



❖ REQUEST FOR PROPOSALS ❖

City Of Atascadero  
**ATASCADERO SUNKEN GARDENS  
HOLIDAY LIGHT DISPLAY**

Atascadero, California  
Project No. CS2024-01

Issuing Entity: City of Atascadero  
Community Services & Promotions Department  
6500 Palma Avenue  
Atascadero, California 93422

Proposal Due Date: March 15, 2024, at 4:00 p.m.

February 12, 2024

**SUBJECT: CITY OF ATASCADERO**  
**Atascadero Sunken Gardens Holiday Light Display – Design and Installation**

The City of Atascadero is requesting the services of a qualified contractor (“Contractor”) to design and install holiday lights in the trees in the historic downtown Atascadero Sunken Gardens park. All proposals shall include holiday type lighting that transforms the park into a festive environment, showcasing its unique features, and benefiting both the community and visitors.

The selected Contractor shall be responsible for design, installation, maintenance, removal, packaging, storage and transport of all seasonal lighting features. All lighting remains the property of the Contractor.

Your firm is invited to submit a proposal for your services, together with other required information listed in the attached Request for Proposal. The City intends to award the contract for an initial one-year term, with the ability, by mutual agreement, to extend the term in two-year increments two times, for a total possible term of five years.

We will be conducting a Pre-Bid Site Visit on February 26<sup>th</sup> at 2 pm. This is an opportunity to view the area and ask questions of City staff.

Please note that your submittal shall reach the following address by 4:00 pm March 15, 2024, or your proposal will not be accepted. Please include your fee schedule in a separate sealed envelope.

Attention: City Clerk  
City of Atascadero  
6500 Palma Avenue  
Atascadero, CA 93422

If you require further information or clarification, please contact Terrie Banish at (805) 470-3490.

Sincerely,

*Terrie Banish*

Terrie Banish  
Community Services & Promotions Director  
City of Atascadero

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# REQUEST FOR PROPOSAL

## Atascadero Sunken Gardens Holiday Light Display

### City of Atascadero

#### I. DESCRIPTION OF WORK AND PROJECT SCOPE

##### BACKGROUND

The City of Atascadero has historically installed and operated seasonal lighting on trees within the historic Sunken Garden and on the City Hall building. Due to limited staffing, lighting has been limited to the City Hall building over the past seven years. It is the City's intention to contract with a qualified contractor to design and install holiday lights on trees in the historic downtown Atascadero Sunken Gardens park. The City will continue decorating the City Hall building, located directly across Palma Avenue from Sunken Gardens.

The lighting included under the proposal is intended to be festive around the holidays and to transform the park into a generally lit beautiful environment. The Contractor will be expected to partner with City staff to develop a lighting plan that honors Atascadero's history and unique features, complement the existing holiday lights on Historic City Hall, while also recognizing the new energy and vibrancy within the downtown city core. Following are examples of the lighting that is currently in place during the holidays for City Hall:

##### Historic City Hall Holiday Lights - Daytime



## Historic City Hall Holiday Lights - Evening



### **PROJECT SCOPE**

The City intends for the selected Contractor to provide the following services:

**Project Budget: Up to \$65,000**

### **Task 1: Lighting and Decorations Plan**

The City has identified three primary areas to be decorated (Attachment E). The Lighting and Decorations Plan shall be prepared in collaboration with City staff and shall tie together the three different areas comprehensively to Historic City Hall. The City will have the final determination on which specific areas are to be decorated each year.

#### **Area 1: Sunken Gardens (Priority Area);**

The Sunken Garden is an approximately 2.2-acre grass park with a central fountain, concrete walking paths, bench seating, and both mature and young Deodar cedar, oak and magnolia trees. The lighting and decoration plan for the park should include tree lighting for a total of 8 large trees, which include four mature coast live oak trees, three mature Deodar cedar trees, and one mature magnolia tree. There are a handful of new recently planted trees that are smaller and can also be added, however, they are optional. The lighting and decoration plan should also focus on options for highlighting the central fountain, pedestrian sidewalk lighting, pathways, and the Wrestling Bacchantes statue.

Area 2: El Camino Real Median Plaza (2<sup>nd</sup> Priority Area):

The City is currently in the final engineering design phase for the El Camino Real Downtown Infrastructure Enhancement Project, to be constructed beginning summer 2024. This project will repurpose the center 40' of El Camino Real into median plaza that incorporates landscaping, lighting and pedestrian improvements, as well as additional diagonal parking. The Lighting and Decorations Plan should include the new median area between East Mall and West Mall.

Area 3: Atascadero Mall Plaza (Optional Area):

The Atascadero Mall Plaza is an approximately 0.4-acre hardscaped public plaza in line with other three areas, and includes a structural pillar and overhang element, pedestrian plaza lights, ten medium size tulip trees, and other landscaped areas.

Area 4: Centennial Pedestrian Walkway (Optional Area):

The Centennial Pedestrian Walkway stretches from East Mall over Atascadero Creek and into Colony Plaza. It is a public plaza area that compliments the other three areas, and includes a decorative bridge, light poles and pedestrian plaza lights.

**Task 2: Design**

Contractor shall provide the final design of all agreed-upon areas 30 days prior to installation unless an earlier date is required for discounted ordering. Work scope under this item shall include, but is not limited to:

- Conceptual drawings for all areas indicating which trees and structural elements will have featured lighting to produce the most dramatic effect.
- There is an interest to include a "City Christmas Tree" that is 30-50 feet tall.
- Style of décor and lights for all four areas to be in keeping and complement City Hall with an elegant holiday appeal. This Project does allow for other creative ideas to be introduced.
- Methods of installation of décor and lighting.
- Power supply and demand requirements at each power source and path of travel to lighting.
- Tree trimming and pruning requirements requested of the City.
- Installation and removal schedule.

**Task 3: Installation**

Lighting shall be installed, tested and fully operational by 5 p.m. on the Tuesday prior to Thanksgiving.

- Contractor shall provide automatic timers for lights except as discussed with the City for opening night lighting ceremony. Timers are to be set from 5 p.m. to 5 a.m.
- City shall be responsible for any necessary tree trimming. Contractor shall not, except upon written direction from the City, trim any trees. The Contractor shall notify the City immediately upon determination that tree trimming is necessary. City will provide a trimming schedule upon notification from the Contractor.

#### **Task 4: Maintenance**

- Contractor shall be responsible for all related maintenance to ensure the display is operating as intended.
- Contractor shall maintain the display following installation through the second Monday in January.
- Contractor must have personnel available to guarantee next day service, including weekends, for repair and replacement of damaged lights. The Contractor must respond to the designated City contact within 24 hours of call and be on-site within that time for service.
- Contractor's next-day service to repair and replace damaged lights and extension cords shall be for any reason, including, but not limited to, damage from vandalism, weather or other acts of God, from the first day of installation until the second Monday in January.
- The City shall pay the cost of necessary replacement lights and extension cords due to vandalism on a Time and Materials basis. Contractor shall repair or replace lights at no cost to the City for lights and extension cords that contain a manufacturer's defect or are improperly installed.

#### **Task 5: Removal and Storage**

- Contractor shall begin removal of lights no later and no earlier than the second Monday in January. The Contractor shall complete the removal of all installed lights no later than the last Friday in February. All light strings shall be removed from the trees each year. Contractor is responsible for disposal of debris and leaving all areas clean and in good repair.
- Contractor is responsible to provide storage for lighting during the terms of this contract. All lighting will remain the property of the Contractor.

#### **The Contractor will be expected to:**

1. Work with the Community Services & Promotions and Public Works staff to clearly define the needs of the project, attending meetings as needed to do so.
2. Identify any constraints or concerns during preliminary design, and proposed solutions.
3. Provide draft light and decoration plans during the duration of the design to ensure City requirements and goals are being met.
4. Provide cost estimates during the design process to keep the City current on the anticipated costs.

#### **The City will provide:**

1. Any available maps and record plans for lighting areas showing trees, site amenities, electricity, lighting, irrigation, utilities, and other topographical features.

## II. PROPOSAL REQUIREMENTS

### GENERAL INFORMATION

1. Proposals, consisting of one (1) hard copy and one (1) electronic copy (USB drive) must be received by mail, recognized carrier, or hand delivered no later than **4:00 p.m. on Friday, March 15, 2024**. Late proposals will not be considered and will be returned, unopened.
2. Proposal shall be addressed to:  
City of Atascadero  
Attn: City Clerk  
6500 Palma Avenue  
Atascadero, CA 93422
3. Proposal shall consist of one (1) sealed envelope or box, clearly labeled and one fee proposal:  
(Proposer's Name)  
PROPOSAL:  
Design and Installation Services for  
Atascadero Sunken Gardens Holiday Light Display  
City Project No. CS2024-01
4. Proposals shall be the minimum length necessary to provide the requested information.
5. This Request for Proposal does not constitute an offer of employment or to contract for services.
6. The City reserves the right to accept or reject any or all Proposals. The issuance of this RFP does not constitute an agreement by the City that any subsequent selection processes will occur, or that any contract will be entered into by the City.
7. The City reserves the right to amend the RFP by addendum. If necessary, the proposal submittal deadline will be extended to allow proposers additional time to respond to an RFP addendum.
8. All documents submitted to the City in response to this Request for Proposal will become the exclusive property of the City and may be returned to the proposer or kept by the City, in the City's sole discretion.
9. Any contract awarded pursuant to this Request for Proposal will incorporate the requirements and specifications contained in this Request for Proposal. All information presented in a consultant's Proposal will be considered binding upon selection of the successful proposer, unless otherwise modified and agreed to by the City during subsequent negotiations.
10. The successful proposer is expected to execute a contract similar to the contract in RFP Attachment D - SAMPLE City of Atascadero Professional Services Contract. The sample contract is for reference to the anticipated terms and conditions governing the City and the successful proposer. The proposer must take exception in their Proposal to any section of the attached contract they do not agree with. Failing to do so will be deemed as acceptance by the proposer to the terms spelled out in the sample contract. The City reserves the right, in its sole discretion, to add, delete, modify, or negotiate additional terms and conditions to the attached contract. **Before beginning any work or submitting a Proposal, it is advised that consultants read the City Insurance and Indemnification requirements in the attached**



**sample contract.** The selected proposer will be asked to provide evidence that the City's insurance requirements have been met.

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

## PROPOSAL CONTENT

Your proposal must include the following information:

1. Project Understanding
  - A. Understanding of the Scope of Work.
  - B. Description of your approach to completing the work.
  - C. Services or data you anticipate being provided by the City.
2. Firm and Staff Qualifications
  - A. Firm name, address, telephone number and e-mail address;
  - B. Name and telephone number of contact person.
  - C. Firm name, address, telephone number and e-mail address for each subcontractor, and anticipated role of the subcontractor on the project.
  - D. List of personnel who will be working on the project. Indicate experience, especially as it relates to lighting displays. Describe personnel anticipated roles on the project and how the Contractor's staff will be organized.
3. Work Program and Schedule
  - A. Based on your understanding of the project, list all required tasks to complete the work.
  - B. Tentative schedule by phase and task for completing the work.
  - C. Estimated hours for your staff in performing each major phase of the work, including sub-consultants.
4. References and Example Completed Work Product
  - A. References from at least three firms for whom you have provided similar services.
  - B. Example set of previously completed project of similar nature. Include example plans if available (Projects shall have been completed within the last five years)
  - C. Any other information that would assist us in making this contract award decision.

## **Fee Proposal**

In addition to the Proposal, Proposers must submit a Fee Proposal separately in a sealed envelope. The Fee Proposal must include a detailed not-to-exceed budget for each task shown in the proposed Scope of Work and shall identify staff hours and hourly rates for each team member. It shall include a total “not to exceed” sum for this proposal. The Cost Proposal must match the proposed Scope of Work. This proposed fee will be non-binding; the final agreement will be the result of a precise scope of work and negotiated compensation amount.

## **Submittal Forms & General Information**

1. Submittal of References. Each proposer shall submit, as a minimum, references on the form provided in the RFP package.
2. Statement of Contract Disqualifications. Each proposer shall submit a statement regarding any past governmental agency bidding or contract disqualifications on the form provided in the RFP package.
3. Proposal Submittal Form
4. Certificate of insurance.
5. Standard hourly billing rates for the assigned staff, including any sub-consultants.
6. Statement and explanation of any instances where your firm has been removed from a project or disqualified from proposing on a project.

## **PROPOSAL EVALUATION AND CONSULTANT SELECTION**

Proposals will be evaluated by a review committee based on the following criteria. Where one proposal is rated consistently higher than the others, that consultant will be selected as the top-ranking consultant for contact negotiations.

1. Contractor’s understanding of the City of Atascadero’s desires and general approach to the project as demonstrated in the Project Understanding and Work Program.
2. Qualifications of the Contractor’s staff assigned to this project.
3. Demonstrated ability of the Contractor to perform quality work, control costs, and meet time schedules.
4. Ability to work effectively with City staff.
5. Contractor’s cost proposal for the specified work.

Where proposals receive similar rankings, the review committee will select the top proposers for either, (a) a follow-up interview and presentation, or (b) written responses to questions from staff on areas unclear in the proposal.

If interviews are requested by the City, final candidates will make an oral presentation to the review committee and answer questions about their proposal. The purpose of this second phase is: to clarify and

resolve any outstanding questions or issues about the proposal; and to evaluate the proposer's experience and ability to clearly and concisely present information orally.

Contract award will be based on a combination of factors that represent the best overall value for completing the work scope as determined by the City, including: the written proposal criteria described above; results of background and reference checks; and results from the interviews and presentations phase. The proceedings of the Selection Committee are confidential, and members of the Selection Committee are not to be contacted by the proposers.

Once the final ranking is determined, the City will conduct negotiations with the top-ranking firm to set hourly billing rates and classifications, overhead rates, and other compensation. The Fee Proposal will remain unopened until such time that negotiations take place with the most qualified consultant. In addition, consultants will be expected to accept the standard City contract language for professional services agreements. Final selection of the consultant will be made by the Director of Community Services & Promotions, based on the Selection Committee's evaluation of proposals, the results of the possible oral interview, and terms of contract language negotiated with the City.

If the City is unable to come to an agreement on the terms of the contract or the amount of compensation, the City reserves the right to negotiate with the next highest-ranking consultant.

## **SCHEDULE**

The proposals shall be received no later than **March 15, 2024, 4:00 p.m.** at:

City of Atascadero  
Attn: City Clerk  
6500 Palma Avenue  
Atascadero, CA 93422

### **TENTATIVE SCHEDULE**

Issue Request for Proposal	February 9, 2024
Voluntary Pre-Bid Site Visit at City Hall	February 26, 2024 at 2 pm
RFP's due to the City by 4:00 p.m.	March 15, 2024
Complete Proposal Evaluation	April 12, 2024
Award Contract to Consultant	May 14, 2024
Execute Contract/Begin Work	June 1, 2024
Complete Lighting and Decorations Plan	October, 2024

ATASCADERO SUNKEN GARDENS HOLIDAY LIGHT DISPLAY DESIGN AND  
INSTALLATION SERVICES, City Project No. CS2024-01

**NOTE: THIS FORM MUST BE COMPLETED AND INCLUDED WITH YOUR PROPOSAL**

NAME OF PROPOSER/FIRM: \_\_\_\_\_

BUSINESS ADDRESS: \_\_\_\_\_

CITY, STATE, ZIP: \_\_\_\_\_

TELEPHONE NO: ( \_\_\_\_\_ ) \_\_\_\_\_

EMAIL: \_\_\_\_\_

I hereby certify that I have the authority to offer this proposal to the City of Atascadero for the above listed individual or company. I certify that I have the authority to bind myself/this company in a contract should I be successful in my proposal.

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
PRINT NAME

**ADDENDA ACKNOWLEDGMENT:**

Acknowledgment of Receipt of any Addenda issued by the City for this RFP is required by including the acknowledgment with your proposal. Failure to acknowledge the Addenda issued may result in your proposal being deemed non-responsive.

**In the space provided below, please acknowledge receipt of each Addenda:**

**Addendum(s) # \_\_\_\_\_ is/are hereby acknowledged.**

## REFERENCES

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Number of years engaged in providing the services included within the scope of the specifications under the present business name:\_\_\_\_\_.

Describe fully the last three contracts performed by your firm that demonstrate your ability to provide the services included with the scope of the specifications. Attach additional pages if required. The City reserves the right to contact each of the references listed for additional information regarding your firm's qualifications.

### Reference No. 1

Customer Name	
Contact Individual	
Phone & Email Address	
Street Address	
City, State, Zip Code	
Description of services provided including contract amount, when provided and project outcome	

### Reference No. 2

Customer Name	
Contact Individual	
Telephone & FAX number	
Street Address	
City, State, Zip Code	
Description of services provided including contract amount, when provided and project outcome	

### Reference No. 3

Customer Name	
Contact Individual	
Telephone & FAX number	
Street Address	
City, State, Zip Code	
Description of services provided including contract amount, when provided and project outcome	

Copy form as needed.

## STATEMENT OF PAST CONTRACT DISQUALIFICATIONS

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The proposer shall state whether it or any of its officers or employees who have a proprietary interest in it, has ever been disqualified, removed, or otherwise prevented from bidding on, or completing a federal, state, or local government project because of the violation of law, a safety regulation, or for any other reason, including but not limited to financial difficulties, project delays, or disputes regarding work or product quality, and if so to explain the circumstances.

- Do you have any disqualification as described in the above paragraph to declare?

Yes ☐

No ☐

- If yes, explain the circumstances.


Executed on \_\_\_\_\_ at \_\_\_\_\_ under  
penalty of perjury of the laws of the State of California, that the foregoing is true and correct.

\_\_\_\_\_  
Signature of Authorized Representative

# **SAMPLE CONTRACT**

CITY OF ATASCADERO



CONTRACT FOR

For

ATASCADERO SUNKEN GARDENS HOLIDAY LIGHT DISPLAY DESIGN AND  
INSTALLATION SERVICES



**CONSULTANT SERVICES AGREEMENT  
FOR THE  
CITY OF ATASCADERO  
[Name]**

THIS CONTRACT is made and entered into between City of Atascadero, a Municipal Corporation ("City") and [Name] ("Consultant"). City and Consultant agree as follows:

1. **SCOPE AND STANDARDS:**

A. **CONTRACT.** Consultant shall do all work, attend all meetings, produce all reports and carry out all activities necessary to complete the services described in the SCOPE OF WORK AND STANDARDS FOR SERVICES, attached hereto and incorporated herein by this reference as Exhibit A, as requested by the City. This Contract and its exhibits shall be known as the "Contract Documents." Terms set forth in any Contract Document shall be deemed to be incorporated in all Contract Documents as if set forth in full therein.

2. **EMPLOYMENT STATUS OF PERSONNEL:**

**INDEPENDENT CONTRACTOR; EMPLOYEES OF CONSULTANT.** Consultant enters into this Contract as, and shall at all times remain as to the City, an independent contractor and not as an employee of the City. Nothing in this Contract shall be construed to be inconsistent with this relationship or status. Any persons employed by Consultant for the performance of services pursuant to this Contract shall remain employees of Consultant, shall at all times be under the direction and control of Consultant, and shall not be considered employees of City. All persons employed by Consultant to perform services pursuant to this Contract shall be entitled solely to the right and privileges afforded to Consultant employees and shall not be entitled, as a result of providing services hereunder, to any additional rights or privileges that may be afforded to City employees.

A. **INDEPENDENT INVESTIGATION.** The Consultant agrees and hereby represents it has satisfied itself by its own investigation and research regarding the conditions affecting the work to be done and labor and materials needed, and that its decision to execute this Contract is based on such independent investigation and research.

B. **COMPLIANCE WITH EMPLOYMENT LAWS.** The Consultant shall keep itself fully informed of, shall observe and comply with, and shall cause any and all persons, firms or corporations employed by it or under its control to observe and comply with, applicable federal, state, county and municipal laws, ordinances, regulations, orders and decrees which in any manner affect those engaged or employed on the work described by this Contract or the materials used or which in any way affect the conduct of the work.





C. **UNLAWFUL DISCRIMINATION PROHIBITED.** Consultant shall not engage in unlawful employment discrimination. Such unlawful employment discrimination includes, but is not limited to, employment discrimination based upon a person's race, religious creed, color, national origin, ancestry, physical handicap, medical condition, marital status, gender, citizenship or sexual orientation.

3. **TIME OF PERFORMANCE:**

The services of Consultant are to commence upon execution of this Contract by City, and shall be undertaken and completed in a prompt and timely manner, in accordance with the Scope of Work referenced in Exhibit A. Except as provided in Sections 6 and 19 below, this Contract shall terminate no later than (date), unless extended by the mutual agreement of both parties.

4. **COMPENSATION:**

A. **TERMS.** Compensation to the Consultant shall be as set forth in Exhibit B attached hereto and made a part hereof.

B. **NO PAY FOR ADDITIONAL SERVICES WITHOUT WRITING.** Consultant shall not be compensated for any services rendered in connection with its performance of this Contract, which are in addition to those set forth herein or listed in Exhibit A, unless such additional services are authorized in advance and in writing by the City Manager or the City Manager's designee (hereinafter "City Manager" shall include the City Manager's designee). Consultant shall be compensated for any additional services in the amounts and in the manner as agreed to by City and Consultant at the time City's express written authorization signed by the City Manager is given to Consultant for the performance of said services.

5. **SUPERVISION, LABOR AGREEMENTS AND PERSONNEL:**

A. **CONSULTANT SUPERVISES PERSONNEL.** The Consultant shall have the responsibility for supervising the services provided under this Contract, hiring of personnel, establishing standards of performance, assignment of personnel, determining and affecting discipline, determining required training, maintaining personnel files, and other matters relating to the performance of services and control of personnel. The City Manager may use any reasonable means to monitor performance and the Consultant shall comply with the City Manager's request to monitor performance.

B. **PERFORMANCE NOT SUBJECT TO EMPLOYMENT AGREEMENTS.** The City acknowledges that the Consultant may be obligated to comply with bargaining agreements and/or other agreements with employees and that the Consultant is legally obligated to comply with these Contracts. It is expressly the intent of the parties and it is agreed by the parties that the Consultant's performance shall not in any manner be subject to any bargaining agreement(s) or any other agreement(s) the Consultant may have covering and/or with its employees.

C. **APPROVAL OF STAFF MEMBERS.** Consultant shall make every reasonable effort to maintain the stability and continuity of Consultant's staff assigned to perform the services required under this Contract. Consultant shall notify City of any changes in Consultant's staff to be assigned to perform the services required under this Contract and shall obtain the approval of the City Manager of a list of all proposed staff members who are to be assigned to perform services under this Contract prior to any such performance.



6. **TERMINATION:**

A. **30 DAYS NOTICE.** The City, upon thirty (30) days written notice, may terminate this Contract, without cause, at any time. In the event of such termination, Consultant shall be compensated for non-disputed fees under the terms of this Contract up to the date of termination.

B. **OBLIGATIONS SURVIVE TERMINATION.** Notwithstanding any termination of this Contract, Consultant shall not be relieved of liability to the City for damages sustained by the City by virtue of any breach of this Contract by Consultant, and the City may withhold any payments due to Consultant until such time as the exact amount of damages, if any, due the City from Consultant is determined. All of the indemnification, defense and hold harmless obligations in this Contract shall survive termination.

7. **CHANGES:**

The City or Consultant may, from time to time, request changes in the scope of the services of Consultant to be performed hereunder. Such changes, including any increase or decrease in the amount of Consultant's compensation and/or changes in the schedule must be authorized in advance by both Parties in writing. Mutually agreed changes shall be incorporated in written amendments to this Contract. Any increase in the amount of Consultant's compensation and/or changes in Exhibit A and or Exhibit B must be authorized in advance by the City Manager.

8. **PROPERTY OF CITY:**

A. **MATERIALS PREPARED EXCLUSIVE PROPERTY OF CITY.** It is mutually agreed that all materials prepared by the Consultant under this Contract are upon creation and shall be at all times the exclusive property of the City, and the Consultant shall have no property right therein whatsoever. City agrees that Consultant shall bear no responsibility for any reuse of the materials prepared by the Consultant if used for purposes other than those expressly set forth in the Intended Use of Consultant's Products and Materials section of this Contract. Consultant shall not disseminate any information or reports gathered or created pursuant to this Contract without the prior written approval of City including without limitation information or reports required by government agencies to enable Consultant to perform its duties under this Contract and as may be required under the California Public Records Act excepting therefrom as may be provided by court order. Consultant will be allowed to retain copies of all deliverables.

B. **CONSULTANT TO DELIVER CITY PROPERTY.** Immediately upon termination, or upon the request by the City, the City shall be entitled to, and the Consultant shall deliver to the City, all data, drawings, specifications, reports, estimates, summaries and other such materials and property of the City as may have been prepared or accumulated to date by the Consultant in performing this Contract. Consultant will be allowed to retain copies of all deliverables to the City.

9. **CONFLICTS OF INTEREST:**

A. **CONSULTANT** 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 Consultant's performance of services under this Contract. Consultant further covenants that in the performance of this Contract, Consultant shall take reasonable care to ensure that 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 City Manager. Consultant 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 Contract. Consultant agrees to include language similar to this Section 9(A) in all contracts with subcontractors and agents for the work contemplated herein.

10. **CONFIDENTIAL INFORMATION:**

A. **ALL INFORMATION KEPT IN CONFIDENCE.** All materials prepared or assembled by Consultant pursuant to performance of this Contract are confidential and Consultant agrees that they shall not be made available to any individual or organization without the prior written approval of the City, except by court order.

B. **REIMBURSEMENT FOR UNAUTHORIZED RELEASE.** If Consultant or any of its officers, employees, or subcontractors does voluntarily provide information in violation of this Contract, the City has the right to reimbursement and indemnity from party releasing such information for any damages caused by the releasing party's, including the non-releasing party's attorney's fees and disbursements, including without limitation expert's fees and disbursements.

C. **COOPERATION.** City and Consultant shall promptly notify the other party should Consultant or City, 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 Contract and the work performed thereunder or with respect to any project or property located within the City. City and Consultant each retains the right, but has no obligation, to represent the other party and/or be present at any deposition, hearing or similar proceeding. Consultant and City agree to cooperate fully with the other party and to provide the other party with the opportunity to review any response to discovery requests provided by Consultant or City. However, City and Consultant's right to review any such response does not imply or mean the right by the other party to control, direct, or rewrite said response.

11. **PROVISION OF LABOR, EQUIPMENT AND SUPPLIES:**

A. **CONSULTANT PROPERTY.** Consultant shall furnish all necessary labor, supervision, equipment, communications facilities, and supplies necessary to perform the services required by this Contract. City acknowledges that all equipment and other tangible assets used by Consultant in providing these services are the property of Consultant and shall remain the property of Consultant upon termination of this Contract.

B. **SPECIAL SUPPLIES.** City shall be responsible for supplying any special supplies, stationary, notices, forms or similar items that it requires to be issued with a City logo. All such items shall be approved by the City Manager and shall be provided at City's sole cost and expense.

12. **COMPLIANCE WITH LAW:**

A. **COMPLIANCE REQUIRED.** Consultant shall keep itself informed of applicable local, state, and federal laws and regulations which may affect those employed by it or in any way affect the performance of its services pursuant to this Contract. Consultant shall observe and comply with all applicable laws, ordinances, regulations and codes of federal, state and local governments, and shall commit no trespass on any public or private property in performing any of the work authorized by this Contract. Consultant shall at all times hold a valid contractor's license if performing any function or activity for which a license is required pursuant to Chapter 9 (commencing with section 7000) of



Division 3 of the California Business and Professions Code, and Consultant shall provide a copy of the license(s) upon the request of the City. The City, its officials, officers, elected officials, appointed officials and employees shall not be liable at law or in equity as a result of any failure of consultant to comply with this section.

B. **PREVAILING WAGES.** The Consultant is required to pay prevailing wages for the work performed under this Agreement. The Consultant shall pay all penalties and wages as required by applicable law.

13. **SUBCONTRACTING:**

None of the services covered by this Contract shall be subcontracted without the prior written consent of the City Manager. Consultant shall be as fully responsible to the City for the negligent acts and omissions of its contractors and subcontractors, and of persons either directly or indirectly employed by them, as it is for the negligent acts and omissions of persons directly employed by Consultant.

14. **ASSIGNABILITY:**

Consultant shall not assign or transfer any interest in this Contract whether by assignment or notation. However, claims for money due or to become due Consultant from the City under this Contract may be assigned to a financial institution, but only with prior written consent of the City Manager. Notice of any assignment or transfer whether voluntary or involuntary shall be furnished promptly to the City. The rights and benefits under this agreement are for the sole and exclusive benefit of the City and this Contract shall not be construed that any third party has an interest in the Contract.

15. **LIABILITY OF CONSULTANT:**

Consultant shall be responsible for performing the work under this Contract in a manner which is consistent with the generally accepted standards of Consultant's profession and shall be liable for its own negligence and the negligent acts of its employees, agents, contractors and subcontractors. The City shall have no right of control over the manner in which the work is to be done but only as to its outcome, and shall not be charged with the responsibility of preventing risk to Consultant or its employees, agents, contractors or subcontractors.

16. **INDEMNIFICATION:**

A. **INDEMNIFICATION FOR PROFESSIONAL LIABILITY.** When the law establishes a professional standard of care for Consultant's Services, to the fullest extent permitted by law, Consultant shall indemnify, protect, defend and hold harmless City and any and all of its officials, employees and agents ("Indemnified Parties") from and against any and all losses, liabilities, damages, costs and expenses, including attorneys fees and costs to the extent same are caused in whole or in part by any negligence or wrongful act, error or omission of Consultant, willful misconduct, or recklessness of its officers, agents, employees or subconsultants (or any entity or individual that Consultant shall bear the legal liability thereof) in the performance of professional services under this agreement. With respect to the design of public improvements, the Consultant shall not be liable for any injuries or property damage resulting from the reuse of the design at a location other than that specified in Exhibit D without the written consent of the Consultant.



**B. INDEMNIFICATION FOR OTHER THAN PROFESSIONAL LIABILITY.**

Other than in the performance of professional services and to the full extent permitted by law, Consultant shall indemnify, defend and hold harmless City, and any and all of its employees, officials and agents from and against any liability (including liability for claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged or threatened, including attorneys fees and costs, court costs, interest, defense costs, and expert witness fees), where the same arise out of, are a consequence of, or are in any way attributable to, in whole or in part, the performance of this Agreement by Consultant or by any individual or entity for which consultant is legally liable, including but not limited to officers, agents, employees or subconsultants of Consultant.

**C. GENERAL INDEMNIFICATION PROVISIONS.** Consultant agrees to obtain executed indemnity agreements with provisions identical to those set forth here in this section for each and every subconsultant or any other person or entity involved by, for, with or on behalf of Consultant in the performance of this agreement. In the event consultant fails to obtain such indemnity obligations from others as required here, Consultant agrees to be fully responsible according to the terms of this section. Failure of City to monitor compliance with these requirements imposes no additional obligations on City and will in no way act as a waiver of any rights hereunder. This obligation to indemnify and defend City as set forth here is binding on the successor, assigns or heirs of Consultant and shall survive the termination of this agreement or this section.

**D. INDEMNITY PROVISIONS FOR CONTACTS RELATED TO CONSTRUCTION.** Without affecting the rights of City under any provision of this agreement, Consultant shall not be required to indemnify and hold harmless City of liability attributable to the active negligence of City, provided such active negligence is determined by agreement between the parties or by the findings of a court of competent jurisdiction. In instances where City is shown to have been actively negligent and where City's active negligence accounts for only a percentage of the liability involved, the obligation of consultant will be for that entire portion or percentage of liability not attributable to the active negligence of City.

**17. INSURANCE:**

Consultant shall maintain prior to the beginning of and for the duration of this Agreement insurance coverage as specified in Exhibit E attached to and part of this agreement.

**18. RECORDS:**

Consultant shall maintain complete and accurate records with respect to labor costs, material expenses, parcels abated or serviced and other such information required by City that relates to the performance of services under this Contract. Consultant shall maintain adequate records of services provided in sufficient detail to permit an evaluation of services. All such records shall be maintained in accordance with generally accepted accounting principles and shall be clearly identified and readily accessible and in a form acceptable to the City, which the City may specify and change from time to time. Consultant shall provide free access to the representatives of City or its designees, at reasonable times, to such books and records, shall give City the right to examine and audit said books and records, shall permit City to make transcripts therefrom as necessary, and shall allow inspection of all work, data, documents, proceedings, and activities related to this Contract. Such records, together with supporting documents, shall be maintained for a period of three (3) years after receipt of final payment.



19. MISCELLANEOUS PROVISIONS:

A. **ASSIGNMENT OR SUBSTITUTION.** City has a **NONDISCRIMINATION / NONPREFERENTIAL TREATMENT STATEMENT** In performing this Contract, the parties shall not discriminate or grant preferential treatment on the basis of race, sex, color, age, religion, sexual orientation, disability, ethnicity, or national origin, and shall comply to the fullest extent allowed by law, with all applicable local, state, and federal laws relating to nondiscrimination.

B. **UNAUTHORIZED ALIENS.** Consultant 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. Should Consultant so employ such unauthorized aliens for the performance of work and/or services covered by this contract, and should the Federal Government impose sanctions against the City for such use of unauthorized aliens, Consultant hereby agrees to, and shall, reimburse City for the cost of all such sanctions imposed, together with any and all costs, including attorneys' fees, incurred by the City in connection therewith.

C. **GOVERNING LAW.** The City and Consultant understand and agree that the laws of the State of California shall govern the rights, obligations, duties, and liabilities of the parties to this Contract and also govern the interpretation of this Contract. Any litigation concerning this Contract shall take place in the San Luis Obispo Superior Court, federal diversity jurisdiction being expressly waived.

D. City has an interest in the qualifications of and capability of the persons and entities that will fulfill the duties and obligations imposed upon Consultant by this Contract. In recognition of that interest, neither any complete nor partial assignment of this Contract, may be made by Consultant nor changed, substituted for, deleted, or added to without the prior written consent of City which consent shall not be unreasonably withheld. Any attempted assignment or substitution shall be ineffective, null, and void, and constitute a material breach of this Contract entitling City to any and all remedies at law or in equity, including summary termination of this Contract. Subcontracts, if any, shall contain a provision making them subject to all provisions stipulated in this Contract.

E. **ENTIRE CONTRACT.** This Contract constitutes the entire Contract and understanding between the parties relative to the services specified herein and there are no understandings, agreements, conditions, representations, warranties or promises, with respect to this Contract, except those contained in or referred to in this Contract and this Contract supersedes all prior understandings, agreements, courses of conduct, prior dealings among the parties and documentation of any kind without limitation.

F. **AMENDMENTS.** This Contract may be modified or amended, or any of its provisions waived, only by a subsequent written agreement executed by each of the parties. The parties agree that this requirement for written modifications cannot be waived and any attempted waiver shall be void.

G. **CONSTRUCTION AND INTERPRETATION.** Consultant and City agree and acknowledge that the provisions of this Contract have been arrived at through negotiation and that each party has had a full and fair opportunity revise the provisions of this Contract and to have such provisions reviewed by legal counsel. Therefore, any ambiguities in construing or interpreting this Contract shall not be resolved against the drafting party. The titles of the various sections are merely informational and shall not be construed as a substantive portion of this Contract.





H. **WAIVER**. The waiver at any time by any party of any of its rights with respect to a default or other matter arising in connection with this Contract shall not be deemed a wavier with respect to any subsequent default or other matter.

I. **SEVERABILITY**. The invalidity, illegality or unenforceability, of any provision of this Contract shall not render the other provisions invalid, illegal or unenforceable.

J. **NOTICES**. All invoices, payments, notices, demands, requests, comments, or approvals that are required to be given by one party to the other under this Contract shall be in writing and shall be deemed to have been given if delivered personally or enclosed in a properly addressed envelope and deposited in a United States Post Office for delivery by registered or certified mail addressed to the parties (deemed to have been received three (3) business days after deposit in the U.S. Mail) at the following addresses:

City: City of Atascadero  
Terrie Banish, Director  
Community Services & Promotions Department  
6500 Palma Avenue  
Atascadero, CA 93422

Consultant: [Name]  
[address]  
[city, state zip]

Each party may change the address at which it gives notice by giving ten (10) days advance, written notice to the other party.

K. **AUTHORITY TO EXECUTE**. The person or persons executing this Contract on behalf of Consultant warrant and represent that they have the authority to execute this Contract on behalf of their agency and further warrant and represent that they have the authority to bind Consultant to the performance of its obligations hereunder.

AGREED to this \_\_\_\_\_ day of \_\_\_\_\_, 2020 by the parties as follows,

Approved as to form: **[Name]**

\_\_\_\_\_  
Counsel for consultant

By: \_\_\_\_\_  
[Name and Title]

Approved as to form:

**City of Atascadero**

By: \_\_\_\_\_  
Dave Fleishman, Agency Attorney

By: \_\_\_\_\_  
James R. Lewis, City Manager

City of Atascadero  
Firm Name

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**CERTIFICATE OF COMPLIANCE  
WITH LABOR CODE § 3700**

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 have complied or will comply with such provisions before commencing the performance of the work of this contract. (Cal. Labor C. §§1860, 1861.)

CONSULTANT

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Signature and Title





### **CONTRACTOR ACKNOWLEDGEMENT OF LABOR CODE REQUIREMENTS**

Contractor acknowledges that under California Labor Code sections 1810 and following, 8 hours of labor constitutes a legal day's work. Contractor will forfeit as a penalty to City the sum of \$25.00 for each worker employed in the execution of this Contract by Contractor or any subcontractor for each calendar day during which such worker is required or permitted to work more than 8 hours in any one calendar day and 40 hours in any one calendar week in violation of the provisions of Labor Code section 1810. (Labor Code § 1813.)

Attention is given to the fact that both Federal (Davis-Bacon) and State of California prevailing wage rate requirements apply to this project. Not less than the greater of the Federal Davis-Bacon wage rates or the general prevailing wage rate of per diem wages and the Federal prevailing rates for holiday and overtime must be paid on this project. State of California prevailing wage rates are available online at [www.dir.ca.gov/dlsr/pwd/southern.html](http://www.dir.ca.gov/dlsr/pwd/southern.html).

Contractor shall post at the work site, or if there is no regular work site then at its principal office, for the duration of the Contract, a copy of the determination by the Director of the Department of Industrial Relations of the specified prevailing rate of per diem wages. (Labor Code § 1773.2.)

Contractor, and any subcontractor engaged by Contractor, shall pay not less than the specified prevailing rate of per diem wages to all workers employed in the execution of the contract. (labor code § 1774.) Contractor is responsible for compliance with Labor Code section 1776 relative to the retention and inspection of payroll records.

Contractor shall comply with all provisions of Labor Code section 1775. Under section 1775, Contractor may forfeit as a penalty to city up to \$50.00 for each worker employed in the execution of the Contract by Contractor or any subcontractor for each calendar day, or portion thereof, in which the worker is paid less than the prevailing rates. Contractor may also be liable to pay the difference between the prevailing wage rates and the amount paid to each worker for each calendar day, or portion thereof, for which each worker was paid less than the prevailing wage rate.

Nothing in this Contract prevents Contractor or any subcontractor from employing properly registered apprentices in the execution of the contract. Contractor is responsible for compliance with Labor Code section 1777.5 for all apprenticeable occupations. This statute requires that contractors and subcontractors must submit contract award information to the applicable joint apprenticeship committee, must employ apprentices in apprenticeable occupations in a ratio of not less than one hour of apprentice's work for every five hours of labor performed by a journeyman (unless an exception is granted under § 1777.5), must contribute to the fund or funds in each craft or trade or a like amount to the California Apprenticeship Council, and that contractors and subcontractors must not discriminate among otherwise qualified employees as apprentices solely on the ground of sex, race, religion, creed, national origin, ancestry or color. Only apprentices defined in Labor Code sections 3077, who are in training under apprenticeship standards and who have written apprentice contracts, may be employed on public works in apprenticeable occupations.

Consultant

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Name and Title

**EXHIBIT A**  
**Scope of Work**

**EXHIBIT B**  
**Compensation and Method of Payment**

***TOTAL COST OF CONTRACT NOT TO EXCEED  
WITHOUT PRIOR WRITTEN AUTHORIZATION***

***\$xx,xxx***

**EXHIBIT C**  
**Items Provided by City**

(insert here)

**EXHIBIT D**  
**Location Schedule**

(insert here)

## **EXHIBIT E**

### **Insurance Requirements**

The Consultant shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Consultant, its agents, representatives, employees, or subconsultants.

Minimum Scope of Insurance. Coverage shall be at least as broad as:

1. Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001).
2. Insurance Services Office form number CA 0001 (Ed. 1/87) covering Automobile Liability, code 1 (any auto).
3. Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.
4. Errors and Omissions Liability insurance as appropriate to the consultant's profession.

Minimum Limits of Insurance. Consultant shall maintain limits no less than:

1. General Liability: \$1,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
2. Automobile Liability: \$1,000,000 per accident for bodily injury and property damage.
3. Employer's Liability: \$1,000,000 per accident for bodily injury or disease.
4. Errors and Omissions Liability: \$1,000,000 per occurrence.

Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by the City. At the option of the City, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officers, officials, employees and volunteers; or the Consultant shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

Other Insurance Provisions. The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

1. The City, its officers, officials, employees, agents and volunteers are to be covered as insureds as respects: liability arising out of activities performed by or on behalf of the Consultant; products and completed operations of the Consultant; premises owned, occupied or used by the Consultant; or automobiles owned, leased, hired or borrowed by the Consultant. The coverage shall contain no special limitations on the scope of protection afforded to the City, its officers, official, employees, agents or volunteers.

### **Insurance Requirements (continued)**

2. For any claims related to this project, the Consultant's insurance coverage shall be primary insurance as respects the City, its officers, officials, employees, agents and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, agents or volunteers shall be excess of the Consultant's insurance and shall not contribute with it.
3. The Consultant'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.
4. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the City.

Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A: VII.

Verification of Coverage. Consultant shall furnish the City with a certificate of insurance showing maintenance of the required insurance coverage. Original endorsements effecting general liability and automobile liability coverage required by this clause must also be provided. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. All endorsements are to be received and approved by the City before work commences.

END SAMPLE  
CONTRACT

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## Appendix

### Electrical & Landscape Plans covering the Four Different Areas Outlined in RFP:

#### [Downtown Holiday Lighting Design RFP - Plan Sets](#)

**Holiday Lighting Design Ideas for RFP:** Note: This Project allows for other creative ideas, this is an example of some of the lighting ideas that may or may not compliment our existing lights.

