

## **SAMPLE CONSTRUCTION AGREEMENT**

THIS CONSTRUCTION AGREEMENT (“Agreement”) is made this \_\_\_\_\_ day of \_\_\_\_\_,

20\_\_\_\_, in the City of Visalia, County of Tulare, State of California, by and between City of Visalia, a

California Municipality (“City”) and \_\_\_\_\_ (“Contractor”). The City and the Contractor in consideration of the mutual covenants contained herein agree as follows:

1. The Work. Within the Contract Time and for the Contract Price, subject to adjustments thereto pursuant to the Contract Documents, the Contractor shall perform and provide all necessary labor, materials, tools, equipment, utilities, services and transportation to complete in a workmanlike manner all of the Work required in connection with the work of improvement commonly referred to as Visalia Civic Center Phase 2, RFB 24-25-44. Contractor shall complete all Work covered by the Contract Documents, including without limitation, the Drawings and Specifications prepared by Darden Architects (“Architect”) and other Contract Documents enumerated in Article 7 below, along with all modifications and addenda thereto issued in accordance with the Contract Documents. Contractor shall complete the Work and all improvements and equipment shall be in a fully functioning condition. All facilities shall be completed to provide a fully functioning facility for the intended purpose specified.
2. Contract Time. The Contractor shall commence performance of the Work on the date stated in the City’s Notice to Proceed and the Contractor shall achieve Substantial Completion of the Work within the Contract Time of 730 calendar days after the date established in the Notice to Proceed for commencement of the Work. Contractor acknowledges and agrees that the Work will be completed in accordance with Contract Documents.
3. Contract Price. The City shall pay the Contractor as full consideration for the Contractor’s full, complete and faithful performance of the Contractor’s obligations under the Contract Documents, subject to adjustments thereto as provided for in the Contract Documents, the Contract Price of \_\_\_\_\_ Dollars (\$\_\_\_\_\_). The City’s payment of the Contract Price shall be in accordance with the Contract Documents.
4. Liquidated Damages. The Contractor shall be subject to assessment of Liquidated Damages set forth below:
  - (i) if the Contractor fails to achieve Substantial Completion of the Work within the Contract Time; or
  - (ii) fails to complete all Punchlist items after achieving Substantial Completion of the Work within the time established for completion of Punchlist items pursuant to the Contract Documents:
  - 4.1 Liquidated Damages for Delayed Substantial Completion of the Work. The Contractor shall be assessed Five Thousand Dollars (\$5,000) per day from the scheduled date for Substantial Completion until Substantial Completion of the Work is achieved.
  - 4.2 Liquidated Damages for Delayed Completion of Punchlist Items. The Contractor shall be assessed Two Thousand Dollars (\$2,000.00) per day from the date all Punchlist Items are to be completed.
  - 4.3 Contractor Acknowledgement of Liquidated Damages. By executing this Agreement, the Contractor acknowledges its liability for Liquidated Damages in the event of delayed Substantial Completion, delayed completion of Punchlist Items and/or delayed submission of Submittals. The

Contractor further acknowledges and agrees that the Liquidated Damages set forth above are fair and reasonable under the circumstances existing at the time of the Contractor's execution of

this Agreement and that such amounts do not constitute a penalty.

4.4 City Right to Withhold Liquidated Damages. If the Contractor is subject to assessment of Liquidated Damages, the City may, at its sole discretion, withhold such Liquidated Damages from any portion of the Contract Price then or thereafter due the Contractor in satisfaction or partial satisfaction of the Contractor's Liquidated Damages liability to the City.

4.5 Performance Bond Surety Liability for Liquidated Damages. If Liquidated Damages assessed hereunder exceed the remaining balance of the Contract Price, the Contractor and the Performance Bond Surety shall be jointly and severally liable to the City for payment of Liquidated Damages exceeding the Contract Price.

5. Limitation on Damages. In the event of the City's breach or default of its obligations under the Contract Documents, the damages, if any, recoverable by the Contractor shall be limited to general damages which are directly caused by said breach or default of the City and shall exclude any and all special or consequential damages, if any, suffered by the Contractor. By executing this Agreement, the Contractor expressly acknowledges the foregoing limitation to the recovery only of general damages from the City if the City is in breach or default of its obligations under the Contract Documents. The Contractor expressly waives any right to, and foregoes, the recovery of any special or consequential damages from the City including, without limitation, damages for: i) lost or impaired bonding capacity; and/or, ii) lost profits arising out of or in connection with any past, present, or future work of improvement, except for the Project which is the subject of the Contract Documents.

6. The Contract Documents. The documents forming a part of the Contract Documents consist of the following, all of which are component parts of the Contract Documents.

Bid Proposal	Labor and Material Payment Bond
Subcontractors List	Certificate of Workers Compensation
Bid Bond	General Conditions/ Supplementary Conditions/ Other Conditions
Non-Collusion Affidavit	Specifications
Bid Addenda Nos. _____	Drawings
Construction Agreement	Guarantee
Drug-Free Workplace Certification	Asbestos and Other Hazardous Materials Certification
Performance Bond	Disclosure Forms
City of Visalia Engineering Standard Specifications & Amendments	City of Visalia Engineering Design and Improvement Standards and Amendments
Request for Bid (RFB) & All Attachments	Change Orders
Supplemental Agreements	State and Federal Forms as applicable
Bidder's Statement on Previous Contracts Subject to Equal Employment Opportunity Compliance	Americans with Disabilities Compliance Certificate
Equal Employment Opportunity Certificate	Non-Segregated Facilities Compliance
City of Visalia Labor Compliance Manual	Clean Air and Water Pollution Prevention Certificate

RFB-24-25-44

Visalia Civic Center, Phase 2

State of California Prevailing Wages	Anti-Kickback Compliance Certification
	Iran Contracting Act Certification

6.1 Compliance with Executive Order N-6-22 – Russia Sanctions

On March 4, 2022, Governor Gavin Newsom issued Executive Order N-6-22 (the EO) regarding Economic Sanctions against Russia and Russian entities and individuals. “Economic Sanctions” refers to sanctions imposed by the U.S. government in response to Russia’s actions in Ukraine, as well as any sanctions imposed under state law. The EO directs state agencies to terminate contracts with, and to refrain from entering any new contracts with, individuals or entities that are determined to be a target of Economic Sanctions. Accordingly, should the State determine Contractor is a target of Economic Sanctions or is conducting prohibited transactions with sanctioned individuals or entities, that shall be grounds for termination of this agreement. The State shall provide Contractor advance written notice of such termination, allowing Contractor at least 30 calendar days to provide a written response. Termination shall be at the sole discretion of the State.

7. Authority to Execute. The individual(s) executing this Agreement on behalf of the Contractor is/are duly and fully authorized to execute this Agreement on behalf of Contractor and to bind the Contractor to each and every term, condition and covenant of the Contract Documents.

8. Notices. Notices under the Contract Documents shall be effective only if in writing and only if delivered by facsimile, personal delivery, overnight courier service or United States Mail (with delivery charges or postage prepaid) at the following addresses of the Contractor, Construction Manager, Architect and the City:

8.1 Notices to the City. Notices to the City shall be addressed and delivered as follows:

Mike Porter  
Civil Engineer  
City of Visalia  
315 E. Acequia  
Visalia, California 93291  
Phone: (559) 713-4412

8.2 Notices to the Contractor. Notices to the Contractor shall be addressed and delivered as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Facsimile: \_\_\_\_\_

8.3 Notices to the Architect. Notices to the Architect shall be addressed and delivered as follows:

Darden Architects  
Attn: Bob Petithomme  
Principal Architect

RFB-24-25-44  
Visalia Civic Center, Phase 2

6790 N. West Ave.  
Fresno, CA 93711  
Phone: (559) 446-1765

IN WITNESS WHEREOF, this Agreement has been duly executed by the City and the Contractor as of the date set forth above.

CITY OF VISALIA

CONTRACTOR

\_\_\_\_\_  
City Manager

\_\_\_\_\_  
Date

---

By: Authorized Agent
Date

---

Print Name, Title

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

\_\_\_\_\_  
Date

Risk Manager	Date
--------------	------

Project Manager \_\_\_\_\_ Date \_\_\_\_\_