

# **CITY OF ELK GROVE**



## **Invitation to Bid**

**For**

**New Unused Toyota Camry Hybrid LE Sedans**

**City Clerk's Office  
City of Elk Grove  
8401 Laguna Palms Way  
Elk Grove, CA 95758**

**Bids Due by 2:00 PM August 11, 2023**

**Introduction:**

The City of Elk Grove (City) is accepting Bids from qualified Suppliers (Supplier(s)) for six (6) newest model year Toyota Camry Hybrid LE Sedans in accordance with the included specifications, terms, and conditions shown in this Invitation to Bid (ITB). Prospective respondents are advised to read this information over carefully prior to submitting a Bid.

One (1) signed Bid and One (1) USB Flash Drive copy of the Bid shall be submitted to the Office of the City Clerk no later than **2:00PM Friday August 11, 2023**. Any Bids received after the time specified shall be returned unopened. Bids shall be submitted in a sealed envelope clearly marked Toyota Camry Hybrid LE Sedans and addressed to:

**OFFICE OF THE CITY CLERK  
CITY OF ELK GROVE  
8401 Laguna Palms Way  
Elk Grove, CA 95758**

Questions regarding this ITB are to be directed by e-mail to: Douglas Scott, Facilities and Fleet Manager, [dscott@elkgrovepd.org](mailto:dscott@elkgrovepd.org). Such contact shall be for clarification purposes only. The City must receive all questions no later than **5:00 PM Monday August 7, 2023**. Material changes, if any, to the scope of work or Bid procedures shall only be transmitted by written addendum and posted to the City website. Addendums and answers to submitted questions will be available via the City of Elk Grove website under "Notice" for the Bid announcement.

Bids shall not be accepted by fax or electronically.

**Late Bids:**

Bids arriving after the specified date and time shall not be considered, nor will late Bids be opened. Each Supplier assumes responsibility for timely submission of its Bid.

**Withdrawal or Modifications of Bids:**

Any Bid may be withdrawn or modified by a written request signed by the Supplier and received by the City Clerk prior to the final time and date for the receipt of Bids. Once the deadline is past, Suppliers are obligated to fulfill the terms of their Bid.

**Bid Acceptance and Rejection:**

The City reserves the right to accept any Bid, reject any and all Bids, and to call for new Bids or dispense with the Bid process in accordance with the Elk Grove Municipal Code.

**Bid Evaluation and Award:**

A contract may be awarded to the responsible Supplier with the lowest responsive Bid taking into consideration price and adherence to the included specifications, except as otherwise provided by the Elk Grove Municipal Code. The City shall enter into an agreement with the successful Supplier for the specified good and/or commodities. A contract may be awarded to the next lowest responsible Supplier if the successful Supplier refuses or fails to execute the contract. Bid results will be posted on the City's website under Proposals/Bids, Bid Results. Nothing herein shall obligate the City to award a contract to any of the responding Suppliers.

**Register with the California Secretary of State:**

Unless Supplier is a sole proprietorship, Supplier must be registered and in good standing with the California Secretary of State within 14 days following notification of the City's intent to award a contract to Supplier and prior to execution of a final contract. Failure to timely register with the Secretary of State may result in the City awarding the contract to another Supplier. Additional information regarding the registration process may be found on the Secretary of State's website at: <https://bizfileonline.sos.ca.gov/>

**Disclosure of Submitted Materials:**

After selection and execution of the contract(s), (or prior thereto if required by law) all information and materials provided in each submittal received is subject to disclosure through a public records request pursuant to the California Public Records Act, or otherwise as may be required by law. The City, in its sole discretion, may release any submitted materials, regardless of whether such materials are marked by respondents as confidential or otherwise as protected.

**Waiver of Irregularities:**

The City retains the right, in its sole discretion, to waive any irregularities in Bids that do not comply with the strict requirements of this ITB, and the City reserves the right to award a contract to a Supplier submitting any such non-compliant Bid, all in the City's sole discretion.

**Local Vendor Preference:**

A bid or proposal from a local vendor for commodities, equipment, and general services will be tabulated as if it were five (5%) percent below the figure actually set forth in the bid or proposal, up to a maximum preference of Fifty Thousand and no/100th (\$50,000.00) Dollars per bid or proposal, to account for the financial advantages accruing to the City by the award of a bid to a local vendor. Bids or proposals submitted in response to this ITB will be evaluated on the basis of a local preference of five (5%) percent of the bid or proposal price.

"Local vendor" means a person or legal entity which has a place of business (other than a post office box) within the City and has a valid, current business license issued by the City. To qualify as a local vendor for the purposes of Section 3.42.230 of this Code, the vendor shall submit with its bid or proposal a completed City-provided affidavit that documents the following: 1) the business has a facility with a City of Elk Grove address, 2) the business has, during at least one (1) year immediately preceding the submission of the bid or proposal, attributed sales tax to the City of Elk Grove, and 3) the business has had a City of Elk Grove business license for at least one (1) year prior to the submission of the bid or proposal. The affidavit can be obtained by accessing the Request for Bid and Bids section of the City website, <http://www.elkgrovecity.org/community/request-for-Bid.asp>.

**Validity of Pricing:**

Suppliers are required to provide line item descriptions and pricing, applicable sales tax, and a total final price. No cost increases shall be passed onto the City after the Bid has been submitted. All prices quoted shall be C.I.F. (Cost, Insurance, Freight) to the destination designated by the City, freight prepaid (Supplier pays and bears freight, insurance and unloading charges; Supplier owns goods in transit and must file any third-party claims for losses incurred during shipment). Each item must be listed separately. No attempt shall be made to tie any item or items contained in this ITB with any other business with the City; each Bid must stand on its own.

**No Guarantee of Usage:**

Any quantities listed in this ITB are estimated or projected and are provided for tabulation and information purposes only. No guarantee of quantities is given or implied by the City. Supplier must furnish the City's needs as they arise.

**Samples and Demonstrations:**

When required, the City may request full demonstrations prior to award. When such demonstrations are requested, the Supplier shall respond promptly and arrange a demonstration at a convenient location. Failure to provide samples or demonstrations as specified by the City may result in rejection of a Bid.

**Use of Other Governmental Contracts:**

The City reserves the right to reject any part or all of any Bids received and utilize other available governmental contracts.

**Piggybacking:**

“Piggybacking” is a form of intergovernmental cooperative purchasing in which an entity will be extended the same pricing and terms of a contract entered into by another entity.

Bidders are requested to indicate on the Bid if they will extend the pricing, terms and conditions of an awarded contract, based on this bid, to other government agencies. If the successful bidder agrees to this provision, participating agencies may enter into a contract with the successful bidder for the purchase of the service and commodities described herein based on the terms, conditions, prices, and percentages offered by the successful vendor to the City. Minor changes in terms and conditions may be negotiated by participating agencies during the term and following the award of the contract. Any such contract shall be entirely independent and separate from the City and City shall have no obligation relating to any third party contract.

**Qualification/Inspection:**

Bids will only be considered from Suppliers normally engaged in providing the types of goods/commodities specified herein. By responding to this ITB, the Supplier consents to the City's right to inspect the Supplier's facilities, products, personnel, and organization at any time, or to take any other action necessary to determine Supplier's ability to perform. The City reserves the right to reject Bids where evidence or evaluation is determined to indicate inability to perform. The City reserves the right to interview any or all responding Suppliers and/or to award a contract without conducting interviews.

**Delivery:**

The successful Supplier will supply goods/commodities in compliance with the provisions of the contract and provisions of this ITB at the address listed below.

**Delivery Address:**

NextGen Alpha Upfitting  
8400 Carbide CT. Suite A  
Sacramento CA. 95828

**Acceptance and Conditions**

The goods/commodities supplied in response to the ITB shall remain the property of the Supplier until a physical inspection is made and the goods/commodities are accepted to the satisfaction of the City. The goods/commodities must comply fully with the terms of the ITB, be of the required quality and new unless specified by the City. Any substitutes of goods/commodities not meeting specifications will be rejected, and returned if applicable, at the Supplier's expense. The City will make payment only after receipt and acceptance of goods/commodities.

**Other Governmental Entities:**

If the Supplier is awarded a contract as a result of this ITB, the Supplier shall, if the Supplier has sufficient capacity or quantities available, provide to other governmental agencies, so requesting, the goods/commodities awarded in accordance with the terms and conditions of the ITB.

**Payment Terms:**

Payment shall be made as set forth in the Contract attached hereto as Attachment B. In submitting Bids under these specifications, Suppliers should take into account all discounts, both trade and time, allowed in accordance with the payment terms.

**Performance:**

It is the intention of the City to acquire goods/commodities as specified herein from a Supplier that will give prompt and convenient service.

**Term of Contract:**

The term of the contract will be for a specific period of time, commencing upon execution. The City anticipates the contract to be for a term reasonably long enough for the cars to be delivered.

**Amendments:**

If, in the course of the performance of the contract, Supplier or the City proposes changes to the goods/commodities provided, and informal consultation with the other party indicates that a change in the terms and conditions of the contract may be warranted, Supplier or the City may request a change in the contract. The parties to the contract will meet to discuss and negotiate the required documents. Upon completion of those negotiations, the negotiated documents will be submitted to the City for approval. Upon approval by the City, an amendment to the Contract will be approved by all parties for the change to be implemented. An amendment shall not render ineffective or invalidate any unaffected portions of the Contract. Nothing in this section obligates the City to agree to any change order or other amendment, and the City may withhold such agreement in its sole discretion.

**New Merchandise:**

Unless otherwise required by the specifications of this ITB all goods/commodities furnished must be new and unused.

**Warranties:**

The Supplier shall warrant all material, products and labor provided under the contract, in addition to any manufacturers' warranties that may also apply. **Warranty periods and terms must be included in responses to Bid.**

The awarded Supplier, as the contracting party, shall be considered primarily responsible to the City for all warranty service, parts, and labor applicable to the goods/commodities provided by Supplier irrespective of whether Supplier is an agent, broker, fabricator, or manufacturer's dealer. Supplier shall be responsible for ensuring that warranty work is performed at a local agency or facility convenient to the City, to the extent a local agency or facility is available, and that services, parts, and labor are available and provided to meet the City's schedules and deadlines. Supplier may establish a service contract with a local agency satisfactory to the City, to meet this obligation if Supplier does not ordinarily provide warranty service. All such non-contractor warranty service, parts, and labor must be clearly identified in the Bid.

**Substitution:**

If Supplier elects to propose an alternate manufacturer's item that is of the same or better quality, samples of the items to be substituted are to be submitted with the Bid. The sample must be readily identified with the manufacturer's name and model number or order number, along with the suppliers name and phone number. All substitutions must be proposed as options and clearly identified as a substitution.

**Guarantee of Continuity and Availability Products:**

Unless the manufacturer discontinues the goods/commodities, all goods/commodities specified by the Supplier in their Bid shall be available to the City during the life of the contract and extensions. All material, color, labor, and construction shall equal or exceed the standards set forth in these specifications as accepted by the City.

**Service and support:**

All Suppliers shall explain how all on-going service and support shall be handled by the Supplier and the City of Elk Grove.

**Records:**

The Supplier shall maintain complete and accurate records with respect to labor costs, material expenses, and other such information required by City that relates to the delivery of goods/commodities under the contract. The Supplier shall maintain adequate records of goods/commodities delivered in sufficient detail to permit an evaluation of services and goods/commodities. 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. The Supplier 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 there from as necessary, and shall allow inspection of all work, data, documents, proceedings, and activities related to the contract. Such records, together with supporting documents, shall be maintained for City's inspection for a period of at least three (3) years after receipt of final payment.

**(See next page for Guidelines for Bid)**

## Guidelines for Bid

The following guidelines are provided for standardizing the preparation and submission of Bids. The intent is to assist respondents ("Supplier") in the preparation of their submissions and to assist the City by simplifying the review process providing standards for comparison of submissions.

Statements submitted in response to this ITB shall include a complete response to the requirements in this section in the order presented. Statements should be a straightforward delineation of the respondent's capability to satisfy the intent and requirements of this ITB, and should not contain redundancies and conflicting statements.

Bids shall be printed double sided, submitted on 8-1/2" x 11" recycled paper, with easy to read font size and style. Pages shall be numbered, tabbed, and bound (spiral / comb / three ring binder). Tabbed dividers should separate and identify the response items described below.

One (1) signed Bid and one (1) USB Flash Drive copy of the Bid shall be submitted to the Office of the City Clerk no later than **2:00 PM Friday August, 11, 2023**. Any Bids received after the time specified shall be returned unopened. Bids shall be submitted in a sealed envelope clearly marked Toyota Camry Hybrid LE Sedan addressed to:

**OFFICE OF THE CITY CLERK  
CITY OF ELK GROVE  
8401 Laguna Palms Way  
Elk Grove, CA 95758**

Bids shall contain the following information in the order listed:

1. Introductory letter

The introductory letter should be addressed to:

Douglas Scott  
Fleet and Facilities Manager  
City of Elk Grove  
8401 Laguna Palms Way  
Elk Grove, CA 95758

The letter shall include the Supplier's name submitting the Bid, their mailing address, telephone number, and contact name. The letter shall address the Supplier's understanding of the project based on this ITB and any other information the Supplier has gathered. Include a statement discussing the Supplier's interest and qualifications for this type of work. A principal of the firm authorized to legally bind the firm shall sign the letter.

2. Conflict of Interest Statement

Any activities or relationships of the Supplier that might create a conflict of interest for the Supplier or the City, and, if such activities or relationships exist, a description of the facts, legal implications, and possible effects sufficient to permit the City to appreciate the significance of the conflict and to grant any conflict waiver, if appropriate and necessary.

3. Pricing

This section should include the cost for requested goods/commodities outlined in the Scope of Work and must specifically itemize the costs for the goods/commodities listed under the Specifications section of the Scope of Work. Suppliers are required to provide line item descriptions and pricing, applicable sales tax, and a total final price. No cost increases shall be passed onto the City after the Bid has been submitted. Tax is to be listed as a separate line item.

4. Delivery

Indicate the approximate date of delivery to the City on Attachment A: Pricing Page, at the specified address as listed in the ITB.

5. Secretary of State  
Supplier shall acknowledge their understanding of needing to be registered with the California Secretary of State as noted in the ITB language above.
  
6. Sale of Goods Contract:  
Attached to the ITB (Attachment B) is a copy of the City's standard Sale of Goods Contract (Contract). The City's standard Contract may be modified, in the City's sole discretion, to address the specific provisions of this ITB and Suppliers should note that any specifications or other requirements specific to this ITB shall be included in the Contract and Contract's exhibits following an award of the Contract. Please review the Contract carefully and note in your Bid any exceptions or alterations to the Contract. Alterations or changes to the Contract that are not in the Supplier's response shall not be allowed after the selection of the Supplier. This includes alterations, exceptions, or changes to the insurance and indemnity provisions. By requiring these requests up front, the City can compare all respondents on an equal basis. However, the City reserves the right, in its sole discretion, to accept or reject any and all proposed changes to the City's standard Contract.

**(See next page for Scope of Work)**



## SCOPE OF WORK

### Technical Provisions

#### **Scope:**

These specifications describe the new, unused, latest model year Toyota Camry Hybrid LE Sedans to be purchased by the City. The following specifications were developed using Toyota Motor Company's 2023 Camry Hybrid LE Sedan ("Vehicles"), however, Supplier shall provide the most current year model available at the time of delivery within the schedule of performance.

The Vehicle(s) shall be completed vehicles with all equipment and accessories necessary for safe and efficient operation included. Vehicles shall be delivered as a complete unit, certified and ready for operation within the City of Elk Grove's area.

#### **General Equipment Specifications:**

Manufacturing, Material and Design Practices

It is intended that the manufacturer in the selection of components will use material and design practices that are the best available in the industry for the type of operating conditions to which the Vehicles will be subjected. Engine, suspension, wheels, tires and other component parts shall be selected to give maximum performance, service life and safety and not merely meet the minimum requirements of the specification. All parts, equipment and accessories shall conform in strength, quality of material and workmanship to recognized industry standards.

#### **Specification Variances:**

If any of the Vehicles bids varies from the specifications, such variation(s) must be listed in writing and attached as part of the bid. The City of Elk Grove reserves the right to waive minor variations if, in the opinion of the Facilities and Fleet Manager, the basic vehicle(s)/unit(s) meets the general intent of these specifications.

#### **Manufacturer's Specification:**

Only new models in current production which are cataloged by the manufacturer and for which printed literature and specifications are available shall be accepted.

#### **Manufacturer's Standard Equipment:**

- a. All equipment and components listed as standard by the manufacturer for model bid shall be furnished whether or not such items are detailed herein, e.g., special wrenches, tool kits, jacks shall be adequate to safely lift the vehicle when loaded to rated capacity, etc. Optional equipment as necessary to meet the requirements of this specification shall also be supplied.
- b. The specifications on the following pages are written with intent to meet all applicable documents but the final certification to comply shall rest with the supplier and not the City. Should requirements as specified not comply, the manufacturer is required to refigure and revise the specifications to meet all laws, rules and regulations where it applies to items such as the ratings of axles, tires, wheels, brakes, batteries, cooling capacity, etc., and the City is to be notified thereof.
- c. The City will not accept any part, component or system, which is not an established standard product of the Toyota manufacturer except for new engine and fuel technology. Any item or assembly, which, relative to the supplying manufacturer's standard line of products, could be described as "first of its kind", "experimental", "only one of its kind to be built", "especially modified to comply with this specification," "prototype," or synonymous categorical descriptions, shall not be acceptable. All parts and components of the system offered and delivered must conform to the manufacturer's standard production or be off-shelf available as a standard hardware production item.

#### **Applicable Documents and Certifications:**

The Vehicles shall comply with all regulations and requirements of the agencies listed below and Supplier

shall provide City with documentation and certifications evidencing compliance to City's satisfaction:

- a. Federal Motor Vehicle Safety Standard, Department of Transportation.
- b. State of California Motor Vehicle Code.
- c. State of California General Industrial Safety Orders.
- d. State of California Health and Safety Code, Motor Vehicle Pollution Control.
- e. California Occupational Safety and Health Act (O.S.H.A.) and the E.P.A.
- f. Society of Automotive Engineering Standards.
- g. American Society of Mechanical Engineers (A.S.M.E.)

#### **GENERAL SPECIFICATIONS:**

##### **Brand Names:**

Whenever in the specifications for any material or process specified by patent of proprietary name and/or by name of manufacturer, such specifications shall be deemed to be used for the purpose of facilitating descriptions of the material and/or process desired and shall be deemed to be followed by the words or "equivalent."

The Supplier may offer any material or process which shall be equal in every respect to that so indicated or specified, provided however, that if the material, process or article offered by the supplier is not, in the opinion of the City, equal in every respect to that specified, then the Supplier must furnish the material, process or article specified or one that of the City, in its sole discretion, accepts as the equal thereof in every respect.

##### **Delivery:**

Delivery shall be made to City in care of NextGen Alpha Upfitting located at 8400 Carbide Court, Suite A, Sacramento, California 98828 or another site as requested by the City, within the County of Sacramento, with the Vehicles serviced and operable with a full tank of fuel. The City's Facilities and Fleet Manager shall be given a minimum of twenty-four (24) hours prior notice of Supplier's intent to deliver the vehicles/unit(s).

##### **License and Registrations:**

Registration documentation shall be presented to City representatives at time of Vehicle(s) delivery. City representatives will apply for license and registrations and shall not be invoiced for licensing by Supplier.

##### **Inspection:**

The Vehicles shall be inspected before acceptance by an authorized representative of the City for workmanship, appearance, proper functioning of all equipment and systems, and conformance to all other requirements of this specification. If deficiencies are found, it shall be the responsibility of the Supplier to pick up the Vehicle, make the necessary corrections and redeliver the Vehicle for re-inspection and acceptance by the City. Payment and/or commencement of a discount period (if applicable) will not be made until corrective action has been made.

##### **Warranty:**

- a. The Vehicles' manufacturer shall provide a new vehicle warranty F.O.B. Elk Grove regardless of the method of delivery for each unit. Warranty time to start when vehicle(s) are placed in operation by City, not when delivered.
- b. Vehicles and components shall be guaranteed under standard factory and/or dealer warranty and a copy of manufacturer's warranty policy shall be delivered with each Vehicle and attached to Supplier's response to this IFB.

- c. Engine and transmission shall be guaranteed under the longest and most comprehensive standard factory warranty proposed specifically for municipal equipment. Acceptance of the entire unit and the body and appurtenance shall be free from workmanship and material defects. Supplier shall repair or replace all such defects at no cost to the City.
- d. The successful Supplier shall guarantee that there will be a factory authorized repair facility with adequate parts inventory to perform warranty repairs and provide product support for the time the cab, chassis, components, and body are covered under warranty.
- e. If the City is required to deliver a Vehicle for warranty work, Supplier shall reimburse the City at the rate of \$75.00 per hour for pickup and delivery time involved.
- f. Supplier shall furnish City with a "no-charge" copy of the work order(s) describing type of repair and parts replaced.

**VEHICLE SPECIFICATIONS:**

The following specifications describes a new unused Toyota Camry Hybrid LE Sedan. Supplier shall confirm their accuracy and that each specification will be included with the Vehicles supplied. Each Vehicle ordered shall meet the minimum specifications listed below.

**STANDARD EQUIPMENT**

**TECHNICAL FEATURES**

- a. 2.5-Liter Dynamic Force 4-Cylinder Dual Over Head Cam Engine
- b. Electronically Controlled Continuously Variable Transmission (ECVT)
- c. 4-Wheel Disc Brakes
- d. Independent MacPherson strut front suspension; multi-link rear suspension
- e. Electric Power Steering (EPS); power-assisted rack-and-pinion

**SAFETY FEATURES**

- a. Toyota Safety Sense 2.5+
- b. Pre-Collision System w/Pedestrian Detection
- c. Full-Speed Dynamic Radar Cruise Control
- d. Lane Departure Alert w/Steering Assist
- e. Lane Tracing Assist
- f. Ten Airbag System-  
Driver and Front Passenger Airbags  
Front and Side Curtain Airbags
- g. Automatic High Beams
- h. Road Sign Assist
- i. Star Safety System

**INTERIOR FEATURES**

- a. Audio – 7-inch Touchscreen
- b. 6 Speakers
- c. Hands-Free Bluetooth Phone/Music
- d. USB Media Port
- e. 2 USB Charge-Port
- f. Apple CarPlay/Android Auto Compatible
- g. 4.2-inch Multi-Informational Display
- h. Power Driver Seat w/Lumbar Support
- i. Dual-Zone Auto Climate Control
- j. Smart Key System w/Push Button Start
- k. Driver's 12-Way Power Seat

## **EXTERIOR FEATURES**

- a. 16-inch Steel Wheels
- b. Bi-LED Combination Headlights w/Auto On/Off Feature
- c. Day Time Running Lights w/On/Off Feature

## **EXTERIOR COLORS**

**(City Shall Except Cars from the Following List of Colors)**

- a. Predawn Gray Mica
- b. Ice Edge
- c. Celestial Silver Metallic
- d. Midnight Black Metallic

## **OPTIONAL EQUIPMENT**

- a. All Weather Floor Liners/Cargo Tray
- b. Driver's and Passenger's Rear Door and Rear Glass 5% Window Tint

## **WARRANTY**

- a. **Basic Warranty**, 3 years or 36,000 miles, whichever comes first
- b. **Powertrain Warranty**, 5 years or 60,000 miles, whichever comes first
- c. **Corrosion Peroration**, 5 years unlimited miles
- d. **Restraint Systems**, 5 years unlimited miles
- e. **Hybrid System**, 8 years or 100,000 miles whichever comes first
- f. **Hybrid Battery**, 10 years or 150,000 miles whichever comes first

**(See next page for Attachments)**

**Attachment A: Pricing Schedule**

**LIST PRICE FOR FURNISHING THE CITY OF ELK GROVE WITH SIX (6) NEWEST AVAILABLE MODEL YEAR TOYOTA CAMRY HYBRID LE SEDANS AS PER REQUIREMENTS STATED IN THIS IFB**

| <u>DESCRIPTION</u>           | <u>UNIT PRICE*</u>         | <u>EXTENDED PRICE</u> |
|------------------------------|----------------------------|-----------------------|
| Toyota Camry Hybrid LE Sedan | \$ _____ x6                | \$ _____              |
|                              | 8.75% SALES TAX            | \$ _____              |
|                              | TIRE FEE \$1.75 @ 30 TIRES | \$ _____ 52.50        |
|                              | TOTAL                      | \$ _____              |

\*Unit price must be stated as an all-inclusive price, inclusive of all requirements and specifications stated in this ITB, and all other fees.

Anticipated Date of Delivery: \_\_\_\_\_

**“Piggybacking” Option:**

Indicate that you shall extend the pricing, terms, and conditions of an awarded contract, based on this bid, to other government agencies. Yes [ ] or No [ ]

**Prompt Payment Discount:**

Shall offer a prompt payment discount? Yes [ ] or No [ ] (Net 45 days)

**If Yes**, the Payment Discount is \_\_\_\_\_% for payment within \_\_\_\_\_ calendar days, which shall be computed from the date delivery is made and is accepted by the City, or the date a proper invoice is received, whichever is later.

Quoting Vendor \_\_\_\_\_

Business Name \_\_\_\_\_

Business Address \_\_\_\_\_

Business Phone Number \_\_\_\_\_

SIGNED BY \_\_\_\_\_

TITLE \_\_\_\_\_

**Attachment B: Sample Sale of Goods Contract**

**CONTRACT BETWEEN CITY OF ELK GROVE  
AND \_\_\_\_\_  
FOR GOODS**

This Contract for Goods (“Contract”) is made and entered into this \_\_\_\_ day of \_\_\_\_\_ 20\_\_ (“Effective Date”) by and between City of Elk Grove, a California municipal corporation (“City” or “Buyer”), and \_\_\_\_\_ (“Seller”).

**RECITALS**

- A. City is in need of \_\_\_\_\_ (“Goods”) to support \_\_\_\_\_, a more detailed description of which is attached hereto as **Exhibit A** and incorporated herein by reference; and,
- B. City has determined that Seller is capable of providing the Goods at a reasonable price and in a timely manner; and,
- C. City agrees to purchase the Goods from Seller, subject to the terms and conditions of this Contract.

NOW, THEREFORE, in consideration of the mutual covenants and promises of City and Seller contained herein and the receipt of good and valuable consideration, the receipt of which is hereby acknowledged, City and Seller hereby agree as follows:

**AGREEMENT**

- 1. **Recitals.** The above Recitals are true and correct and incorporated herein by reference.
- 2. **Purchase and Sale.** Seller agrees to sell and City agrees to buy the Goods pursuant to the terms and conditions set forth in this Contract.
- 3. **Term of Contract.** This Contract shall be effective as of the date executed by the Parties and approved as to form by the City Attorney and shall terminate at 11:59 p.m. on \_\_\_\_\_, unless earlier terminated pursuant to Section \_\_\_\_ of this Contract. Notwithstanding any other provision of this Contract, the City Manager shall be authorized to extend the termination date of this Contract (including, as necessary, modification of the Scope of Work and/or Schedule of Performance as to time of performance) by a writing signed by the City Manager and the Seller prior to the initial termination or any extended termination date.
- 4. **Purchase Price for Goods.** The total price of the Goods, as further summarized on **Exhibit B**, shall not exceed \_\_\_\_\_ (\$ \_\_\_\_\_), without City’s prior written approval, signed by City Manager.

5. Time of Payment. Seller shall invoice City within thirty (30) calendar days of the Date of Acceptance for the Goods, as defined below. City shall pay Seller for all accepted Goods invoiced within thirty (30) calendar days of receipt of invoice.
6. Delivery of Goods. Seller shall deliver and install the Goods to City's offices at \_\_\_\_\_, with shipping and insurance charges included in the price. Delivery is to be within 30 days of City's request for Goods. The Goods shall be delivered by Seller to City free of any liens or encumbrances.
7. Inspection and Acceptance. The Goods shall be received by City subject to City's reasonable inspection, testing, approval, and acceptance of the Goods. If the Goods are rejected by City as nonconforming, City may return the Goods to Seller at Seller's risk and expense, and the Goods shall not be replaced or repaired by Seller without written authorization from City. If City does not provide written acceptance or a list of deficiencies within the thirty (30) calendar days, the Goods shall be deemed accepted ("Date of Acceptance").
8. Title/Risk of Loss. Title, ownership, and risk of loss or damage the Goods shall remain with Seller until the Goods are delivered to, inspected, and accepted by City, except when such loss or damage is due to the fault or negligence of City. Once accepted by City, title, ownership, and risk of loss shall transfer to City.
9. Termination and Suspension. This Contract may be terminated by City, with or without cause, provided that City gives not less than thirty (30) calendar days' written notice to Seller (delivered by certified mail, return receipt requested) of City's intent to terminate. Upon termination, City shall be entitled to all work and goods received as of the date of termination, unless otherwise returned or rejected by City. City may temporarily suspend this Contract, with or without cause, at no additional cost to City, provided that Seller is given written notice (delivered by certified mail, return receipt requested) of temporary suspension. If City gives such notice of temporary suspension, Seller shall immediately suspend its activities under this Contract. Notwithstanding any provisions of this Contract, Seller shall not be relieved of liability to City for damages sustained by City by virtue of any breach of this Contract by Seller, and City may withhold any payments due to Seller until such time as the exact amount of damages, if any, due City from Seller is determined. In the event of termination, Seller shall be compensated as provided for in this Contract.
10. Indemnification. To the fullest extent permitted by law, Seller shall indemnify, protect, defend, and hold harmless City, its officers, officials, agents, employees and volunteers from and against any and all claims, damages, demands, liability, costs, losses and expenses, including without limitation, court costs and reasonable attorneys' and expert witness fees, arising out of any failure to comply with applicable law, any injury to or death of any person(s), damage to property, loss of use of property, economic loss or otherwise arising out of the performance of the work described herein, to the extent caused by a negligent act or negligent failure to act, errors, omissions, recklessness or willful misconduct incident to the performance of this Contract on the part of Seller, except such loss or damage which was caused by the sole negligence, or willful misconduct of City, as determined by a Court of competent jurisdiction. Unless and until such judicial determination is made, or as otherwise agreed by the parties, Contractor shall remain obligated to defend, indemnify, and hold harmless City, its officers, officials, employees, volunteers, and agents pursuant to this Agreement. The provisions of this section shall survive expiration, termination, or suspension of this Contract.

In any contract that Seller enters into with any subcontractor in any capacity related to any and all duties under this Contract, there must be an indemnification provision identical to the one provided in this Section applicable to the subcontractor requiring the subcontractor to assume the defense, indemnify and save harmless City to the same extent as Seller. Seller's failure to include such an indemnification provision in any contract with a subcontractor shall constitute a material breach of this Contract. In the event Seller fails to obtain such indemnity obligations from others as required herein, Seller agrees to be fully responsible and indemnify, and save harmless City as prescribed under this Section.

11. Warranties. In addition to any other warranties set forth herein, Seller warrants that the Goods, including any component or replacement parts, furnished, manufactured or provided by Seller will be free from defects in material and workmanship for a period of ninety (90) days from Date of Acceptance of the Goods by City. Any additional warranties provided by law, including, but not limited to, the warranty of merchantability and warranty of fitness for a particular purpose shall remain in full force and effect and inure to the benefit of City. City reserves all rights and remedies provided by law for breach of any applicable warranty related to the Goods.

12. Remedies. In the event of a material breach of this Contract by Seller, City may avail itself of any other right and remedies available at law or in equity. Nothing herein shall limit City's rights to seek any available remedy including, but not limited to, damages and/or equitable relief, in a court of competent jurisdiction.

13. Compliance with Laws. Seller shall comply with all applicable governmental laws, ordinances, codes, rules, regulations, programs, plans, and orders in the performance of this Contract.

14. Furthermore, Seller shall certify its compliance with Labor Code Section 3700 in the form attached hereto and incorporated by reference, as **Exhibit C**.

15. Evidence of Insurance Compliance. Seller or its insurance broker shall deliver the required proof of insurance compliance, consisting of Insurance Services Office (ISO) endorsement forms or their equivalent and the ACORD form 25-S certificate of insurance (or its equivalent), evidencing all required coverage to City. City may designate an insurance certificate processor ("Processor") to accept and process Seller's proof of insurance. Seller shall deliver copies of the actual insurance policies, renewals, or replacements directly to City or Processor upon their request.

16. Notice of Material Change in Business. Seller agrees that, if it experiences a material change in its business during the term of this Contract, including, without limitation, a reorganization, restructuring, leveraged buyout, and/or bankruptcy, Seller shall immediately notify City of the change in writing.

17. Attorneys' Fees. If any party to this Contract shall take any action to enforce this Contract or for any relief against any other party, declaratory or otherwise, arising out of this Contract, the prevailing party shall be entitled to reasonable attorneys' fees and costs incurred in such action, suit and/or enforcement of any judgment granted therein, all of which shall be deemed to have accrued upon the commencement of such action and shall be paid by the losing party whether or not such action is prosecuted to judgment. Any judgment or order entered in such action shall contain a specific provision providing for the recovery of attorneys' fees and costs incurred in enforcing such judgment. For purposes of this section, attorneys' fees shall also include, but not



be limited to, fees incurred in the following: (a) appeals or post-judgment motions and collection actions; (b) contempt proceedings; (c) garnishment, levy, and debtor and third party examinations; (d) discovery; and (e) bankruptcy litigation. The provisions of this section shall survive any expiration, suspension, and termination of the Contract as provided for herein.

18. Notices. All notices, requests, demands, and other communications required to or permitted to be given under this Contract shall be in writing and shall be conclusively deemed to have been duly given (a) when hand delivered to the other party; (b) three (3) business days after the same have been deposited in a United States Post Office with certified mail, return receipt requested, postage prepaid and addressed to the parties as set forth below; or (c) the next business day after same have been deposited with a national overnight delivery (Federal Express, UPS, and DHL WorldWide Express being deemed approved by the parties), postage prepaid, addressed to the parties as set forth below with next-business-day delivery guaranteed:

TO SELLER: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Telephone: ( ) \_\_\_\_\_

TO CITY: CITY OF ELK GROVE  
Attn: \_\_\_\_\_  
\_\_\_\_\_  
Elk Grove, CA 95678  
Telephone: \_\_\_\_\_

A party may change or supplement the addresses given above, or designate additional addresses, for purposes of this section by giving the other parties written notice of the new address in the manner set forth above.

19. Entire Agreement. This Contract contains the entire agreement between City and Seller in connection with the transaction contemplated hereby and the subject matter hereof and this Contract supersedes and replaces any and all prior and contemporaneous agreements, understandings, and communications between the parties, whether oral or written, with regard to the subject matter hereof or any course of dealing, course of performance, or usage of the trade. Parol evidence shall be inadmissible to show agreement by and between City or Seller to any term or condition contrary to or in addition to the terms and conditions contained in this Contract. Both parties acknowledge that each has not relied on any promise, representation or warranty, express or implied, not contained in this Contract.

20. Modification. This Contract shall not be modified in any manner except by a writing signed by both City and Seller.

21. Assignment. Seller shall not delegate or subcontract any duties or assign any rights or claims under this Contract without City's prior written consent.

22. Severability. If any term or provision of this Contract shall, to any extent, be held invalid or unenforceable, the remainder of this Contract shall not be affected.

23. Waivers. A waiver or breach of a covenant or provision in this Contract shall not be deemed a waiver of any other covenant or provision in this Contract and no waiver shall be valid

unless in writing and executed by the waiving party. An extension of time for performance of any obligation or act shall not be deemed an extension of the time for performance of any other obligation or act.

24. Construction. The section headings and captions of this Contract are, and the arrangement of this instrument is, for the sole convenience of the parties to this Contract. The section headings, captions, and arrangement of this instrument do not in any way affect, limit, amplify, or modify the terms and provisions of this Contract. The singular form shall include plural, and vice versa. Unless otherwise indicated, all references to sections are to this Contract. All exhibits referred to in this Contract are attached hereto and incorporated herein by this reference.

25. Drafting. City and Seller acknowledge and agree that this Contract has been negotiated at arms length, that each party has been represented by independent counsel and/or has had an opportunity to consult with and be represented by independent counsel, that this Contract is deemed to be drafted by both parties, that no one party shall be construed as the drafter of this Contract, and that any rule of construction that ambiguities are to be construed against the drafter shall not apply in the interpretation or construction of this Contract.

26. Counterparts. This Contract may be executed in one or more counterparts. Each shall be deemed an original and all, taken together, shall constitute one and the same instrument.

27. Time of the Essence. Seller and City hereby acknowledge and agree that time is strictly of the essence with respect to each and every term, condition, obligation, and provision hereof, particularly, and without limitation of factors contributing to the need for timely compliance of this Contract.

28. Successors. This Contract shall inure to the benefit of and shall be binding upon the parties to this Contract and their respective heirs, successors in interest, and assigns. This Contract may only be assigned upon written approval and agreement of the parties, which approval will not be unreasonably withheld. Any purported assignment of this Contract without the prior written approval of all parties shall be null and void.

29. Governing Law. The parties acknowledge that this Contract has been negotiated and entered into in the State of California, County of Sacramento. The parties agree that this Contract shall be governed by, interpreted under, and construed and enforced in accordance with the laws of the State of California. Venue for any action or proceeding relating to or arising out of this Contract shall be with a court of competent jurisdiction in the County of Sacramento.

30. No Third Party Beneficiary Rights. This Contract is entered into for the sole benefit of City and Seller. No other parties are intended to be direct or incidental beneficiaries of this Contract and no third party shall have any right in, under or to this Contract.

31. No Joint Venture, Partnership or Other Relationship Created. The relationship between City and Seller is that solely of a seller and a buyer and no joint venture, partnership or other relationship is created or implied by this Contract.

IN WITNESS WHEREOF, the parties hereto have executed this Contract in Sacramento, California, by affixing their signatures below, and this Contract shall be deemed effective as of the date on which each of the parties execute this Contract as indicated by the dates below. In the event that the parties do not execute this Contract on the same date, the effective date of this Contract shall be the latest date on which one of the parties executes this Contract.

“SELLER”  
Name of Company

Dated: \_\_\_\_\_, 2023

By: \_\_\_\_\_  
Name, Title

“CITY”  
CITY OF ELK GROVE

Dated: \_\_\_\_\_, 2023

By: \_\_\_\_\_  
Jason Behrmann, City Manager

APPROVED AS TO FORM:

\_\_\_\_\_  
Jonathan P. Hobbs, City Attorney

\_\_\_\_\_  
Date

ATTEST:

\_\_\_\_\_  
Jason Lindgren, City Clerk

\_\_\_\_\_  
Date

**EXHIBIT A**

**DESCRIPTION OF GOODS**

**EXHIBIT B**

**PRICE**

**EXHIBIT C**

**Certificate of Compliance With Labor Code § 3700, Release and Indemnification**

The undersigned, on behalf of and as the duly certified representative of Seller, certifies as follows:

1. Seller is 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 Seller has complied or will comply with such provisions before commencing the performance of the work of this contract. (Cal. Labor Code §§1860, 1861.)
2. Should Seller fail to secure Workers' Compensation coverage as required by the State of California, Seller shall release, hold harmless, defend and indemnify City of Elk Grove from and against any damage, liability, claim, cause of action and any other loss, including without limitation, court costs, reasonable attorney's fees and costs resulting from any failure to take and/or maintain Workers' Compensation insurance as required by law. The provisions of this Exhibit shall survive termination, suspension and/or completion of this Contract. It is further understood and agreed that this release and assumption of risk is to be binding on Seller's successors, heirs and assigns.

SELLER

By: \_\_\_\_\_

Date: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_