

**PROJECT BID/CONTRACT DOCUMENTS FOR THE CONSTRUCTION OF  
SITE IMPROVEMENTS FOR**

**ALMOND PARK SHADE STRUCTURES  
ORANGEVALE RECREATION AND PARK DISTRICT**

**ORANGEVALE, CA**

**Prepared for:**

Orangevale Recreation and Park District  
6826 Hazel Avenue, Orangevale, CA 95662  
PH: (916) 988-4373  
Fax: (916) 988-3496

**Bid Due Date:** March 21, 2017, 1pm PST

**Anticipated Start Date:** April 17, 2017

**Bid Documents Prepared by:**

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### SPECIFICATIONS

No Construction specifications

END SECTION

## **NOTICE TO CONTRACTORS INVITING INFORMAL BIDS**

NOTICE IS HEREBY GIVEN that Orangevale Recreation and Park District (the "District") will receive informal sealed bids for the award of contract for the following described project as follows:

**BID DATE:** **March 21, 2017, no later than 1:00 p.m. Pacific Time**

**SUBMIT BIDS TO:** **Orangevale Recreation & Park District  
6826 Hazel Avenue  
Orangevale, CA 95662**

**PROJECT DESCRIPTION:** **Almond Shade Structures**

**PROJECT ESTIMATE:** **\$52,300 (Base Bid)**

**CONTRACTOR'S CALIFORNIA LICENSE** **General Contractor**

**AND/OR CLASS REQUIRED** **Class: A, B**

**Informal Bidding Pre-Registration List.** The District has adopted, by ordinance, the California Uniform Public Construction Cost Accounting Act (UPCCAA) in accordance with Public Contract Code Section 22023. Any public works project that is estimated to be below \$175,000.00 is subject to the informal bidding procedures set forth by the State of California Uniform Construction Cost Accounting Commission. If a bid is submitted without being on the Pre-Registration list, the bid will be deemed non-responsive and returned unopened. For placing Contractor's name on District's List of Qualified Contractors, please contact the District Administrator at (916) 988-4373.

All bids shall be made and presented only on the forms presented by the District. Bids shall be received in the District offices at 6826 Hazel Avenue, Orangevale, California, 95662 and shall be opened and publicly read aloud at the above stated time and place. Any bids received after the time specified above or after any extensions due to material changes shall be returned unopened.

**THERE WILL BE A MANDATORY PRE-BID MEETING ON TUESDAY, MARCH 7, 2017 AT 11:00 AM AT THE PROJECT SITE 5901 ALMOND AVENUE, ORANGEVALE, CA 95662.** Any contractor bidding on the Project who fails to attend the entire mandatory pre-bid meeting will be deemed a non-responsive bidder and will have its bid returned unopened.

Award of this Contract requires a valid California contractor's license with the classification identified above at the time of award and throughout the duration of this Contract. The Contractor's California State License Number shall be clearly stated on the bidder's proposal.

Subcontractors shall be licensed pursuant to California law for the trades necessary to perform the Work called for in the Contract Documents.

Copies of the bid documents, plans and specifications are available at the office of the District, 6826 Hazel Avenue, Orangevale, California between the hours of 8:30 a.m. and 5:00 p.m., Monday through Friday. Complete plans and specifications are available on the District's website at [www.ovparks.com](http://www.ovparks.com).

Each bid must be submitted on the bid forms provided in the Contract Documents, including the Proposal for Construction Contract - Bid Form, List of Proposed Subcontractors, Contractor Responsibility Determination Criteria, Noncollusion Affidavit and Pre-Bid Site Inspection Certification to the clerk of the Board of Directors on standard forms which may be obtained from the District at 6826 Hazel Avenue, Orangevale, California. Said proposal is to be accompanied by bid security in the form of a certified check, cashier's check or bidder's bond by a surety admitted to do business in the State of California, for an amount equal to not less than ten percent (10%) of the amount of the bid submitted to be made payable to the ORANGEVALE RECREATION & PARK DISTRICT. Each bidder shall submit with its bids – on the form furnished with the Contract Documents – a list of the designated subcontractors on this Project as required by the Subletting and Subcontracting Fair Practices Act, California Public Contract Code Section 4100, et seq. All subcontractors listed must be registered with the California Department of Industrial Relations to perform public work pursuant to Labor Code Section 1725.5.

The successful contractor and all subcontractors shall comply with the requirements set forth in Division 2, Part 7, Chapter 1 of the Labor Code. Pursuant to Section 1720 et seq. and 1770 et seq. of the California Labor Code, it shall be mandatory for the Contractor to whom the contract is awarded, and upon any subcontractor under such Contractor, to pay not less than the prevailing rate of per diem wages as determined by the Director of the California Department of Industrial Relations. Copies of such prevailing rate of per diem wages are on file at the District office 6826 Hazel Avenue, Orangevale, California. Those copies shall be made available to any interested party on request.

The successful contractor and all subcontractors must be registered with the California Department of Industrial Relations pursuant to Labor Code Section 1725.5.

This Project is subject to monitoring and enforcement by the Department of Industrial Relations. The Contractor and all subcontractors shall furnish certified payroll records as required pursuant to Labor Code Section 1776 directly to the Labor Commissioner in accordance with Labor Code Section 1771.4 on at least a monthly basis (or more frequently if required by the District) and in a format prescribed by the Labor Commissioner. The District reserves the right to withhold contract payments if the District is notified or determined as the result of its own investigation, that Contractor or its subcontractors are in violation of any of the requirements set forth in Labor Code Section 1720 et seq. at no penalty or cost to the District.

The successful bidder shall also be required to furnish a bond for the faithful performance of the

contract for the work in an amount equal to one hundred percent (100%) of the contract price for the work, and an additional bond in an amount equal to one hundred percent (100%) of the contract price for the work to secure payment of claims for materials furnished for or labor performed in the performance of the work. All bonds shall be issued by sureties admitted to do business in the State of California. All bonds shall be accompanied by a certificate of fact issued by the County of Sacramento, Department of Finance, County Clerk - Recorder, pursuant to Code of Civil Procedure, Section 995.640(a) or a certified copy of the Certificate of Authority issued by the State of California, Department of Insurance, with respect to any proposed surety.

The form of agreement which the successful bidder will be required to enter into will require that five percent (5%) of each progress payment be placed in retention to ensure the satisfactory performance of the contract. Alternatively, the successful bidder may substitute securities for the monies being held in retention, at bidder's sole cost and expense, as more particularly set forth in Public Contract Code Section 22300.

No telephone or facsimile machine will be available to bidders on the District premises at any time. It is each bidder's sole responsibility to ensure its bid is timely delivered and received at the location designated as specified above. Any bid received at the designated location after the scheduled closing time for receipt of bids shall be returned to the bidder unopened.

No bidder may withdraw any bid for a period of ninety (90) calendar days after the date set for opening of bids. The Board of Directors of the District reserves the right to reject any or all bids received as the public good may require and to waive any informality in bidding.

Dated: February 9, 2017

ORANGEVALE RECREATION AND PARK

By: \_\_\_\_\_  
Clerk of the Board of Directors

## INSTRUCTIONS TO BIDDERS

From: BOARD OF DIRECTORS OF ORANGEVALE RECREATION AND PARK DISTRICT

Project: ALMOND PARK SHADE STRUCTURES

### I

#### DEFINITIONS

1. Definitions set forth in the Contract Documents are applicable to the bidding documents.
2. "Bidding documents" include the Notice to Contractors Inviting Informal Bids, these Instructions to Bidders, any supplementary instructions to bidders, any addenda, Pre-Bid Site Inspection Certification, the Proposal for Construction Contract - Bid Form ("Bid Form"), the List of Proposed Subcontractors, the Noncollusion Affidavit, and the proposed Contract Documents. The proposed "Contract Documents" consist of the form of Agreement between the District and Contractor, General and Supplementary Conditions to the Contract, and drawings, specifications and all addenda issued prior to execution of the Contract Documents.
3. "Addenda" are written or graphic instruments issued by the District prior to the execution of the Contract Documents that modify or interpret the bidding documents by additions, deletions, clarifications or corrections.
4. A "bid" is a complete and properly signed proposal to do the work for the sums stipulated therein, submitted in accordance with the bidding documents.
5. The "base bid" is the sum stated in the bid for which the Bidder offers to perform the work described in the bidding documents as the base, to which work may be added or from which work may be deleted for sums stated in alternate bids.
6. An "alternate bid" (or "Alternate") is an amount stated in the bid to be added to or deducted from the amount of the base bid if the corresponding change in the work, as described in the bidding documents, is accepted.
7. A "unit price" is an amount stated in the bid as a price per unit of measurement for materials, equipment or services or a portion of the work as described in the bidding documents.
8. A "bidder" is a person or entity who submits a bid.
9. A "subcontractor" is a person or entity who submits a bid to a bidder for materials,

equipment or labor for a portion of the work.

## II

### **BIDDER'S REPRESENTATIONS**

1. The bidder, by making a bid, represents that:
  - A. The bidder has read and understands the bidding documents and the proposed Contract Documents, and the bid is made in accordance therewith.
  - B. The bidder has read and understands the bidding documents and Contract Documents to the extent that such documentation relates to the work for which the bid is submitted, and for other portions of the project, if any, being bid concurrently or presently under construction.
  - C. The bidder has visited the site, become familiar with local conditions under which the work is to be performed and has correlated the bidder's personal observations with the requirements of the proposed Contract Documents.
  - D. The bid is based upon the materials, equipment and systems required by the bidding documents without exception.
  - E. The bidder represents that it is licensed under the provisions of Chapter 9, Division 3 of the Business and Professions Code of the State of California, to do the type of work contemplated in the project, and that it is skilled and regularly engaged in the general class or type of work called for in the bidding documents. The bidder further represents that the contractor's license number and date of expiration listed on the Bid Form and the other representations made in the Bid Form and these Instructions to Bidders are true and correct.
  - F. The bidder represents and warrants that it is registered with the California Department of Industrial Relations pursuant to Labor Code Section 1725.5.

## III

### **BIDDING DOCUMENTS**

1. Copies:
  - A. Bidders may obtain complete sets of the bidding documents including plans and specifications for the project at the locations set forth in the Notice to Contractors Inviting Informal Bids.
  - B. Bidding documents will not be issued directly to subcontractors or others unless

specifically offered in the Notice to Contractors Inviting Informal Bids, or in supplementary instructions to bidders.

- C. Bidders shall use complete sets of bidding documents in preparing bids; the District does not assume responsibility for errors or misinterpretations resulting from the use of incomplete sets of bidding documents.
- D. In making copies of the bidding documents available on the above terms, the District does so only for the purpose of obtaining bids on the work and does not confer a license or grant permission for any other use of the bidding documents.

2. Interpretation or Correction of Bidding Documents:

- A. The bidder shall carefully study and compare the bidding documents with each other, and with other work being bid concurrently or presently under construction to the extent that it relates to the work for which the bid is submitted, shall examine the site and local conditions, and shall at once report to the District any errors, inconsistencies or ambiguities discovered.
- B. Bid prices shall include everything necessary for the completion of construction and fulfillment of the contract including but not limited to furnishing all materials, equipment, tools, labor, etc. In the event that the product of a unit price and an estimated quantity does not equal the extended amount quoted, the unit price shall govern and the correct product of the unit price and the estimated quantity shall be deemed to be the amount bid. If the sum of two or more items in a bidding schedule, or the sum of two or more bidding schedules, does not equal the total amounts quoted, the individual item or schedule amount shall govern and the corrected total shall be deemed to be the amount bid.
- C. Bidders and subcontractors requiring clarification or interpretation of the bidding documents shall make a written request to the District at least seven (7) days prior to the date for receipt of bids.
- D. Interpretations, corrections and changes of the bidding documents will be made by addendum. Interpretations, corrections and changes of the bidding documents made in any other manner will not be binding and bidders shall not rely upon them.

3. Substitutions:

- A. The materials, products and equipment described in the bidding documents establish a standard of required function, dimension, appearance and quality to be met by any proposed substitution.
- B. No substitution will be considered prior to receipt of bids unless written request for approval has been received by the District at least ten (10) days prior to the



date for receipt of bids. Such requests shall include the name of the material or equipment for which it is to be substituted and a complete description of the proposed substitution. The District's decision of approval or disapproval of a proposed substitution shall be final.

- C. If the District approves a proposed substitution prior to receipt of bids, such approval will be set forth in an addendum. Bidders shall not rely upon approvals made in any other manner.
- D. No substitutions will be considered after the contract award unless specifically provided in the Contract Documents.

4. Addenda:

- A. Addenda will be mailed or delivered to all who are known by the District office to have received a complete set of bidding documents.
- B. Copies of addenda will be made available for inspection at the District office.
- C. No addenda will be issued later than four (4) days prior to the date for receipt of bids except in addendum withdrawing the request for bids or one which includes postponement of the date for receipt of bids.
- D. Each bidder shall ascertain prior to submitting a bid that the bidder has received all addenda issued, and the bidder shall acknowledge their receipt in the bid.

5. List of Proposed Subcontractors:

- A. The bidder shall perform, with its own organization and employees, work of a value not less than fifty percent (50%) of the value of all work contemplated by the Contract Documents except when certain items are exempted from said fifty percent (50%) requirement by written instructions from the District.
- B. All subcontractors must be registered with the California Department of Industrial Relations pursuant to Labor Code Section 1725.5.
- C. In accordance with Section 4100 et seq. of the Public Contract Code of the State of California each bid shall be accompanied by a List of Proposed Subcontractors on the form provided with the Bid Form which shall specify (a) the name, location of place of business, and contractor's license number of each subcontractor who will perform work or labor, or render service to the general contractor with respect to the construction of the work or improvement, or of each subcontractor who shall specially fabricate and/or install a portion of the work or improvement according to the plans and specifications, in an amount in excess of one-half of one percent (.5%) of the total bid; and (b) the portion of the work which will be done by each such subcontractor. The bidder shall list only one

subcontractor for each portion of the work as defined by the bidder in its bid.

- D. If bidder fails to specify a subcontractor for any portion of the work to be performed pursuant to the Contract Documents in excess of one-half of one percent (.5%) of the total bid, the bidder agrees to perform that portion of the work itself.

6. Anti-Discrimination.

- A. It is the policy of the District that there be no discrimination against any prospective or active employee engaged in the Work because of race, color, ancestry, national origin, religious creed, sex, gender, gender identity, gender expression, age, sexual orientation, marital status, physical disability, mental disability, medical condition, and/or genetic information, . All Bidders agree to comply with the District's anti-discrimination policy and all applicable federal and California anti-discrimination laws including but not limited to the California Fair Employment and Housing Act beginning with California Government Code Section 12940, et seq. and California Labor Code Section 1735. In addition, all bidders agree to require like compliance by any subcontractor employed by them on the work of the Contract Documents.

## IV

### **BIDDING PROCEDURES**

1. Form and Style of Bids:

- A. Bids shall be submitted on forms identical to the form included with the bidding documents. All bids shall be accompanied by a Pre-Bid Site Inspection Certification, List of Proposed Subcontractors and a Noncollusion Affidavit in order to be considered a complete bid.
- B. Where so indicated by the makeup of the Bid Form, sums shall be expressed in both words and figures, and in case of discrepancy between the two, the amount written in words shall govern.
- C. Interlineations, alterations and erasures must be initialed by the signer of the bid.
- D. All requested alternates shall be bid. If no change in the base bid is required, enter "No Change".
- E. Where two (2) or more bids for designated portions of the work have been requested, the bidder may, without forfeiture of the bid security, state the bidder's refusal to accept award of less than the combination of bids stipulated by the bidder. The bidder shall make no additional stipulations on the bid form nor

qualify the bid in any other manner.

- F. Each copy of the bid shall include the legal name of bidder and a statement that bidder is a sole proprietor, partnership, corporation or other legal entity. Each copy shall be signed by the person or persons legally authorized to bind bidder to a contract. A bid by a corporation shall further give the state of incorporation and have the corporate seal affixed. A bid submitted by an agent shall have a current power of attorney attached certifying the agent's authority to bind the bidder.
- G. Each copy of the bid must be signed in the same name-style in which the bidder is licensed by the Contractor's License Board of the State of California. Each copy of the bid shall include the bidder's contractor's license number which covers the work to be performed pursuant to the plans and specifications, the date of expiration of the bidder's contractor's license, and a statement under penalty of perjury signed by the authorized representative of the bidder that all the information contained in the Bid Form is true and correct. Any bid not containing this information, or a bid containing the information which is subsequently proven false, shall be considered non-responsive and shall be rejected by the District pursuant to the requirements of Business and Professions Code Section 7028.15.

2. Bid Security:

- A. Each bid shall be accompanied by bid security in the form and amount required, pledging that the bidder will enter into a contract with the District on the terms stated in the bid and will, if required, furnish bonds covering the faithful performance of the contract and payment of all obligations arising thereunder. Bid security shall be in the amount of not less than ten percent (10%) of the amount of the bid being submitted by Contractor, and may be in the form of a certified check, cashier's check or surety bond. Should the bidder refuse to enter into such a contract or fail to furnish the bonds required by this Invitation to Bid and the Contract Documents, the amount of the bid security shall be forfeited to the District as liquidated damages, not as a penalty.
- B. Surety bonds shall be written on the form provided in the bidding documents and the attorney-in-fact who executes the bond on behalf of the surety shall affix to the bond a certified and current copy of the power of attorney.
- C. All surety bonds shall be issued by a surety admitted to do business in the State of California as an insurer. Each bid shall be accompanied by a certificate of fact issued by the County of Sacramento, Department of Finance, County Clerk-Recorder, with respect to such surety, which certificate is issued pursuant to Code of Civil Procedure, Section 995.640(a) or a certificate of authority with respect to such surety issued by the State of California, Department of Insurance. By virtue of submitting the Bid Form in response to the bidding documents, the bidder certifies under penalty of perjury that all bonds provided are issued by a surety admitted to do business in the State of California as an insurer.

- D. The District will have the right to retain the bid security of bidders to whom an award is being considered until either (a) the contract has been executed and bonds have been furnished, or (b) the specified time has elapsed so that bids may be withdrawn, or (c) all bids have been rejected.

3. Submission of Bids:

- A. All copies of the Bid Form, the bid security, if any, and other documents required to be submitted with the bid shall be enclosed in a sealed opaque envelope. The envelope shall be addressed to ORANGEVALE RECREATION AND PARK DISTRICT and shall be identified with the project name, bidder's name and address and, if applicable, the designated portion of the work for which the bid is submitted. If the bid is sent by mail, the sealed envelope shall be enclosed in a separate mailing envelope with the notation "SEALED BID ENCLOSED" on the face thereof.
- B. Bids shall be deposited at the District office prior to the time and date for receipt of bids. Bids received after the time and date for receipt of bids shall be returned unopened.
- C. The bidder shall assume full responsibility for timely delivery at the location designated for receipt of bids.
- D. Oral, telephonic, facsimile or telegraphic bids are invalid and will not receive consideration.

4. Modification or Withdrawal of Bid:

- A. A bid may not be modified, withdrawn or canceled by the bidder during the stipulated time period following the time and date designated for the receipt of bids, and each bidder so agrees in submitting a bid.
- B. Prior to the time and date designated for receipt of bids, a bid submitted may be modified or withdrawn by notice to the District at the District office. Such notice shall be in writing over the signature of the bidder or by telegram. If by telegram, written confirmation over the signature of the bidder shall be mailed and postmarked on or before the date and time set for receipt of bids. A change shall be so worded as not to reveal the amount of the original bid.
- C. Withdrawn bids may be resubmitted up to the date and time designated for the receipt of bids provided that they are fully in conformance with these Instructions to Bidders.
- D. Bid security, if required, shall be in an amount sufficient for the bid as modified or resubmitted.

5. Disqualification of Bidders:

- A. The bidder declares by the submission of a bid that the bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, organization or corporation, and that the bid is genuine and not collusive or a sham.
- B. More than one bid from any individual, firm, partnership, corporation or association, under the same or different names, will not be considered. Reasonable grounds for believing that any bidder is interested in more than one bid for the work will cause the rejection of all bids in which such bidder is interested. If there is reason to believe that collusion exists among the bidders, none of the participants in such collusion will be considered.

6. Relief of Bidders:

- A. Attention is directed to the provisions of Public Contract Code Section 5100 et seq. concerning relief of bidders, and in particular to the requirement therein that if the bidder claims a mistake was made in its bid, the bidder shall give the District written notice within five (5) days after the opening of the bids of the alleged mistake, specifying in the notice in detail how the mistake occurred.

7. Public Records:

- A. Bid proposals and other documents responding to the Notice Inviting Bids become the exclusive property of the District upon submittal to the District. At such time as the District issues the Notice of Intent to award the Contract pursuant to these Instructions, all bid proposals and other documents submitted in response to the Notice to Contractors Inviting Informal Bids becomes a matter of public record and shall thereupon be considered public records, except for information contained in such bid proposals deemed to be trade secrets (as defined in California Civil Code Section 3426.1) and information provided in response to the Contractor Responsibility Determination Criteria form. A bidder that indiscriminately marks all or most of its bid proposal as exempt from disclosure as a public record, whether by the notations of "trade secret", "confidential", "proprietary" or otherwise, may render the bid proposal non-responsive and rejected. The District is not liable or responsible for the disclosure of such records, including those exempt from disclosure if disclosure is deemed required by law, by an order of Court, or which occurs through inadvertence, mistake or negligence on the part of the District or its officers, employees or agents. At such time as bid proposals are deemed a matter of public record pursuant to the above, any bidder or other party shall be afforded access for inspection and/or copying of such bid proposals, by request made to the District in conformity with the California Public Records Act (California Government Code Section 6250, et seq.). If the District is required to defend or otherwise respond to any action or

proceeding wherein request is made for the disclosure of the contents of any portion of a bid proposal deemed exempt from disclosure hereunder, the bidder submitting the materials sought by such action or proceeding agrees to defend, indemnify and hold harmless the District in any action or proceeding from and against any liability, including without limitation attorneys' fees arising therefrom. The party submitting materials sought by any other party shall be solely responsible for the cost and defense in any action or proceeding seeking to compel disclosure of such materials; the District's sole involvement in any such action shall be that of a stakeholder, retaining the requested materials until otherwise ordered by a court of competent jurisdiction.

## V

### **CONSIDERATION OF BIDS**

1. Opening of Bids:
  - A. Unless stated otherwise in the Notice to Contractors Inviting Informal Bids, the properly identified bids received on time will be opened publicly and will be read aloud.
2. Rejection of Bids:
  - A. The District shall have the right to reject any or all bids, reject a bid not accompanied by a required bid security or by other data required by the bidding documents, or reject a bid which is in any way incomplete or irregular.
3. Consideration of Bids:
  - A. After the bids have been opened and read, they may be checked for accuracy and compliance with the requirements of the bidding documents.
  - B. It is the intent of the District to award a contract to the lowest responsible bidder provided the bid has been submitted in accordance with the requirements of the bidding documents and does not exceed the funds available. It is the intention of the District to award a contract only to a responsible bidder who has furnished satisfactory evidence that it has the requisite experience and ability, and that it has sufficient capital, facilities and plant to enable it to prosecute the work successfully and promptly, and to complete it within the time stated in the Contract Documents.
4. Acceptance of Bid (Award):
  - A. Award of the contract will be to the lowest responsible bidder who has demonstrated the requisite experience, ability and financial resources to complete the work successfully and promptly, has demonstrated the ability to abide by all

terms set forth in the Contract Documents and whose bid complies with the specified requirements.

- B. The District shall have the right to waive informalities or irregularities in a bid received and to accept the bid which, in the District's judgment, is in the District's best interests.
- C. The District shall have the right to accept alternates in any order or combination unless otherwise specifically provided in the bidding documents, and to determine the low bidder on the basis of the sum of the base bid and alternates accepted.

5. Bid Protest Procedures:

Any bidder submitting a bid to the District may file a protest of the District's intent to award the contract provided that each and all of the following are complied with:

- A. The bid protest is in writing.
- B. The bid protest is filed and received by the District not more than five (5) calendar days following the Bid Opening Date.
- C. The written bid protest sets forth, in detail, all grounds for the bid protest, including without limitation all facts, supporting documentation, legal authorities, and argument in support of the grounds for the bid protest. Any matters not set forth in the written bid protest shall be deemed waived. All factual contentions must be supported by competent, admissible and credible evidence.

Any bid protest not conforming with the foregoing shall be rejected by the District as invalid. Provided that a bid protest is filed in strict conformity with the foregoing, the District's designee shall review and evaluate the basis of the bid protest. The District's designee shall provide the bidder submitting the bid protest with a written statement concurring with or denying the bid protest. The District's Board of Directors will render a final determination and disposition of a bid protest by taking action to adopt, modify or reject the disposition of a bid protest as reflected in the written statement of the District's designee. Action by the District's Board of Directors relative to a bid protest shall be final and not subject to appeal or reconsideration. The rendition of a written statement by the District's designee and action by the Board of Directors to adopt, modify or reject the disposition of the bid protest reflected in such written statement shall be express conditions precedent to the institution of any legal or equitable proceedings relative to the bidding process, the District's intent to award the contract, the District's disposition of any bid protest or the District's decision to reject all bid proposals. I

## VI

### **POST-BID INFORMATION**

1. Submittals:
  - A. Bidder shall, as soon as practicable after notification of selection for the award of a contract, furnish to the District in writing:
    - (1) A designation of the work to be performed with the bidder's own forces;
    - (2) Names of the manufacturers, products and the suppliers of principal items or systems of materials and equipment proposed for the work; and
    - (3) Names of persons or entities (including those who are to furnish materials or equipment fabricated to a special design) proposed for the principal portions of the work.
  - B. The bidder will be required to establish to the satisfaction of the District the reliability and responsibility of the persons or entities proposed to furnish and perform the work described in the bidding documents.
  - C. Prior to the award of the contract, the District will notify the bidder in writing if the District, after due investigation, has reasonable objection to a person or entity proposed by the bidder. If the District has reasonable objection to a proposed person or entity, the bidder may, at the bidder's option, (1) withdraw the bid, or (2) submit an acceptable substitute person or entity with an adjustment in the base bid or alternate bid to cover the difference in cost occasioned by such substitution. The District may accept the adjusted bid price or disqualify the bidder. In the event of either withdrawal or disqualification, bid security will not be forfeited.
  - D. Persons and entities proposed by the bidder and to whom the District has made no reasonable objection must be used on the work for which they were proposed and shall not be changed except with the written consent of the District.
2. Return of Bid Security:
  - A. When the award of the contract has been made, the bid security accompanying the three lowest bids shall be retained by the District. All other security for bids not to be further considered in making the award will be returned. The retained bid security will be returned when the contract has been fully executed.



## VII

### **PERFORMANCE BOND AND PAYMENT BOND**

1. Bond Requirements:
  - A. The bidder shall furnish bonds covering the faithful performance of the contract and payment of all obligations arising thereunder. The second bond shall be the payment bond required by Division Four, Part 6, Title 3, Chapter 5 of the Civil Code of the State of California. Bonds must be secured through sureties admitted to do business in the State of California.
  - B. The cost of furnishing such bonds shall be included in the bid. If the furnishing of such bonds is required after receipt of bids and before execution of the contract, the cost of such bonds shall be added to the bid in determining the contract sum.
2. Time of Delivery and Form of Bonds:
  - A. The bidder shall deliver the required bonds to the District at the time of execution of the Contract Documents. Prior to execution of the Contract Documents, bidder shall submit evidence satisfactory to the District that such bonds will be furnished and delivered in accordance with the bidding documents.
  - B. The bidder shall also deliver a certificate of fact with respect to such surety issued by the County of Sacramento, Department of Finance, County Clerk - Recorder, which certificate is issued pursuant to Code of Civil Procedure Section 995.640(a), or a certificate of authority with respect to such surety issued by the State of California, Department of Insurance. The required certificates shall certify that each surety issuing bonds on behalf of bidder is admitted to conduct surety business in the State of California. If the required bonds and certificates are not received by District by the time for execution of the Agreement, the bid will be rejected as nonconforming and award of the contract may be made to the next lowest responsible bidder. The bid security of bidder shall be forfeited to the District as liquidated damages, not as a penalty.
  - C. The bonds shall be in substantially the same form as set forth in the bidding documents and both the performance bond and payment bond shall be written in the amount of the contract sum.
  - D. The bonds shall be dated on or after the date of the Contract Documents.
  - E. The bidder shall require the attorney-in-fact who executes the required bonds on behalf of the surety to affix thereto a certified and current copy of the power of attorney.

## VIII

### **AGREEMENT BETWEEN PARK DISTRICT AND CONTRACTOR**

1. Execution of Agreement:

- A. A contract agreement shall be executed by the successful bidder in the form included in the Bidding Documents and returned, together with the required surety bonds and certification of insurance within ten (10) days after receipt of the contract form.
- B. The Contract Documents will require that five percent (5%) of each progress payment be placed in retention to ensure the satisfactory performance of the Contract Documents. Alternatively, the Contractor may substitute securities for the monies being held in retention, at Contractor's sole cost and expense, as more particularly set forth in Public Contract Code Section 22300.
- C. If the bidder to whom the award is made fails or refuses to enter into the contract within ten (10) calendar days from the time the Contract Documents are first received by the contractor, then the successful bidder's bid security shall be forfeited pursuant to the provisions of Section IV, Paragraph 2 of these Instructions to Bidders. The District may then award the contract to the next lowest responsible bidder.

2. Workers' Compensation Insurance.

Pursuant to California Labor Code Section 3700, the successful bidder shall secure workers' compensation insurance for its employees engaged in the work of the Contract Documents. The successful bidder shall sign and deliver to the District the following certificate prior to performing any of the work under the Contract Documents:

“I am aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for workers compensation or to undertake self-insurance in accordance with the provisions of that Code and I will comply with such provisions before commencing the performance of the work of this contract.”.

The form of such Certificate is included as part of the Contract Documents.

**PRE-BID SITE INSPECTION CERTIFICATION**

The bidder hereby certifies that he/she and his/her subcontractors have inspected the site and related specifications of work and fully acquainted themselves with all conditions and matters which might in any way affect the work, time of completion or the cost thereof, including, but not limited to scheduling and disclosed outside contracts involving this work.

The bidder also certifies he/she has observed the designated Contractor work areas and access routes, if disclosed or shown, as part of work in this Contract.

Name of Bidder: \_\_\_\_\_

Dated: \_\_\_\_\_

By \_\_\_\_\_

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

Persons who inspected site of the proposed work for your firm:

Name: \_\_\_\_\_ Date of inspection: \_\_\_\_\_

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

Name: \_\_\_\_\_ Date of inspection: \_\_\_\_\_

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

Name: \_\_\_\_\_ Date of inspection: \_\_\_\_\_

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



**PROPOSAL FOR CONSTRUCTION CONTRACT  
BID FORM**

Proposal to: Board of Directors of ORANGEVALE RECREATION & PARK DISTRICT

Bidder:

Project: Almond Park Shade Structures

Members of the Board of Directors:

1. The undersigned hereby proposes and agrees as general contractor, to furnish all labor, materials and equipment required for the above-described project and to construct the project in strict conformity with the relevant plans and specifications and all applicable laws, statutes, ordinances, rules and regulations for the sum of \$\_\_\_\_\_. A breakdown of the Bid Items appear on Attachment A to this Proposal.
2. If awarded the contract, the undersigned agrees to execute a contract for the Project, abide by all terms of the contract documents, furnish the bonds and certificates of insurance required by the contract, commence actual work on the Project, and complete the Project within the times specified in the plans and specifications.
3. The undersigned agrees that he has:
  - a. Carefully examined the plans and specifications for the Project;
  - b. Carefully examined all documents issued in connection with the Project including but not limited to this Proposal for Construction Contract - Bid Form, the Notice to Contractors Inviting Informal Bids, the Instructions to Bidders, the Pre-Bid Site Inspection Certification, the contract form, the Noncollusion Affidavit, the performance bond, the labor and materials bond, and addenda numbers \_\_\_\_\_.
  - c. Carefully examined the job site on which the Project is to be constructed.
  - d. Determined to the undersigned's own satisfaction all conditions or limitations that exist or that may arise affecting the Project and difficulties that may be encountered in the construction of the Project.
  - e. Made this bid on the basis of such examinations, inspections and determinations, and not on the basis of any representations or promises made to the bidder by the

District or by any agent of the District, and not contained in the plans and specifications for the Project nor in the documents listed above issued in connection with the Project.

4. With this bid is submitted a Pre-Bid Site Inspection Certification, List of Proposed Subcontractors and Noncollusion Affidavit in the forms provided as required by Section III, Paragraph 5 of the Instructions to Bidders.
5. With this bid is submitted a bidder's security comprised of a bid bond, cash, cashier's check or certified check in an amount equal to at least ten percent (10%) of the total amount of the bid set forth in Paragraph 1 in the amount of \$\_\_\_\_\_. The bidder understands that this bidder's security may be forfeited for failure to execute a contract for the Project in the form issued to bidders in connection with the Project and post the bonds in the form and amount required by the contract documents within ten (10) calendar days after notice of award of the contract for the Project has been mailed to bidder. If a bid bond is submitted, the undersigned represents and certifies that said bond is issued by a surety admitted to do business in the State of California.
6. This bid is submitted by:
  - Individual
  - Corporation (State of Incorporation) \_\_\_\_\_
  - Copartnership
  - Joint Venture
  - Combination

If the bidder is a corporation, the state of incorporation shall be inserted above and the legal name of the corporation shall be set forth below together with the signature of the officer or officers authorized to sign contracts on behalf of the corporation. If the bidder is a copartnership, the true name of the firm shall be set forth below together with the signature of a partner authorized to sign the contract on behalf of the copartnership.

Name and Address of Partnership or Corporation:

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If bid is submitted by a copartnership, combination or joint venture, the individual members and their addresses are as follows:

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**IMPORTANT NOTICE**

This bid proposal must be signed in the same name-style in which the bidder is licensed. Bidders bidding jointly or as a combination of several business organizations are specifically cautioned that such bidder must be jointly licensed in the same form and style in which the bid is executed.

Legal Name of Bidder: \_\_\_\_\_ Contractor's License: \_\_\_\_\_

Date of Expiration of Contractor's License: \_\_\_\_\_

I declare under penalty of perjury that the information contained in this Proposal for Construction Contract - Bid Form is true and correct.

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

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

**NONCOLLUSION DECLARATION TO BE EXECUTED  
BY BIDDER AND SUBMITTED WITH BID**

The undersigned declares:

I am the \_\_\_\_\_ of \_\_\_\_\_, the party making the foregoing bid.

The bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation. The bid is genuine and not collusive or sham. The bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham bid. The bidder has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham bid, or to refrain from bidding. The bidder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the bid price of the bidder or any other bidder, or to fix any overhead, profit, or cost element of the bid price, or of that of any other bidder. All statements contained in the bid are true. The bidder has not, directly or indirectly, submitted his or her bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, to any corporation, partnership, company, association, organization, bid depository, or to any member or agent thereof, to effectuate a collusive or sham bid, and has not paid, and will not pay, any person or entity for such purpose.

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

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

\_\_\_\_\_



## **AGREEMENT**

This Agreement is made and entered into this day of \_\_\_\_\_, 2017, between Owner, ORANGEVALE RECREATION AND PARK DISTRICT, a political subdivision of the State of California, hereinafter referred to as the “District” and \_\_\_\_\_, hereinafter referred to as “Contractor”. Contractor will construct, on behalf of the District, a project consisting of \_\_\_\_\_ (the “Project”). The Project is located \_\_\_\_\_, Orangevale, California.

### **RECITALS**

WHEREAS, the Board of Directors of District have adopted the Uniform Public Construction Cost Accounting Act, Public Contract Code Section 22000, et seq., (the “Act”) which allows the District to seek informal bids for projects up to One Hundred Seventy-Five Thousand Dollars (\$175,000.00); and

WHEREAS, the District issued a Notice to Contractors Inviting Informal Bids for the project and solicited informal bids as required by the Act.

WHEREAS, Contractor, in response to such a notice, has submitted to the Board of Directors of the District a sealed bid for the performance of the work specified in said plans and specifications within the time stated in said notice and in the manner provided for in the bidding instructions; and

WHEREAS, Contractor was the lowest responsible bidder for the performance of said work, and the Board of Directors of the District, as a result of the canvas of all bids, has determined and declared Contractor to be the lowest responsible bidder for said work and have awarded to Contractor a contract therefore.

NOW THEREFORE, in consideration of the promises contained herein, it is mutually agreed between the parties hereto as follows:

### **CONTRACT DOCUMENTS**

1. The following documents are by this reference incorporated into, made a part of this Agreement, and collectively referred to herein as the “Contract Documents”: The project drawings, specifications for the project; the Notice to Contractors Inviting Informal Bids, if any; the Instructions to Bidders, if any; the bid and proposal of Contractor, all other required bidding documents, all required bonds, and all supplemental agreements covering alterations, amendments or extensions to this Agreement and the documents which describe the work to be performed.

It is understood and agreed that all said Contract Documents are intended to cooperate so that any work called for in one document and not mentioned in the other, or vice-versa, is to be executed the same as if mentioned in all Contract Documents, so that the true meaning of all documents when taken together shall control the work pursuant to this Agreement. In the event of ambiguity or conflict in the provisions of the Contract Documents, the terms of this Agreement shall take precedence over all other Contract Documents.

If Contractor should perceive an error, omission, or conflict in the Contract Documents, it will promptly notify the District representative in writing. The District representative will promptly resolve conflicts, errors and omissions by written instructions, which Contractor will promptly follow. If Contractor proceeds with work based on error, omission or conflict in the Contract Documents, without instructions from the Architect, it will be at the risk and expense of Contractor.

### **SCOPE OF WORK**

2. Contractor hereby agrees to furnish all labor, materials, equipment, appliances, mechanical workmanship, transportation, communication, scaffolding, hoisting, supervision, coordination, building permits, other required permits, sales taxes, shop drawings and samples to complete in a workman-like manner, the following work: Installation of a new shade structure, located at 5901 Almond Avenue, Orangevale, California 95662.

### **INVESTIGATION BY CONTRACTOR**

3. Contractor has thoroughly investigated the job site, the Contract Documents, as well as the building codes, laws and regulations including those of any other public entities that are applicable to the work. The contract price includes all work, as shown in the Contract Documents, the plans and specifications, the contract drawings, and any other documents as specified, needed to provide a finished, complete and operating facility in compliance with all applicable building codes, laws and regulations.

### **COMPLETION**

4. Contractor shall be required to begin work on \_\_\_\_\_, 2017 after receiving written notification to that effect by the District, and to complete work in accordance with the Contract Documents to the satisfaction of the District within 90 calendar days from said written notice.

Should Contractor fail to complete the work described in this Agreement and the other Contract Documents incorporated herein within the time fixed for completion, Contractor shall be liable to the District in the sum of One Thousand Dollars (\$1,000) per calendar day each day said work remains incomplete beyond the time set for completion in the Contract Documents as and for agreed and liquidated damages. It is expressly agreed and stipulated by and between the parties hereto that said liquidated damages do not constitute a penalty since it would be impractical and extremely difficult to fix the actual amount of damages to the District as the

result of any failure to complete said work within the period of time specified in the Contract Documents.

### PAYMENT

5. The District agrees, in consideration of the work to be performed herein and subject to the terms and conditions hereof, to pay Contractor all sums of money which may become due to Contractor in accordance with the terms of Contractor's bid and proposal and this Agreement, to wit: \_\_\_\_\_.

No payment made under this Agreement shall be construed to be an acceptance of defective work or improper materials.

Progress payments, less five percent (5%) shall be made to Contractor as follows:

a. \_\_\_\_\_;

b. \_\_\_\_\_;

The five percent (5%) not paid shall be withheld by District until final completion and acceptance of the work. However, in lieu of any withholding of money, and in accordance with the provisions of California Public Contract Code Section 22300, Contractor may substitute securities to insure performance under this Agreement.

No payment will be made until defective work and materials have been removed, replaced and made good in accordance with the Contract Documents. In any event, payment made shall not be construed to be an acceptance of defective work or improper materials, and Contractor shall be required to remove, replace and/or repair any defective work and materials at its own expense.

Contractor shall provide to the District an Unconditional Waiver and Release for every subcontractor and/or entity providing materials and supplies on the job prior to release of final payment. The Unconditional Waiver and Release shall be in the form attached as Exhibit A to this Agreement. Thirty-five (35) calendar days from and after the issuance of the Notice of Completion, the balance of the contract price remaining unpaid will be paid to Contractor under certificate issued by the District, provided there are no mechanic's liens of record or stop notices in effect at that time, or defective work to be repaired.

If at any time during the progress of the work or before the final payment is made, any stop notice or other lien or claim of lien is filed, or notification to withhold money for labor or material furnished by Contractor under this Agreement is served on the District, the District shall have the right to withhold from any monies due Contractor, an amount sufficient to discharge any or all such liens or claims. Releases or receipted vouchers in settlement of these liens or claims satisfactory to the District must be furnished to the District by Contractor before the withheld money will be paid to Contractor. If Contractor has not settled the stop notice, liens or claims within a reasonable time, not to exceed thirty (30) days from and after such stop notice,

lien or claim is made, the District shall have the right to make a claim on Contractor's bond for payment of such stop notices, liens or claims. The District shall also have the right, but shall not be obliged, to discharge any or all such stop notices, liens or claims out of money withheld from Contractor. The District reserves the right to make payments to Contractor in the form of checks payable jointly to Contractor and to any of its subcontractors or suppliers that have asserted a stop notice or claim of mechanic's lien against the District. Any monies held in retention or otherwise by the District shall not be considered monies due and owing to Contractor until final payment is made pursuant to this Section 5, and all amounts have been deducted for any and all damages assessed pursuant to the provisions of this Agreement and/or monies expended by the District to complete the work as set forth in and contemplated by the Contract Documents.

### **PREVAILING WAGES**

6. Pursuant to the provisions of Section 1774, et seq. of the Labor Code of the State of California, it shall be mandatory for Contractor, and any subcontractor working under Contractor, to pay all workers, laborers and mechanics employed in the execution of this work not less than the general prevailing rate of per diem wages, and not less than the general prevailing rate of per diem wages for holidays and overtime work, for each craft, classification or type of worker needed to execute the work or any part of the work contemplated by this Agreement. The appropriate determination of the Director of the California Department of Industrial Relations is filed with, and available for inspection at the office of the District.

Pursuant to Labor Code Section 1775, Contractor shall forfeit, as penalty to the District, an amount of not more than Two Hundred Dollars (\$200.00) for each calendar day, or portion thereof, for each worker paid less than the stipulated prevailing rates for any work done pursuant to this Agreement by Contractor or any subcontractor working under Contractor. The amount of the penalty shall be determined by the Labor Commissioner and shall be based on consideration of the Contractor's mistake, inadvertence, or neglect in failing to pay the correct rate of prevailing wages, the previous record of the Contractor in meeting his or her prevailing wage obligations, or Contractor's willful failure to pay the correct rates of prevailing wages. A mistake, inadvertence, or neglect in failing to pay the correct rate of prevailing wages is not excusable if the Contractor had knowledge of his or her obligations under the Labor Code. In addition to said penalty, the difference between such 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 shall be paid to each worker by the Contractor.

Contractor shall post, at each job site, a copy of such prevailing rate of per diem wages as determined by the Director of the California Department of Industrial Relations. Attention is directed to Section 1777.5 of the Labor Code of the State of California concerning the employment of apprentices, and Contractor is required to comply with the provisions of that section.

Contractor and all subcontractors must be registered with the California Department of Industrial Relations pursuant to Labor Code Section 1725.5.

This Project is subject to monitoring and enforcement by the Department of Industrial Relations. The Contractor and all subcontractors shall furnish certified payroll records as required pursuant to Labor Code Section 1776 directly to the Labor Commissioner in accordance with Labor Code Section 1771.4 on at least a monthly basis (or more frequently if required by the District) and in a format prescribed by the Labor Commissioner. The District reserves the right to withhold contract payments if the District is notified or determined as the result of its own investigation, that Contractor or its subcontractors are in violation of any of the requirements set forth in Labor Code Section 1720 et seq. at no penalty or cost to the District.

Contractor is further required to post any and all job site notices as required by regulation pursuant to Labor Code Section 1771.4(a)(2).

### **EIGHT HOUR DAY LIMITATION**

7. Contractor agrees that eight (8) hours labor shall constitute a day's work, and no worker, in the employ of the Contractor, or any subcontractor, doing or contracting to do any part of the work under this Agreement, shall be required or permitted to work more than eight (8) hours in any one calendar day and forty (40) hours in any one calendar week; provided that subject to California Labor Code Section 1815, a worker may perform work in excess of eight (8) hours per day or forty (40) hours per week at not less than one and one-half times the basic rate of pay.

Except as provided above for overtime, Contractor shall forfeit as a penalty to District the sum of Twenty-Five Dollars (\$25.00) for each worker employed in the execution of this Agreement by Contractor or by any subcontractor under it for each calendar day during which such worker is required or permitted to work more than eight (8) hours in any one day and forty (40) hours in any one calendar week in violation of California Labor Code Sections 1810 through 1815.

### **INSURANCE**

8. Contractor shall carry and maintain during the life of this Agreement, such public liability, property damage and contractual liability insurance and workers' compensation insurance as specified below:

A. Public Liability, Property Damage and Contractual Liability Insurance. Contractor shall furnish public liability and property damage insurance which includes, but is not limited to, personal injury, property damage, losses relating to independent contractors, products and equipment, explosion, collapse and underground hazards in a minimum amount of not less than a combined single limit of One Million Dollars (\$1,000,000.00) for one or more persons injured and property damaged in each occurrence.

The public liability and property damage insurance furnished by Contractor shall also name the District as an additional insured and shall directly protect, as well as provide the defense for the District, its officers, agents and employees, as well as Contractor, all subcontractors and suppliers, if any, from all suits, actions, damages, losses or claims of every type and description to which they may be subjected by reason of, or resulting from Contractor's operations in the performance of the work pursuant to this Agreement, and all insurance policies shall so state. Said insurance shall also specifically cover the contractual liability of Contractor. Said insurance shall also specify that it acts as primary insurance.

If Contractor fails to maintain such insurance, the District may take out insurance to cover damages of the above-mentioned classes for which the District might be held liable on account of Contractor failing to pay such damages, and deduct and retain the amount of the premiums for such insurance from any sums due Contractor under this Agreement. Failure of the District to obtain such insurance shall in no way relieve Contractor from any of its responsibilities to acquire insurance under this Agreement.

B. Workers' Compensation Insurance. Contractor shall be permissibly self-insured or shall carry full workers' compensation insurance coverage for all persons employed, either directly or through subcontractors, in carrying out the work contemplated by this Agreement, in accordance with the Workers' Compensation Act contained in the Labor Code of the State of California.

If Contractor fails to maintain such insurance, the District may take out insurance to cover any compensation which the District might be liable to pay under the provisions of the Workers' Compensation Act by reason of an employee of Contractor being injured or killed while engaged in the course and scope of his employment. The District may deduct and retain the amount of the premiums for such insurance from any sums due Contractor under this Agreement. Failure of the District to obtain such insurance shall in no way relieve Contractor from any of his responsibilities to obtain such insurance pursuant to this Agreement.

By execution of this Agreement, Contractor certifies as follows:

I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that Code, I will comply with such provisions before commencing the performance of the work of this contract.

As part of the execution of this Agreement, Contractor agrees to furnish to the District a certified copy of the insurance policies it has taken out for public liability, property damage and workers' compensation insurance set forth above for the period covered by this Agreement. Such insurance shall be placed with an insurance carrier acceptable to the District

under terms satisfactory to the District. Said certified policies of insurance shall be furnished to the District prior to commencing the work contemplated by this Agreement. Each such certified policy shall bear an endorsement precluding the cancellation or reduction in coverage of any such policy before the expiration of thirty (30) days after the District shall have received written notification of such cancellation or reduction.

Should Contractor fail to obtain and keep in force the insurance coverage hereinabove required, the District shall have the right to cancel and terminate this Agreement forthwith and without regard to any other provisions of this Agreement.

### **PERFORMANCE AND PAYMENT BONDS**

9. Contractor shall, at the time of execution of this Agreement, file two (2) separate bonds with the District, each made payable to the District. These bonds shall be issued by a surety company admitted to do business in the State of California as an insurer and shall be maintained during the entire life of this Agreement at the expense of Contractor. One bond shall be in the amount of One Hundred Percent (100%) of the contract price set forth in this Agreement and shall guarantee the faithful performance of all aspects of this Agreement. The second bond shall be the payment bond required by Division Three, Part 6, Title 3, Chapter 5 of the Civil Code of the State of California, and shall be in the amount of One Hundred Percent (100%) of the contract price set forth in this Agreement to guarantee the payment of wages and materials, supplies or equipment used in the performance of this Agreement. Any alterations made in the specifications which are a part of this Agreement or in any provisions of this Agreement shall not operate to release any surety from liability on any bond required hereunder, and the consent to make such alterations is hereby given, and any surety on said bonds hereby waives the provisions of Section 2819 of the Civil Code. Prior to commencing work under this Agreement, Contractor shall provide a Certificate of Fact issued by the County of Sacramento, Department of Finance, County Clerk-Recorder or Certificate of Authority issued by the State of California, Department of Insurance for any and all sureties issuing the bonds required under this Agreement. By execution of this Agreement, Contractor further certifies and represents that any and all sureties issuing the bonds required under this Agreement are authorized to do business in the State of California and that the bonds fully comply with Civil Code Sections 9550 and 9554, and the Bond and Undertaking Law, Code of Civil Procedure Section 995.010, et seq.

### **INDEMNIFICATION**

10. Contractor shall assume the defense of, and indemnify and save harmless, the District, its officers, employees and agents, and each and every one of them from and against all actions, liability, damages, claims, losses or expenses of every type and description to which it may be subjected or put to by reason of or resulting from: (1) the performance of, or failure to perform, the work or any other obligations of this Agreement by Contractor, any subcontractor or Contractor's agents or employees; (2) any alleged negligent act or omission of Contractor, any subcontractor, Contractor's agents or employees, in connection with any acts performed or required to be performed pursuant to this Agreement; (3) any dangerous or defective condition arising or resulting from any of the actions or omissions of Contractor, Contractor's agents or

employees in carrying out the provisions of this Agreement. This indemnification is effective and shall apply whether or not any such action is alleged to have been caused in part by the District as a party indemnified hereunder. This indemnification shall not include any claim arising from the sole negligence or willful misconduct of the District or its employees.

### **CHANGE ORDERS**

11. The District may, without invalidating this Agreement, order changes in the scope of the work to be performed by Contractor consisting of additions, deletions or modifications in the nature and extent of the work to be performed pursuant to the Contract Documents. If these additions, deletions or changes cause an increase or reduction in the cost of the work to be performed, then such increase or reduction in cost shall be mutually agreed upon by both parties and the contract sum, as well as the contract time shall be adjusted accordingly. Any such adjustment in the contract sum shall be calculated by using the same basis Contractor used for calculating its base bid. Contractor shall furnish a detailed itemization of the proposed contract price adjustment and any such change in the work and adjustment of the contract price and/or contract time shall be authorized only by written change order signed by Contractor, Architect, and the District after approval by the District's Board of Directors. The contract sum as well as the contract time shall be changed only by such a written change order. In the event Contractor encounters work that exceeds the estimated quantities upon which its bid is based, Contractor shall notify the District and/or Architect of the discrepancy. Contractor shall apply for a Change Order reflecting any such additional quantities within ten (10) days of encountering same. A failure by Contractor to do so shall result in a waiver by Contractor to any right to compensation for such additional quantities.

### **WARRANTY**

12. Contractor agrees that the work shall be performed in accordance with the Contract Documents and industry standards. Contractor unconditionally guarantees all materials and workmanship furnished under this Agreement, and agrees to replace at its sole cost and expense, and to the satisfaction of District, any and all materials which may be defective through faulty, improper or inferior workmanship or materials. Contractor shall repair or replace to the satisfaction of District any or all such work that may prove defective in workmanship or materials, ordinary wear and tear excepted, together with any other work which may be damaged or displaced in so doing. This guarantee shall remain in effect for one (1) year from the date of District's acceptance of the work. This guarantee does not excuse Contractor for any other liability related to defective work discovered after the guarantee period. Contractor shall transfer to District all manufacturer and supplier warranties relating to the work, if any, upon completion of the work and prior to the final payment.

In the event of failure to comply with the above stated conditions within a reasonable time, District may have the defective work repaired and made good at the expense of Contractor who will pay the costs and charges therefore immediately upon demand, including any reasonable management and administrative costs, and engineering, legal and other consultant fees incurred by District in enforcing this guarantee.



## **CORRECTION OF WORK AND BACK CHARGES**

13. Contractor will immediately, upon written orders of the District and/or Architect, correct any defect or deficiency in the work, equipment or materials. The District may withhold from Contractor, any amounts it reasonably estimates to be necessary for the correction of defective work if Contractor fails to repair and/or replace such defective work after request by the District and/or Architect.

## **CLEANUP**

14. Contractor will continuously clean the job site, and keep it in a safe, orderly and neat condition. At the completion of the work, the entire job site will be left in a broom-clean condition.

## **CONCEALED CONDITIONS**

15. Contractor has examined the job site, the Contract Documents and the applicable building codes, laws and regulations as well as any applicable laws and regulations of any and all utilities, that govern the conduct of the work, and has made such investigation as it deems appropriate. The contract price includes full compensation for all efforts to be expended by Contractor obtaining any and all approvals of the governing water, electricity, gas and other utility companies, and in dealing with any concealed, underground, known and/or unknown conditions.

## **CONTRACTOR AS INDEPENDENT CONTRACTOR**

16. The parties hereto agree that at all times during the term of this Agreement, Contractor and Contractor's employees hired to perform services pursuant to this Agreement are independent contractors and are not agents or employees of the District. Contractor shall be solely responsible for and have control over means, methods, techniques, sequences, and procedures for performing the services required by this Agreement and for coordinating all portions of the work required by this Agreement. The District shall have the right to control Contractor only insofar as the results of Contractor's services rendered pursuant to this Agreement. If, in the performance of this Agreement, any third persons are employed by Contractor, such persons shall be entirely and exclusively under the direction, supervision and control of Contractor and Contractor shall be responsible for the actions of any such third persons. All terms of employment, including hours, wages, working conditions, discipline, hiring and discharging or any other terms of employment shall be determined by Contractor, and the District shall have no right or authority over such persons or the terms of their employment.

Neither Contractor nor any third persons employed by Contractor to perform services pursuant to this Agreement shall be entitled to workers' compensation benefits from the District should Contractor or any of its employees sustain an injury in the course of performing services specified in this Agreement. Furthermore, neither Contractor nor any third persons

employed by Contractor shall be entitled to any other benefits payable to employees of the District. The District is not required to make any deductions from the compensation payable to Contractor under the provisions of Contractor's bid. Contractor hereby agrees to defend and hold the District harmless from any and all claims that may be made against the District based on any contention by any third party that an employer/employee relationship exists between the District and that third party by reason of this Agreement. Contractor further agrees to defend and hold the District harmless from any and all claims that may be made against the District by any third party based on any failure of the Contractor to fulfill its obligations contractual or otherwise, to any such third party.

Contractor represents that it, and its subcontractors, are properly licensed and will remain so during the progress of the work.

### **DEFAULT BY CONTRACTOR**

17. If Contractor fails to expeditiously advance the project, or installs work that does not comply with the requirements of the Contract Documents, fails to comply with any provision of law regarding the payment of employees, subcontractors and/or any third parties providing materials, equipment or supplies provided to the project, or fails to otherwise promptly pay for work or materials supplied to the project, or is guilty of any other material breach of the terms of this Agreement, the District may: (1) suspend payment until such time as the default is remedied by Contractor; or (2) by written notice to Contractor, terminate Contractor's right to perform all or any portion of the work. Contractor hereby agrees to pay the District all damages sustained as a result of default by Contractor. If the District terminates Contractor's right to perform the work, the District may have the work performed by others, or may complete the work itself, and charge the cost to Contractor. The cost of completion by the District shall include reasonable reimbursement for additional executive and administrative expense along with all damages for delay, including liquidated damages, and other damages sustained by the District as a result of Contractor's default. The District may deduct from any and all monies owing to the Contractor, either by virtue of this Agreement or any other agreements between the District and the Contractor, any and all damages and/or costs of completion assessed by the District against the Contractor pursuant to the provision of this Agreement.

### **SAFETY**

18. Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the work contemplated by this Agreement. Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury or loss to: (1) employees; (2) the project itself and materials and equipment to be incorporated therein; and (3) other property at the site or adjacent thereto. Contractor shall give notices and comply with applicable laws, ordinances, rules, regulations and lawful orders of public authorities bearing on safety of persons and property and their protection from damage, injury or loss. Contractor will indemnify the District and hold it harmless against all claims, liability, loss and expense, including attorney's fees and costs caused by or contributed to unsafe conduct tolerated by Contractor or any of its subcontractors.

## **PERMITS AND INSPECTIONS**

19. Contractor agrees and understands that it is the responsibility of Contractor to obtain and pay for all necessary permits required for the performance of the work described in this Agreement as well as calling for and obtaining all required inspections during the course of the work on the project which is the subject matter of this Agreement. Contractor is not relieved of its obligations pursuant to this paragraph by virtue of the District's assistance in procuring the necessary permits.

## **MISCELLANEOUS PROVISIONS**

20. Contractor shall not assign this Agreement or any interest in it, or any money due or to become due under it voluntarily, involuntarily or by operation of law without the District's prior written consent. In the event of any such purported assignment without the District's prior written consent, the District shall have the right, in addition to all other rights provided by law, to terminate this Agreement by giving written notice to Contractor. If this Agreement is so terminated, the District may contract for the completion of the work or complete the work itself. If the cost and expense of completing the work, when added to the sum of amounts previously paid Contractor under this Agreement and any amounts due but unpaid to Contractor at the time of such termination, exceed the contract price, the District may deduct the amount of the excess from any such amounts then due Contractor. If the amount of such excess is larger than the amounts then due Contractor, Contractor shall immediately pay such excess or the balance thereof to the District, failing which recourse may be made immediately to Contractor's bond. If the Agreement is so terminated, Contractor agrees to waive and hereby does waive all other claims against the District for profits, loss, or damage because of such termination.

21. In the event of litigation between the parties, or if a party becomes involved in litigation because of wrongful acts of the other party, the prevailing or innocent party shall be entitled to an award of reasonable attorney's fees from the other party. The prevailing party will be entitled to an award of attorney's fees in an amount sufficient to compensate the prevailing party for all attorney's fees incurred in good faith.

For these purposes, "prevailing party" shall mean the party who is most successful in the proceedings as determined by the trial judge or arbitrator, as the case may be. To be the "most successful party" would require that the party claiming money damages recovers a judgment or award of not less than seventy percent (70%) of the amount of its claim (not including interest, costs or attorney's fees). If that party does not recover at least that amount, the opposing party will be the "prevailing party" and would therefore be entitled to recover its reasonable attorney's fees and costs incurred in the proceedings.

22. It is expressly hereby agreed that time is of the essence of this Agreement including all Contract Documents incorporated herein.

23. This Agreement shall be governed and construed according to the laws of the

State of California.

24. This Agreement, together with all Contract Documents expressly incorporated herein by reference, supersedes any and all other agreements, either oral or in writing, between the parties hereto with respect to the rendering of services by Contractor to the District, and contains all of the covenants and agreements between the parties with respect to such services. Each party to this Agreement acknowledges that no representations or promises have been made by any party hereto which are not embodied herein, and that no other agreement or promise not contained in this Agreement or in the other Contract Documents shall be valid or binding.

25. The failure or omission by District to terminate this Agreement for any violation of its terms, conditions or Agreements shall in no way bar, stop or prevent the District from terminating this Agreement thereafter, either for such or for any subsequent violation of any such term, condition or covenant. The filing of a notice of completion or acceptance of the project shall not be, or shall not be construed to be a waiver of any breach of any term, covenant or condition of this Agreement

26. This Agreement shall inure to the benefit and bind the successors and assigns of the respective parties hereto.

27. If any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions shall nevertheless continue in full force and effect without being impaired or invalidated in any way.

28. The terms of this Agreement may be modified only in writing by mutual agreement on signature of the District and Contractor. Said amendment shall be attached to this Agreement.

29. Any notices to be given pursuant to this Agreement by either party to the other may be effected either by personal delivery in writing or by mail, registered or certified, postage prepaid, with return receipt requested. Mailed notices shall be addressed to the parties at the addresses appearing in the introductory paragraph of this Agreement, but each party may change the address by written notice to the other. Notices delivered personally shall be deemed communicated as of the date of actual receipt. Mailed notice shall be deemed communicated as of the date of deposit in the mail.

IN WITNESS WHEREOF, the ORANGEVALE RECREATION AND PARK DISTRICT has, by order of its Board of Directors, caused this Agreement to be signed by the Chairperson and Secretary of said Board of Directors and Contractor has executed this Agreement on the date and year first above written.

ORANGEVALE RECREATION AND PARK DISTRICT,  
a political subdivision of the State of California

By \_\_\_\_\_  
Chairperson

By \_\_\_\_\_  
Secretary

By \_\_\_\_\_  
Authorized Representative

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

CONTRACTOR

\_\_\_\_\_  
Contractor's License Number: \_\_\_\_\_

**EXHIBIT A**

**UNCONDITIONAL WAIVER AND RELEASE UPON FINAL PAYMENT**

NOTICE TO CLAIMANT: THIS DOCUMENT WAIVES AND RELEASES LIEN, STOP PAYMENT NOTICE AND PAYMENT BOND RIGHTS UNCONDITIONALLY AND STATES THAT YOU HAVE BEEN PAID FOR GIVING UP THOSE RIGHTS. THIS DOCUMENT IS ENFORCEABLE AGAINST YOU IF YOU SIGN IT, EVEN IF YOU HAVE NOT BEEN PAID. IF YOU HAVE NOT BEEN PAID, USE A CONDITIONAL WAIVER AND RELEASE FORM.

**Identifying Information**

Name of Claimant: \_\_\_\_\_  
Name of Customer: \_\_\_\_\_  
Job Location: \_\_\_\_\_  
Owner: \_\_\_\_\_

**Unconditional Waiver and Release**

This document waives and releases lien, stop payment notice and payment bond rights the claimant has for all labor and service provided, and equipment and material delivered, to the customer on this job. Rights based upon labor or service provided, or equipment or material delivered, pursuant to a written change order that has been fully executed by the parties prior to the date that this document is signed by the claimant, are waived and released by this document, unless listed as Exception below. The claimant has been paid in full.

**Exceptions**

This document does not affect the following:  
Disputed claims for extras in the amount of: \$ \_\_\_\_\_

**Signature**

Claimant's Signature: \_\_\_\_\_  
Claimant's Title: \_\_\_\_\_  
Date of Signature: \_\_\_\_\_

**EXHIBIT B**

**UNCONDITIONAL WAIVER AND RELEASE UPON PROGRESS PAYMENT**

PAYMENT NOTICE TO CLAIMANT: THIS DOCUMENT WAIVES AND RELEASES LIEN, STOP PAYMENT NOTICE AND PAYMENT BOND RIGHTS UNCONDITIONALLY AND STATES THAT YOU HAVE BEEN PAID FOR GIVING UP THOSE RIGHTS. THIS DOCUMENT IS ENFORCEABLE AGAINST YOU IF YOU SIGN IT, EVEN IF YOU HAVE NOT BEEN PAID. IF YOU HAVE NOT BEEN PAID, USE A CONDITIONAL WAIVER AND RELEASE FORM.

**Identifying Information**

Name of Claimant: \_\_\_\_\_  
Name of Customer: \_\_\_\_\_  
Job Location: \_\_\_\_\_  
Owner: \_\_\_\_\_  
Through Date: \_\_\_\_\_

**Unconditional Waiver and Release**

This document waives and releases lien, stop payment notice and payment bond rights the claimant has for all labor and service provided, and equipment and material delivered, to the customer on this job through the Through Date of this document. Rights based upon labor or service provided, or equipment or material delivered, pursuant to a written change order that has been fully executed by the parties prior to the date that this document is signed by the claimant, are waived and released by this document, unless listed as Exception below. The claimant has received the following progress payment:

\$ \_\_\_\_\_

**Exceptions**

This document does not affect the following:

- (1) Retentions.
- (2) Extras for which the claimant has not received payment.
- (3) Contract rights, including (A) a right based on rescission, abandonment, or breach of contract, and (B) the right to recover compensation for work not compensated by the payment.

**Signature**

Claimant's Signature: \_\_\_\_\_  
Claimant's Title: \_\_\_\_\_  
Date of Signature: \_\_\_\_\_

## ATTACHMENT A

Contractor agrees to supply and/or to perform all the work described below and as instructed by the District Engineer in a good workmanlike manner for the following Lump Sum prices:

ITEM NO.	DESCRIPTION	ESTIMATED QUANTITY	UNIT	ESTIMATED UNIT COST	ESTIMATED TOTAL COST
CONSTRUCTION ITEMS					
1.	Shade Structure		L.S.		
2.	Installation		L.S.		
<b>Total Base Bid</b>					<b>\$ -</b>

The bidder shall set forth, in clearly legible figures, the bid price in the spaces provided in the following schedule:

<b>TOTAL BASE BID AMOUNT</b>	\$
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Write out figures:	
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The said quotations include the cost of insurance, sales tax, and every other item of expense direct or indirect incident to the contract.

<b>ADD ALTERNATE #1 BID AMOUNT</b>	\$
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Write out figures:	
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**ADD ALTERNATE #2 BID AMOUNT**

\$

Write  
out  
figures: