of the Contractor to fulfill its obligations under this Agreement, City may, after compliance with the provisions of Section 7.2, take over the work and prosecute the same to completion by contract or otherwise, and the Contractor shall be liable to the extent that the total cost for completion of the services required hereunder exceeds the compensation herein stipulated (provided that the City shall use reasonable efforts to mitigate
such damages), and City may withhold any payments to the Contractor for the purpose of set-off or partial payment of the amounts owed the City as previously stated.

7.10 Attorneys’ Fees.

If either party to this Agreement is required to initiate or defend or made a party to any action or proceeding in any way connected with this Agreement, the prevailing party in such action or proceeding, in addition to any other relief which may be granted, whether legal or equitable, shall be entitled to reasonable attorney’s fees. Attorney’s fees shall include attorney’s fees on any appeal, and in addition a party entitled to attorney’s fees shall be entitled to all other reasonable costs for investigating such action, taking depositions and discovery and all other necessary costs the court allows which are incurred in such litigation. All such fees shall be deemed to have accrued on commencement of such action and shall be enforceable whether or not such action is prosecuted to judgment.

7.11 Unfair Business Practices Claims.

In entering into this Agreement, Contractor offers and agrees to assign to the City all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. § 15) or under the Cartwright Act (Chapter 2, (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, services or materials related to this Agreement. This assignment shall be made and become effective at the time the City renders final payment to the Contractor without further acknowledgment of the Parties.

ARTICLE 8. CITY OFFICERS AND EMPLOYEES: NON-DISCRIMINATION

8.1 Non-liability of City Officers and Employees.

No officer or employee of the City shall be personally liable to the Contractor, or any successor in interest, in the event of any default or breach by the City or for any amount which may become due to the Contractor or to its successor, or for breach of any obligation of the terms of this Agreement.

8.2 Conflict of Interest.

Contractor covenants that neither it, nor any officer or principal of its firm, has or shall acquire any interest, directly or indirectly, which would conflict in any manner with the interests of City or which would in any way hinder Contractor’s performance of services under this Agreement. Contractor further covenants that in the performance of this Agreement, no person having any such interest shall be employed by it as an officer, employee, agent or subcontractor without the express written consent of the Contract Officer. Contractor agrees to at all times avoid conflicts of interest or the appearance of any conflicts of interest with the interests of City in the performance of this Agreement.

No officer or employee of the City shall have any financial interest, direct or indirect, in this Agreement nor shall any such officer or employee participate in any decision relating to the Agreement which effects his financial interest or the financial interest of any
corporation, partnership or association in which he is, directly or indirectly, interested, in violation of any State statute or regulation. The Contractor warrants that it has not paid or given and will not pay or give any third party any money or other consideration for obtaining this Agreement.

8.3 Covenant Against Discrimination.

Contractor covenants that, by and for itself, its heirs, executors, assigns, and all persons claiming under or through them, there shall be no discrimination against or segregation of, any person or group of persons on account of race, color, creed, religion, sex, gender, sexual orientation, marital status, national origin, ancestry, or other protected class in the performance of this Agreement. Contractor shall take affirmative action to insure that applicants are employed and that employees are treated during employment without regard to their race, color, creed, religion, sex, gender, sexual orientation, marital status, national origin, ancestry, or other protected class.

8.4 Unauthorized Aliens.

Contractor hereby promises and agrees to comply with all of the provisions of the Federal Immigration and Nationality Act, 8 U.S.C.A. §§ 1101, et seq., as amended, and in connection therewith, shall not employ unauthorized aliens as defined therein. Additionally, Contractor acknowledges that Contractor, and all subcontractors hired by Contractor to perform services under this Agreement, are aware of and understand the Immigration Reform and Control Act (“IRCA”). Contractor is and shall remain in compliance with the IRCA and shall ensure that any subcontractors hired by Contractor to perform services under this Agreement are in compliance with the IRCA. Further, should Contractor so employ such unauthorized aliens for the performance of work and/or services covered by this Agreement in violation of the law, and should any liability or sanctions be imposed against City for such use of unauthorized aliens, Contractor hereby agrees to and shall reimburse City for the cost of all such liabilities or sanctions imposed, together with any and all costs, including attorneys' fees, incurred by City.

ARTICLE 9. MISCELLANEOUS PROVISIONS

9.1 Notices.

Any notice, demand, request, document, consent, approval, or communication either party desires or is required to give to the other party or any other person shall be in writing and either served personally or sent by prepaid, first-class mail, in the case of the City, to the City Manager and to the attention of the Contract Officer (with her/his name and City title), City of Arvin, 200 Campus Drive, Arvin, California 93203 and in the case of the Contractor, to the person at the address designated on the execution page of this Agreement. Either party may change its address by notifying the other party of the change of address in writing. Notice shall be deemed communicated at the time personally delivered or in seventy-two (72) hours from the time of mailing if mailed as provided in this Section. All correspondence relating to this Agreement shall be serialized consecutively.
9.2 Interpretation.

The terms of this Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against either party by reason of the authorship of this Agreement or any other rule of construction which might otherwise apply.

9.3 Counterparts.

This Agreement may be executed in counterparts, each of which shall be deemed to be an original, and such counterparts shall constitute one and the same instrument.

9.4 Integration; Amendment.

This Agreement including the attachments hereto is the entire, complete and exclusive expression of the understanding of the parties. It is understood that there are no oral agreements between the parties hereto affecting this Agreement and this Agreement supersedes and cancels any and all previous negotiations, arrangements, agreements and understandings, if any, between the parties, and none shall be used to interpret this Agreement. No amendment to or modification of this Agreement shall be valid unless made in writing and approved by the Contractor and by the City Council. The parties agree that this requirement for written modifications cannot be waived and that any attempted waiver shall be void.

9.5 Severability.

In the event that any one or more of the phrases, sentences, clauses, paragraphs, or sections contained in this Agreement shall be declared invalid or unenforceable by a valid judgment or decree of a court of competent jurisdiction, such invalidity or unenforceability shall not affect any of the remaining phrases, sentences, clauses, paragraphs, or sections of this Agreement which are hereby declared as severable and shall be interpreted to carry out the intent of the parties hereunder unless the invalid provision is so material that its invalidity deprives either party of the basic benefit of their bargain or renders this Agreement meaningless.

9.6 Warranty & Representation of Non-Collusion.

No official, officer, or employee of City has any financial interest, direct or indirect, in this Agreement, nor shall any official, officer, or employee of City participate in any decision relating to this Agreement which may affect his/her financial interest or the financial interest of any corporation, partnership, or association in which (s)he is directly or indirectly interested, or in violation of any corporation, partnership, or association in which (s)he is directly or indirectly interested, or in violation of any State or municipal statute or regulation. The determination of “financial interest” shall be consistent with State law and shall not include interests found to be “remote” or “noninterests” pursuant to Government Code Sections 1091 or 1091.5. Contractor warrants and represents that it has not paid or given, and will not pay or give, to any third party including, but not limited to, any City official, officer, or employee, any money, consideration, or other thing of value as a result or consequence of obtaining or being awarded any agreement. Contractor further warrants and represents that (s)he/it has not engaged in any act(s), omission(s), or other conduct or collusion that would result in the payment of any money, consideration, or other thing of value to any third party including, but not limited to, any
City official, officer, or employee, as a result of consequence of obtaining or being awarded any agreement. Contractor is aware of and understands that any such act(s), omission(s) or other conduct resulting in such payment of money, consideration, or other thing of value will render this Agreement void and of no force or effect.

Contractor’s Authorized Initials _______

9.7 Authority to Act on Behalf of Entity.

The person(s) executing this Agreement on behalf of any entity that is a Party hereto warrant that (i) such Party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of said Party, (iii) by so executing this Agreement, such Party is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other agreement to which said Party is bound. This Agreement shall be binding upon the heirs, executors, administrators, successors and assigns of the Parties.

[SIGNATURES ON FOLLOWING PAGE]
IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date and year first-above written.

CITY:

CITY OF ARVIN, a municipal corporation

____________________________________
Jose Gurrola, Mayor

ATTEST:

Cecilia Vela, City Clerk

APPROVED AS TO FORM:

ALESHIRE & WYNDER, LLP

_______________________________
Shannon Chaffin, City Attorney

CONTRACTOR:

*By: ________________________________
Name: ________________________________
Title: ________________________________

*By: ________________________________
Name: ________________________________
Title: ________________________________

Address: ________________________________

____________________________________

*CONTRACTOR’S SIGNATURES SHALL BE DULY NOTARIZED, AND APPROPRIATE EVIDENCE OF AUTHORITY TO EXECUTE DOCUMENTS FOR ANY ENTITY CONTRACTOR MUST BE PROVIDED.
CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

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.

<table>
<thead>
<tr>
<th>STATE OF CALIFORNIA</th>
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<tr>
<td>COUNTY OF __________</td>
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<tr>
<td>On __________, 2020 before me, ________________, personally appeared ________________, proved to me on the basis of satisfactory evidence to be the person(s) whose names(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.</td>
</tr>
<tr>
<td>I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.</td>
</tr>
<tr>
<td>WITNESS my hand and official seal.</td>
</tr>
<tr>
<td>Signature: __________________________</td>
</tr>
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OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form

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<th>CAPACITY CLAIMED BY SIGNER</th>
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<td>☐ CORPORATE OFFICER</td>
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<th>DESCRIPTION OF ATTACHED DOCUMENT</th>
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<td>NUMBER OF PAGES</td>
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<td>DATE OF DOCUMENT</td>
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<td>SIGNER(S) OTHER THAN NAMED ABOVE</td>
</tr>
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</table>

SIGNER IS REPRESENTING:

(NAME OF PERSON(S) OR ENTITY(IES))

________________________________________

________________________________________
CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

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 __________, 2020 before me, ________________, personally appeared ________________, proved to me on the basis of satisfactory evidence to be the person(s) whose names(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: _____________________________________

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form

CAPACITY CLAIMED BY SIGNER

☐ INDIVIDUAL
☐ CORPORATE OFFICER

TITLE(S)
☐ PARTNER(S) ☐ LIMITED
☐ GENERAL
☐ ATTORNEY-IN-FACT
☐ TRUSTEE(S)
☐ GUARDIAN/CONSERVATOR
☐ OTHER

DESCRIPTION OF ATTACHED DOCUMENT

TITLE OR TYPE OF DOCUMENT

NUMBER OF PAGES

DATE OF DOCUMENT

SIGNER(S) OTHER THAN NAMED ABOVE

SIGNER IS REPRESENTING:
(NAME OF PERSON(S) OR ENTITY(IES))

___________________________________
___________________________________
___________________________________
EXHIBIT “A”

SCOPE OF WORK

I. Contractor shall perform all of the work and comply with all of the specifications and requirements in the “General Provisions”, “Special Provisions”, Engineered Drawings, General Specifications” and “Technical Specifications” included in the bid documents for the project entitled URBAN GREENING PATHWAYS PROJECT, including any documents or exhibits referenced therein.

II. Project Description:

The work to be performed under this Contract consists of furnishing all labor, materials, tools and equipment and constructing complete and in place improvements for the City of Arvin URBAN GREENING PATHWAYS PROJECT as shown on the Contract drawings as specified herein.

The work consists of the construction of an approximate one acre park and open green space at the north-western corner of Walnut Drive and 4th Street as well as construction of an approximate 0.2 mile pedestrian walking and bike path between the current 4th Street terminus and Walnut Drive. General improvements will include clearing and grubbing, earthwork, construction of curb, gutter, sidewalk, installation of park furnishings, placement of decomposed granite for walking paths, installation of underground utilities for electrical, and the placement of new landscaping and irrigation systems.

The work to be done consists of the furnishing by the Contractor of all labor, materials equipment and other facilities necessary in the performance of the work. The Contractor shall perform any work which is not detailed in the Plans and Specifications but which is obviously required to make the project complete and operable. Questions regarding the intent of the Plans and Specifications shall be referred to the City whose decisions thereon shall be final.

Some information pertaining to subsurface and other conditions, which may affect the cost of performing the work, may be shown on the Plans and Specifications. While it is believed that any such information is reasonably correct, the City does not warrant either the completeness or accuracy of such information. It is the responsibility of the Contractor to ascertain the existence of all subsurface and other conditions affecting his cost of doing the work as may be disclosed by a reasonable examination of the site.

III. Contractor’s work shall also conform to all of the standards and specifications adopted by reference only within the “General Provisions”, “Special Provisions”, Engineered Drawings,”General Specifications”, “Technical Specifications”, and agreement with the City.

IV. The location(s) of the work, its general nature and extent, and the form and general dimensions of the Project and appurtenant work are shown on the Construction Drawings.
entitled **URBAN GREENING PATHWAYS PROJECT** and are hereby made a part of this Agreement as listed herein:

**List of Construction Drawings**

1. C1 COVER SHEET AND GENERAL NOTES
2. C2 NOTES AND LEGEND
3. C3 GRADING PLAN
4. C4 GRADING PLAN
5. C5 GRADING SECTIONS
6. C6 CONSTRUCTION DETAILS
7. C7 EROSION AND SEDIMENT CONTROL
8. C8 BEST MANAGEMENT PRACTICES
9. C9 SIGN LOCATION PLAN
10. E-1 SYMBOLS; SINGLE LINE DIAGRAM; DETAILS
11. E-2 SITE LIGHTING PLAN
12. E-2.1 SITE PHOTOMETRIC PLAN
13. E-3 ENLARGED SITE LIGHTING PLAN
14. E-3.1 SITE PHOTOMETRIC PLAN
15. L1 LANDSCAPE SITE PLAN
16. L2 TREE IRRIGATION PLAN
17. L3 SHRUB IRRIGATION PLAN
18. L4 IRRIGATION NOTES AND DETAILS
19. L5 TREE PLANTING PLAN
20. L6 SHRUB PLANTING PLAN
21. L7 LANDSCAPE PLANTING DETAILS AND NOTES

V. Contractors shall have on file a minimum of one (1) set of Construction Drawings upon which Contractor shall record all variations between the work as built and as originally
shown on the Construction Drawings or as otherwise required under this Agreement ("Record Drawings"). Record Drawings must be kept at the work site and be accessible at all times during the construction periods and shall be delivered to the City Engineer within thirty (30) days after completion of the work.

VI. Contractor shall update the schedule on a monthly basis, showing progress on each activity or task. After each monthly update, the Contractor shall submit to the City one (1) print of the last accepted Construction Schedule, marked up in red in accordance with the monthly review.

VII. All work is subject to review and acceptance by the City, and must be revised by the Contractor without additional charge to the City until found satisfactory and accepted by City.
EXHIBIT “B”

SPECIAL REQUIREMENTS

1. Contractor shall provide the following additional documents(s) during construction:

2. Contractor shall provide the following additional documents(s) with the bid documents:
   a. Caltrans Exhibit 15-G: Construction Contract DBE Commitment

3. Caltrans Federal-Aid language removed; does not apply to projects with State funding only.
EXHIBIT “C”

SCHEDULE OF COMPENSATION

I. Contractor shall perform all work at the rates on the Bid Sheet submitted as part of Contractor’s Proposal, incorporated herein by this reference.

II. A retention of five percent (5%) shall be held from each payment as a contract retention to be paid as part of the final payment upon satisfactory completion of services.

III. Within the budgeted amounts for each item on the Bid Sheet, and with the approval of the Contract Officer, funds may be shifted from one item’s sub budget to another so long as the Contract Sum is not exceeded per Section 2.1, unless Additional Work is approved per Section 1.10.

IV. The City will compensate Contractor for the work performed upon submission of a valid invoice pursuant to Section 2.4.

V. Additional work shall be authorized only by a change order approved by the City Manager or City Council. Line item costs shall be used to determine quantity adjustment changes. Otherwise, markups on such work shall be limited as follows:

- Labor: 30%
- Materials: 10%
- Equipment: 10%
EXHIBIT “D”

SCHEDULE OF PERFORMANCE

I. Contractor shall perform all work timely in accordance with the following schedule:

   PROJECT DURATION: 120 Working Days

   A. Work shall only be performed between the hours of 7:00 a.m. and 7:00 p.m.,
      on weekdays.

   B. Work shall not be performed on Saturdays, Sundays or legal holidays.

   C. Exceptions to the above hours of work will be permitted only after obtaining
      written authorization from the City Engineer.

II. Contractor shall deliver the following tangible work products to the City by the
    following dates.

   A. Complete project: 120 working days from Notice to Proceed

III. The Contract Officer may approve extensions for performance of the services in
     accordance with the General Specifications, Bid Proposal and Contract.
EXHIBIT “E”
PUBLIC CONTRACT CODE SEC. 9204
NEW PUBLIC WORKS CLAIMS
PROCEDURE

AB 626, approved by the Governor on September 29, 2016, created a new Public Contract Code Section 9204, which specifies new procedural requirements for claims submitted by a contractor on any public works project. These new requirements contain burdens for both private contractors and public entities. The text of this new legislation is set forth below:

Public Contract Code § 9204.
Legislative findings and declarations regarding timely and complete payment of contractors for public works projects; claims process

(a) The Legislature finds and declares that it is in the best interests of the state and its citizens to ensure that all construction business performed on a public works project in the state that is complete and not in dispute is paid in full and in a timely manner.

(b) Notwithstanding any other law, including, but not limited to, Article 7.1 (commencing with Section 10240) of Chapter 1 of Part 2, Chapter 10 (commencing with Section 19100) of Part 2, and Article 1.5 (commencing with Section 20104) of Chapter 1 of Part 3, this section shall apply to any claim by a contractor in connection with a public works project.

(c) For purposes of this section:

(1) “Claim” means a separate demand by a contractor sent by registered mail or certified mail with return receipt requested, for one or more of the following:

(A) A time extension, including, without limitation, for relief from damages or penalties for delay assessed by a public entity under a contract for a public works project.

(B) Payment by the public entity of money or damages arising from work done by, or on behalf of, the contractor pursuant to the contract for a public works project and payment for which is not otherwise expressly provided or to which the claimant is not otherwise entitled.

(C) Payment of an amount that is disputed by the public entity.

(2) “Contractor” means any type of contractor within the meaning of Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code who has entered into a direct contract with a public entity for a public works project.

(3)(A) “Public entity” means, without limitation, except as provided in subparagraph (B), a state agency, department, office, division, bureau, board, or commission, the California State
University, the University of California, a city, including a charter city, county, including a charter county, city and county, including a charter city and county, district, special district, public authority, political subdivision, public corporation, or nonprofit transit corporation wholly owned by a public agency and formed to carry out the purposes of the public agency.

(B) “Public entity” shall not include the following:

(i) The Department of Water Resources as to any project under the jurisdiction of that department.

(ii) The Department of Transportation as to any project under the jurisdiction of that department.

(iii) The Department of Parks and Recreation as to any project under the jurisdiction of that department.

(iv) The Department of Corrections and Rehabilitation with respect to any project under its jurisdiction pursuant to Chapter 11 (commencing with Section 7000) of Title 7 of Part 3 of the Penal Code.

(v) The Military Department as to any project under the jurisdiction of that department.

(vi) The Department of General Services as to all other projects.

(vii) The High-Speed Rail Authority.

(4) “Public works project” means the erection, construction, alteration, repair, or improvement of any public structure, building, road, or other public improvement of any kind.

(5) “Subcontractor” means any type of contractor within the meaning of Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code who either is in direct contract with a contractor or is a lower tier subcontractor.

(d)(1)(A) Upon receipt of a claim pursuant to this section, the public entity to which the claim applies shall conduct a reasonable review of the claim and, within a period not to exceed 45 days, shall provide the claimant a written statement identifying what portion of the claim is disputed and what portion is undisputed. Upon receipt of a claim, a public entity and a contractor may, by mutual agreement, extend the time period provided in this subdivision.

(B) The claimant shall furnish reasonable documentation to support the claim.

(C) If the public entity needs approval from its governing body to provide the claimant a written statement identifying the disputed portion and the undisputed portion of the claim, and the governing body does not meet within the 45 days or within the mutually agreed to extension of time following receipt of a claim sent by registered mail or certified mail, return
receipt requested, the public entity shall have up to three days following the next duly publicly noticed meeting of the governing body after the 45-day period, or extension, expires to provide the claimant a written statement identifying the disputed portion and the undisputed portion.

(D) Any payment due on an undisputed portion of the claim shall be processed and made within 60 days after the public entity issues its written statement. If the public entity fails to issue a written statement, paragraph (3) shall apply.

(2)(A) If the claimant disputes the public entity’s written response, or if the public entity fails to respond to a claim issued pursuant to this section within the time prescribed, the claimant may demand in writing an informal conference to meet and confer for settlement of the issues in dispute. Upon receipt of a demand in writing sent by registered mail or certified mail, return receipt requested, the public entity shall schedule a meet and confer conference within 30 days for settlement of the dispute.

(B) Within 10 business days following the conclusion of the meet and confer conference, if the claim or any portion of the claim remains in dispute, the public entity shall provide the claimant a written statement identifying the portion of the claim that remains in dispute and the portion that is undisputed. Any payment due on an undisputed portion of the claim shall be processed and made within 60 days after the public entity issues its written statement. Any disputed portion of the claim, as identified by the contractor in writing, shall be submitted to nonbinding mediation, with the public entity and the claimant sharing the associated costs equally. The public entity and claimant shall mutually agree to a mediator within 10 business days after the disputed portion of the claim has been identified in writing. If the parties cannot agree upon a mediator, each party shall select a mediator and those mediators shall select a qualified neutral third party to mediate with regard to the disputed portion of the claim. Each party shall bear the fees and costs charged by its respective mediator in connection with the selection of the neutral mediator. If mediation is unsuccessful, the parts of the claim remaining in dispute shall be subject to applicable procedures outside this section.

(C) For purposes of this section, mediation includes any nonbinding process, including, but not limited to, neutral evaluation or a dispute review board, in which an independent third party or board assists the parties in dispute resolution through negotiation or by issuance of an evaluation. Any mediation utilized shall conform to the timeframes in this section.

(D) Unless otherwise agreed to by the public entity and the contractor in writing, the mediation conducted pursuant to this section shall excuse any further obligation under Section 20104.4 to mediate after litigation has been commenced.

(E) This section does not preclude a public entity from requiring arbitration of disputes under private arbitration or the Public Works Contract Arbitration Program, if mediation under this section does not resolve the parties’ dispute.

(3) Failure by the public entity to respond to a claim from a contractor within the time
periods described in this subdivision or to otherwise meet the time requirements of this section shall result in the claim being deemed rejected in its entirety. A claim that is denied by reason of the public entity’s failure to have responded to a claim, or its failure to otherwise meet the time requirements of this section, shall not constitute an adverse finding with regard to the merits of the claim or the responsibility or qualifications of the claimant.

(4) Amounts not paid in a timely manner as required by this section shall bear interest at 7 percent per annum.

(5) If a subcontractor or a lower tier subcontractor lacks legal standing to assert a claim against a public entity because privity of contract does not exist, the contractor may present to the public entity a claim on behalf of a subcontractor or lower tier subcontractor. A subcontractor may request in writing, either on his or her own behalf or on behalf of a lower tier subcontractor, that the contractor present a claim for work which was performed by the subcontractor or by a lower tier subcontractor on behalf of the subcontractor. The subcontractor requesting that the claim be presented to the public entity shall furnish reasonable documentation to support the claim. Within 45 days of receipt of this written request, the contractor shall notify the subcontractor in writing as to whether the contractor presented the claim to the public entity and, if the original contractor did not present the claim, provide the subcontractor with a statement of the reasons for not having done so.

(e) The text of this section or a summary of it shall be set forth in the plans or specifications for any public works project that may give rise to a claim under this section.

(f) A waiver of the rights granted by this section is void and contrary to public policy, provided, however, that (1) upon receipt of a claim, the parties may mutually agree to waive, in writing, mediation and proceed directly to the commencement of a civil action or binding arbitration, as applicable; and (2) a public entity may prescribe reasonable change order, claim, and dispute resolution procedures and requirements in addition to the provisions of this section, so long as the contractual provisions do not conflict with or otherwise impair the timeframes and procedures set forth in this section.

(g) This section applies to contracts entered into on or after January 1, 2017.

(h) Nothing in this section shall impose liability upon a public entity that makes loans or grants available through a competitive application process, for the failure of an awardee to meet its contractual obligations.

(i) This section shall remain in effect only until January 1, 2020, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2020, deletes or extends that date.
Performance Bond

WHEREAS, the CITY OF ARVIN, (“City”), has awarded to __________________________ as Contractor (“Principal”), a Contract for the work entitled and described as follows:

URBAN GREENING PATHWAYS PROJECT

WHEREAS, the Contractor is required under the terms of said Contract to furnish a bond for the faithful performance of the Contract;

NOW, THEREFORE, we the undersigned Contractor and Surety, are held and firmly bound unto the City in the sum of _________________ ($______________), this amount being not less than one hundred percent (100%) of the total Contract price, lawful money of the United States of America, for payment of which sum well and truly be made we bind ourselves, our heirs, executors, administrators, and successors, jointly and severally, firmly by these presents. In case suit is brought upon this bond, the Surety will pay a reasonable attorney’s fee to the City in an amount to be fixed by the court.

THE CONDITION OF THIS OBLIGATION IS SUCH THAT, if the hereby bound Contractor, or its heirs, executors, administrators, successors, or assigns, shall in all things stand and abide by, well and truly keep and perform all undertakings, terms, covenants, conditions, and agreements in the said Contract and any alteration thereof, made as therein provided, all within the time and in the manner designated and in all respects according to their true intent and meaning, then this obligation shall become null and void; otherwise it shall be and remain in full force and effect.

FURTHER, the said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration, or modification of the Contract Documents or of the work to be performed thereunder shall in any way affect its obligations on this bond, and it does hereby waive notice of such change, extension of time, alteration, or modification of the Contract Documents or of the work to be performed thereunder.

Executed in four original counterparts on ________________, 20___.

PRINCIPAL

(Seal if Corporation) By ________________________________
Title ________________________________

City of Arvin

Performance Bond

PRBD - 1
(Attach Acknowledgment of Authorized Representative of Principal)

Any claims under this bond may be addressed to:

______________________________  (name and address of Surety)

______________________________

______________________________

______________________________  (name and address of Surety's agent for service of process in California, if different from above)

______________________________

______________________________  (telephone number of Surety's agent in California)

(Attach Acknowledgment)  

______________________________  SURETY

By ____________________________  
(Attorney-in-Fact)

APPROVED:

______________________________  
(Attorney for CITY)

NOTICE:
No substitution or revision to this bond form will be accepted. Sureties must be authorized to do business in and have an agent for service of process in California. Certified copy of Power of Attorney must be attached.
**Payment Bond**  
*(Labor and Material Bond)*

WHEREAS, the CITY OF ARVIN, (“City”), has awarded to ________________ as Contractor (“Principal”), a Contract for the work entitled and described as follows:

**URBAN GREENING PATHWAYS PROJECT**

WHEREAS, said Contractor is required to furnish a bond in conjunction with said Contract, to secure the payment of claims of laborers, mechanics, material men, and other persons as provided by law;

NOW, THEREFORE, we the undersigned Contractor and Surety, are held and firmly bound unto the City in the sum of $______________, this amount being not less than one hundred percent (100%) of the total Contract price, lawful money of the United States of America, for payment of which sum well and truly be made we bind ourselves, our heirs, executors, administrators, and successors, jointly and severally, firmly by these presents. In case suit is brought upon this bond, the Surety will pay a reasonable attorney’s fee to the City in an amount to be fixed by the court.

THE CONDITION OF THIS OBLIGATION IS SUCH THAT, if said Contractor, its heirs, executors, administrators, successors, assigns, or subcontractor fails to pay: (1) for any work, materials, services, provisions, provender, or other supplies, or for the use of implements of machinery, used in, upon, for, or about the performance of the work to be done, or for any work or labor thereon of any kind; (2) for work performed by any of the persons named in Civil Code Section 9100; (3) for any amounts due under the Unemployment Insurance Code with respect to work or labor performed under the contract; and/or (4) for any amounts required to be deducted, withheld, and paid over to the Employment Development Department from the wages of employees of the Contractor and/or its subcontractors pursuant to Section 13020 of the Unemployment Insurance Code with respect to such work and labor, then the Surety herein will pay for the same in an amount not exceeding the sum specified in this bond, otherwise the above obligation shall be void.

This bond shall inure to the benefit of any of the persons named in Civil Code Section 9100 so as to give a right of action to such persons or their assigns in any suit brought upon the bond. Moreover, if the City or any entity or person entitled to file stop payment notices is required to engage the services of an attorney in connection with the enforcement of this bond, each shall be liable for the reasonable attorney's fees incurred, with or without suit, in addition to the above sum.

Said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration, or modification of the Contract Documents or of the work to be performed thereunder shall in any way affect its obligations on this bond, and it does hereby
waive notice of such change, extension of time, alteration, or modification of the Contract Documents or of the work to be performed thereunder.

Executed in four original counterparts on __________________________, 20____.

PRINCIPAL

(Seal if Corporation)  By________________________________________

Title________________________________________

(Attach Acknowledgment of Authorized Representative of Principal)

Any claims under this bond may be addressed to:

________________________________________ (name and address of Surety)

________________________________________

________________________________________

________________________________________ (name and address of Surety's agent for service of process in California, if different from above)

________________________________________

________________________________________

SURETY

By________________________________________

(Attorney-in-Fact)

APPROVED:

________________________________________

(Attorney for CITY)

NOTICE:

No substitution or revision to this bond form will be accepted. Sureties must be authorized to do business in and have an agent for service of process in California. Certified copy of Power of Attorney must be attached.
Contractor’s Certificate Regarding Worker’s Compensation

Description of Contract:

City of Arvin
URBAN GREENING PATHWAYS PROJECT

Labor Code Section 3700 Provides (in part):

"Every employer except the State shall secure the payment of compensation in one or more of the following ways:

(a) By being insured against liability to pay compensation in one or more insurers duly authorized to write compensation insurance in this State.

(b) By securing from the Director of Industrial Relations a certificate of consent to self-insure, which may be given upon furnishing proof satisfactory to the Director of Industrial Relations of ability to self-insure and to pay any compensation that may become due to his employees."

I am aware of the provisions of Section 3700 of the Labor Code which require 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 of this contract.

Dated:_____________________, 20___

(Contractor)

By___________________________

(Official Title)

(SEAL)

(Labor Code Section 1861 provides that the above certificate must be signed and filed by the Contractor with the City prior to performing any work under this contract.)
Certificate of Insurance

Description of Contract: City of Arvin
URBAN GREENING PATHWAYS PROJECT

Type of Insurance: Workers' Compensation and Employers' Liability Insurance

THIS IS TO CERTIFY that the following policy has been issued by the below-stated company in conformance with the requirements of Article 5 of the Contract and is in force at this time, and is in a form approved by the Insurance Commissioner.

The Company will give at least 30 days' written notice to the City and Engineer/Architect prior to any cancellation of said policy.

POLICY NUMBER   EXPIRATION DATE LIMITS OF LIABILITY

Workers' Compensation:
Statutory Limits Under the Laws of the State of California

Employers' Liability:

$_________________ Each Accident

$_____________ Disease - Policy Limit

$_____________ Disease - Each Employee

__________________________   ____________________________
Named Insured (Contractor)    Insurance Company

__________________________   ____________________________
Street Number                 Street Number

__________________________   ____________________________
City and State                City and State

By __________________________
(Company Representative)

(SEE NOTICE ON NEXT PAGE)
Insurance Company Agent for Service of Process in California:

________________________________________
Name

________________________________________
Agency

________________________________________
Street Number

________________________________________
City and State

________________________________________
Telephone Number

This certificate is issued as a matter of information only and confers no rights upon the certificate holder. This certificate does not amend, extend, or alter the coverage afforded by the policy listed herein.

This is to certify that the policy has been issued to the named insured for the policy period indicated, notwithstanding any requirement, term, or condition of any contract or other document with respect to which this certificate may be issued or may pertain, the insurance afforded by the policy described herein is subject to all the terms, exclusions, and conditions of such policy.

NOTICE:

No substitution or revision to the above certificate form will be accepted. If the insurance called for is provided by more than one insurance company, a separate certificate in the exact above form shall be provided for each insurance company.
Insurance Endorsement

Description of Contract: City of Arvin
URBAN GREENING PATHWAYS PROJECT

Type of Insurance: Workers' Compensation and
Employers' Liability Insurance

This endorsement forms a part of Policy No. ________________.

ENDORSEMENT

It is agreed that with respect to such insurance as is afforded by the policy, the Company waives any right of subrogation it may acquire against the City, the Engineer/Architect, the City's Representative, and their consultants, and each of their directors, officers, volunteers and employees by reason of any payment made on account of injury, including death resulting therefrom, sustained by any employee of the insured, arising out of the performance of the above-referenced contract.

The additional premium for this endorsement shall be ______%* of the California Workers' Compensation premium otherwise due on such remuneration.

This endorsement does not increase the Company's total limits of liability.

________________________________________________________________________

Named Insured (Contractor)  Insurance Company

________________________________________________________________________

Street Number  Street Number

________________________________________________________________________

City and State  City and State

________________________________________________________________________

By____________________________________
(Company Representative)

(SEE NOTICE ON PAGE 2)

* - Contractor's insurance company to fill in this percentage.

NOTICE:

No substitution or revision to the above endorsement form will be accepted. If the insurance called for is provided by more than one policy, a separate endorsement in the exact above form shall be provided for each policy.
Certificate of Insurance

Description of Contract: City of Arvin
URBAN GREENING PATHWAYS PROJECT

Type of Insurance: Liability Insurance

THIS IS TO CERTIFY that the following policies have been issued by the below-stated company in conformance with the requirements of Article 5 of the Contract and are in force at this time:

<table>
<thead>
<tr>
<th>POLICY NUMBER</th>
<th>EXPIRATION DATE</th>
<th>LIMITS OF LIABILITY In Thousands (000)</th>
</tr>
</thead>
</table>

A. GENERAL LIABILITY

<table>
<thead>
<tr>
<th>Description</th>
<th>Limits</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Aggregate</td>
<td>$_________</td>
</tr>
<tr>
<td>Products-Comp Ops Aggregate</td>
<td>$_________</td>
</tr>
<tr>
<td>Personal and Advertising Injury</td>
<td>$_________</td>
</tr>
<tr>
<td>Each Occurrence Fire Damage (any one fire)</td>
<td>$_________</td>
</tr>
<tr>
<td>Medical Expense (any one person)</td>
<td>$_________</td>
</tr>
</tbody>
</table>

B. EXCESS GENERAL LIABILITY

<table>
<thead>
<tr>
<th>Description</th>
<th>Each Occurrence</th>
<th>Article I. Aggregate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bodily Injury (Each Person)</td>
<td>$_________</td>
<td>$_________</td>
</tr>
<tr>
<td>Bodily Injury (Each Accident)</td>
<td>$</td>
<td>$</td>
</tr>
<tr>
<td>Property Damage</td>
<td>$_________</td>
<td>$_________</td>
</tr>
</tbody>
</table>

C. AUTOMOBILE LIABILITY

<table>
<thead>
<tr>
<th>Description</th>
<th>Limits</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bodily Injury and Property Damage Combined Single Limit</td>
<td>$_________</td>
</tr>
<tr>
<td>D.</td>
<td><strong>Article II. EXCESS AUTOMOBILE LIABILITY</strong></td>
</tr>
<tr>
<td>----</td>
<td>------------------------------------------</td>
</tr>
<tr>
<td></td>
<td>Each Occurrence</td>
</tr>
<tr>
<td></td>
<td>$___________</td>
</tr>
<tr>
<td></td>
<td>Article III. AAggregate</td>
</tr>
<tr>
<td></td>
<td>$___________</td>
</tr>
</tbody>
</table>
The following types of coverage are included in said policies (indicate by "X" in space):

A. GENERAL LIABILITY

Commercial Form ................................................................. YES ___ NO ___
Premises-Operations ............................................................ YES ___ NO ___
Explosion and Collapse Hazard .............................................. YES ___ NO ___
Underground ............................................................................ YES ___ NO ___
Products/Completed Operations.............................................. YES ___ NO ___
Contractual Insurance............................................................ YES ___ NO ___
Broad Form Property Damage .............................................. YES ___ NO ___
Independent Contractors ...................................................... YES ___ NO ___
Personal Injury and Advertising Injury .................................. YES ___ NO ___

B. EXCESS GENERAL LIABILITY

Following Form ........................................................................ YES ___ NO ___

C. AUTOMOBILE LIABILITY

Business Auto Form Including Loading and Unloading............... YES ___ NO ___
Owned ................................................................................. YES ___ NO ___
Hired ................................................................................. YES ___ NO ___
Non-Owned ........................................................................... YES ___ NO ___

D. EXCESS AUTOMOBILE LIABILITY

Following Form......................................................................... YES ___ NO ___
This certificate is issued as a matter of information only and confers no rights upon the certificate holder. This certificate does not amend, extend, or alter the coverage afforded by the policies listed herein.

This is to certify that the policy has been issued to the named insured for the policy period indicated, notwithstanding any requirement, term, or condition of any contract or other document with respect to which this certificate may be issued or may pertain, the insurance afforded by the policies described herein is subject to all the terms, exclusions, and conditions of such policies.

The Company will give at least 30 days' written notice to the City and the Engineer/Architect prior to any cancellation of said policies.

__________________________________________
Named Insured (Contractor)                          Insurance Company

__________________________________________
Street Number                                   Street Number

__________________________________________
City and State                                 City and State

By_____________________________________
(Company Representative)

(SEE NOTICE ON NEXT PAGE)

Insurance Company Agent for Service of Process in California:

__________________________________________
Name

__________________________________________
Agency

__________________________________________
Street Number

__________________________________________
City and State

__________________________________________
Telephone Number

City of Arvin                                             Certificate of Insurance
NOTICE:

No substitution or revision to the above certificate form will be accepted. If the insurance called for is provided by more than one insurance company, a separate certificate in the exact above form shall be provided for each insurance company.

Insurers must be authorized to do business and have an agent for service of process in California and have a "B+" policyholder's rating and a financial rating of at least Class VIII in accordance with the most current Best's Rating.