

City of Visalia

Memo



To: Purchasing

From: Wyndi Ferguson, Interim Public Works Director *wf*

CC: Leslie Caviglia, City Manager

Date: March 22, 2022

Re: Emergency Contract

The Water Reclamation Facility is required by the State to have an Operator with a Grade V license. This person is responsible for the daily activities and reporting of the facility. Due to the difficulties obtaining a Grade V Wastewater Treatment Operator, Central Cal Waterworks, Inc was contacted for a proposal to handle the Chief Plant Operator duties until the position is filled. Central Cal Waterworks currently assists with several Treatment Plants up and down the Central Valley, including the City of Tulare. The duties would include, but not limited to ensuring that all Waste Discharge Report samples are taken, all records are maintained, and all required operating reports to the State Water Resources Control Board are submitted.

Staff is requesting an emergency PO for a not to exceed amount of \$90,000. Central Cal Waterworks has proposed a monthly fee of \$8,345 for the services requested and would be in effect until we can hire a permanent Grade V Operator. If at any time we feel that the contract will exceed that amount, we will go to City Council to increase the contract amount to be in compliance with the City Purchasing Policy.

This emergency PO will keep the City in compliance with the State Board and will keep the City from incurring thousands of dollars in fines for not having a Grade V license (operator).

Approved:

Renee Nagel 3-22-22

Renee Nagel – Finance Director

Leslie B. Caviglia 3-22-22

Leslie Caviglia – City Manager

City of Visalia
PURCHASE REQUISITION

DELIVERY ADDRESS: Water Reclamation Facility 7579 Ave 288 Visalia, CA 93277	REQUISITION DATE <p style="text-align: center;">03/21/2022</p>	DATE NEEDED <p style="text-align: center;">ASAP</p>	DEPT CONTACT <p style="text-align: center;">Wyndi Ferguon</p>	PHONE NUMBER <p style="text-align: center;">559-713-4186</p>
REQUESTED BY: Wyndi Ferguson	SUPPLIER INFORMATION: Central Cal Waterworks, Inc. ADDRESS: P.O. Box 1088 Auberry, Ca 93729			
DEPARTMENT HEAD APPROVAL:	PHONE: (559) 575-5627 ACCOUNT NUMBER (MUST BE BUDGETED): <p style="text-align: center;">4331-55100</p>			

QTY	UNIT	DESCRIPTION OF GOODS	EST PRICE
1	Monthly	Provide Grade V WRF Chief Plant Operator duties	\$8,345.00
		As per attached proposal	
		Not to exceed \$90,000 annually	
TOTAL ESTIMATE COST:			

	SUBTOTAL	
	SHIPPING & HANDLING	
	TAX (8.5%)	
	DISCOUNT	
	TOTAL	

ATTACHMENTS (CHECK BOX BELOW):

- ☐ QUOTES FROM MINIMUM OF THREE (3) SUPPLIERS
☐ SPECIFICATIONS
☐ SUPPLIER LIST
☐ SOLE SOURCE MEMO FOR THE FOLLOWING:
 * EMERGENCY
 * SOLE DISTRIBUTOR
 * ALREADY HAS CONTRACT FOR WORK IN AREA

☒ SCOPE OF WORK
☐ OTHER: _____

FOR PURCHASING USE ONLY:			
<input type="checkbox"/> W9	<input type="checkbox"/> EXECUTED CONTRACT	<input type="checkbox"/> YES / NO	<input type="checkbox"/> DIR
<input type="checkbox"/> INSURANCE	<input type="checkbox"/> BONDS		



CENTRAL CAL WATERWORKS INC. PROPOSAL
FOR CITY OF VISALIA PUBLIC WORKS

WHEREAS, the City of Visalia, desires to employ a Certified Chief Wastewater Treatment Plant Operator, and proposal

WHEREAS, City of Visalia, currently lacks the ability to perform the duties required of a Certified Chief Wastewater Operator in the State of California; and

WHEREAS, City of Visalia and Central Cal Waterworks Inc. have entered into a Personal Services Agreement for the position of Certified Chief Wastewater Treatment Plant Operator on the following terms and conditions:

1. Central Cal Waterworks Inc. is the holder of SWRQB Grade V Wastewater Treatment Plant Operator Certificate # 28578; AND Contract Operator License CO 0225.
2. The parties hereto agree that Central Cal Waterworks Inc. will be responsible for the duties and responsibilities of Chief Plant Operator for all City of Visalia Wastewater Treatment Facilities, in accordance with the rules and regulations of the California State Water Resources Control Board.
3. Central Cal Waterworks Inc. hereby agrees to act as the Certified Chief Wastewater Treatment Plant Operator for the City of Visalia's Domestic Wastewater Treatment Facility.
4. It is further agreed that Central Cal Waterworks Inc. is an Independent Contractor in and for the City of Visalia and is not subject to employment policies, provisions, rules, and regulations.
5. It is further agreed that this Agreement shall be effective commencing on 3/1/2022 and shall remain fully operative monthly. Contract may be terminated by either party with 30 days written notice.
6. The parties hereto agree to the terms and conditions set forth in the attached Addendum with respect to the parties' responsibilities.
7. The parties have agreed to the following compensation for the above-described general services and for the specific services described in the attached Addendum: Monthly Fee of \$8345.00.
8. The City of Visalia shall pay Central Cal Waterworks Inc. on or before the tenth (10th) day of each month for the previous month's services.

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9. Emergency calls outside of the regular and agreed upon work schedule, will be charged on a per call basis at Central Cal Waterworks Inc. current rate schedule.

1. Information Regarding Parties Involved:

Community Wastewater and Water Supply Information:

Name of Supply: City of Visalia Industrial and Domestic WWTF
System ID #:
City of Visalia
Mailing Address:
System Contact:
Emergency Contact:

Certified C.S.W.R.C.B Wastewater Treatment Operator

Jason Sherrell: Central Cal Waterworks Inc.
California State Water Resources Control Board
Wastewater Treatment Operator: Grade V Cert # 28579:
Water Treatment Operator Grade T-3 Cert # 29746:
Water Distribution Operator Grade D-2 Cert # 35158
Mailing Address: P.O. Box 1088 Auberry CA 93729
Phone: (559) 575-5627
Email: jsherrell.ccw@gmail.com

2. Starting Date of Agreement:

Starting Date: March 1, 2022

3. The Duties and Responsibilities of Each Party Involved:

City of Visalia's Duties and Responsibilities include but are not limited to:

- A. Provide materials for correcting any maintenance and/or operational problems.
- B. Provide necessary monetary funds to cover the costs of requirements outlined in A.
- C. Ensure that all projects requiring construction and operating permits meet State Contractors Board Agency requirements.
- D. Provide a spare parts inventory.

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- E. Must maintain on file for five (5) calendar years all monitoring reports. - including, but not limited to:
 - Annual Wastewater Reports
 - Discharge Monitoring Reports
 - Monthly Operating Reports
- F. Maintain copies of all pertinent reports and records at the Treatment Plant or other on-site facility.

Central Cal Waterworks Inc.'s Duties and Responsibilities include but are not limited to:

- A. Act as Chief Wastewater Treatment Plant Operator performing the required visits specified in this agreement.
- B. Maintain proper records of the specified visits.
- C. In addition to the specified visits, the Central Cal Waterworks Inc. must also maintain and ensure availability of a means of communication for regulatory agencies, in the event of routine or emergency operational problems.
- D. Ensure by personal action and by directives to system personnel that system is being operated in a manner that provides for the safe and proper production of Wastewater.
- E. Ensure by personal action and by directives to system personnel that all necessary and required routine operational control testing is performed in a competent and timely manner.
- F. Issue notices, including notification to the State Water Resources Control Board's Regional Office, and the local county Public Health Department, per regulatory guidelines.
- G. Respond to Agency requests for information, site visits, or any other requested data.
- H. Ensure that all WDR permit samples are taken in compliance with the rules and regulations of the California State Water Resources Control Board.
- I. Maintain and submit to the State Water Resources Control Board all required operating records and reports, in a timely manner. These records and reports include, but are not limited to:
 - Discharge Monitoring Reports
 - Monthly Operating Reports
 - Annual Wastewater Reports

On Call 24 hours a day 7 days a week for emergency response to any issues related to the Wastewater Treatment Facility

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1. Access to Equipment: The customer agrees to permit the agents and representatives of Central Cal Waterworks Inc. to have access to the facilities and equipment at any time during regular working hours for the sole purpose of performing the services.
2. It is understood and agreed by all the parties hereto that the City of Visalia shall not hire or offer employment to any existing or former Central Cal Waterworks Inc. employee having any involvement with the services described in Section 2 of this Agreement. The provisions of this paragraph shall remain in effect for a period of two (2) year following termination of this Agreement.
3. Additional Services or Calls: If the City of Visalia requests Central Cal Waterworks Inc. to perform any services or to provide any materials other than those specified in this Agreement the City of Visalia shall pay Central Cal Waterworks Inc. for such additional services or materials at Central Cal Waterworks Inc.'s then-current rate schedule in addition to the charges provided for in this Agreement.
4. The term of this Agreement shall commence as of the date 1st day of March 2022 and shall continue in full and effect for Monthly until one or both sides of this agreement has terminated this agreement with 30 days written notice to other.
5. Warranty Disclaimer: Under no circumstances shall Central Cal Waterworks Inc. have any warranty obligation, express or implied, including warranty for a particular purpose or merchantability, beyond that which is expressly provided by the manufacturer of the equipment or materials furnished by Central Cal Waterworks Inc. to the City of Visalia. Limitation of Liability: The liability of Central Cal Waterworks Inc. is expressly limited to the amount of compensation paid to Central Cal Waterworks Inc. by the City of Visalia, except in cases of negligence. In no event shall Central Cal Waterworks Inc. be liable for damages other than actual damages.
6. Attorney Fees and Costs: City of Visalia and Central Cal Waterworks Inc. agree that each party shall bear their own costs and expenses, including attorney's fees and legal costs, in connection with any dispute arising out of this Agreement.
7. Venue and Jurisdiction: If any legal proceeding or other legal action relating to this Agreement is brought or otherwise initiated, venue shall be in Tulare County Superior Court, California which shall be deemed a convenient forum. The parties to this Agreement expressly and irrevocable consent and submit to the jurisdiction of the courts

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of the State of California.

8. Successors and Assigns. This Agreement may not be assigned or delegated by either party without the prior written consent of the other party. The provisions of this Agreement are binding on the parent, subsidiary, and successor companies of the parties.
9. Partial Invalidity: If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full force and effect without being impaired or invalidated in any way.

CENTRAL CAL WATERWORKS INC.

Dated: _____ By: _____
Jason Sherrell, President Central Cal Waterworks Inc.
Authorized Officer: I certify under penalty of perjury under the laws of the State of California that I am fully authorized to execute this Agreement for CENTRAL CAL WATERWORKS INC. in the capacity I have stated, and that such execution is sufficient to bind the same.

CITY OF VISALIA

Dated: _____ By: _____
City Manager

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Approved as to Form

Dated: _____ By: _____
City Attorney

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www.centralcalwaterworks.com

GENERAL CONTRACT PROVISIONS

- A. **Successors and Assigns:** This Agreement shall be binding upon and shall inure to the benefit of any successors to or assigns of the parties.
- B. **Prohibition of Assignment:** Neither party shall assign, delegate or transfer their rights and duties in this Agreement without the written consent of the other party.
- C. **Notices:** Notice shall be sufficient hereunder if personally served upon the City Clerk of the CITY or an officer or principal of the CONTRACTOR, or if sent via the United States Postal Service, postage prepaid, addressed as follows:

CITY OF VISALIA
707 W. Acequia Ave.
Visalia, CA 93291
Attention: City Clerk

CENTRAL CAL WATERWORKS, INC.
P.O. Box 1088
Auberry, CA 93729
Attention: Jason Sherrell

- D. **Independent Contractor:** It is understood and agreed by the parties herein that CONTRACTOR, in the performance of this Agreement, shall act as an independent contractor, and therefore shall obtain no rights to any fringe benefits that accrue to regular full-time CITY employees.
- E. **Jurisdiction/Venue/Waiver Of Removal:** This Agreement shall be administered and interpreted under the laws of the State of California. Jurisdiction of litigation arising from this Agreement shall be in California. Any action brought to interpret or enforce this Agreement, or any of the terms or conditions hereof, shall be brought in Tulare County, California. The CONTRACTOR hereby expressly waives any right to remove any action to a county other than Tulare County as permitted pursuant to Section 394 of the California Code of Civil Procedure.
- F. **Integration/Modification:** This Agreement and each of the documents and exhibits or attachments referenced herein, which are incorporated by reference, represents the entire understanding of the parties as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered hereunder. This Agreement may not be modified or altered except in writing signed by the parties, unless otherwise explicitly authorized.
- G. **Conflict With Law:** If any part of this Agreement is found to be in conflict with applicable laws, such part shall be inoperative, null and void insofar as it is in conflict with said law, but the remainder of the Agreement shall be in full force and effect.
- H. **Indemnification:** The CONTRACTOR waives any and all claims and recourse against the CITY, including the right of contribution of loss or damage to person or property arising from, growing out of, or in any way connected with or incidental to the CONTRACTOR's performance of this Agreement, except claims arising from the concurrent or sole negligence of the CITY or its officers, agents or employees. The CONTRACTOR will indemnify, hold harmless, and defend (at CITY's option) the CITY against any and all claims, demands, damages, costs, expenses, or liability arising out of the CONTRACTOR's performance of this Agreement except for liability arising out of the concurrent or sole negligence of the CITY or its officers, agents, or employees.
- I. **Guarantees and Warranties:**
1. **IN GENERAL:** All guarantees and warranties specifically called for by the specifications and/or this Agreement shall expressly run to the benefit of the CITY.

2. GUARANTEE: Besides guarantees required elsewhere, CONTRACTOR shall and hereby does guarantee the project work for a period of two (2) years after the date of acceptance by CITY.

3. WARRANTIES: Warranties required by the Invitation to Bid or this Agreement shall commence on the date of acceptance of the work by CITY. Standard Manufacturer's Warranty shall apply to materials used.

CONTRACTOR warrants that the materials and equipment furnished under the Agreement will be new and of recent manufacturer unless otherwise specified, and that all work will be of good quality, free from faults and defects, and in conformance with the Agreement. Work that does not conform may be considered defective. This warranty excludes remedy for damage or defect caused by abuse, modifications not executed by the CONTRACTOR, improper or insufficient maintenance, improper operation, or normal wear and tear under normal usage.

CONTRACTOR warrants that title to all work covered by an application for payment will pass to the CITY either by incorporation in the construction or upon the receipt of payment by the CONTRACTOR, whichever occurs first, free and clear of all liens.

CONTRACTOR warrants and guarantees that title to all work, materials, and equipment covered by any application for payment, whether incorporated in the project or not, will pass to CITY no later than the time of payment free and clear of all liens.

No materials or supplies for the project shall be purchased by the CONTRACTOR or SUBCONTRACTOR subject to any mortgage or under a condition of sale contract or other agreement by which an interest is retained by the seller. CONTRACTOR warrants that it has good title to all materials and supplies used by it in the project, free from all liens.

CONTRACTOR shall indemnify and hold CITY harmless from all claims growing out of the lawful demands of SUBCONTRACTORS, laborers, workers, mechanics, material persons, and furnishers of machinery and parts thereof, equipment, power tools, and all supplies, incurred in furtherance of the performance of this Agreement. CONTRACTOR shall, at CITY's request, furnish satisfactory evidence that all obligations of the nature here and above designated have been paid, discharged, or waived. If CONTRACTOR fails to do so, then CITY may, after having served written notice on the CONTRACTOR, either pay directly unpaid bills, of which the CITY has written notice, or withhold from the CONTRACTOR's unpaid compensation a sum of money deemed reasonably sufficient to pay any and all such lawful claims until satisfactory evidence is furnished that all liabilities have been fully discharged where upon payment to the CONTRACTOR shall be resumed, in accordance of the terms of this Agreement, but in no event shall the provisions of this sentence be construed to impose any obligations on the CITY to either the CONTRACTOR or its surety. In paying any unpaid bills of the CONTRACTOR, the CITY shall be deemed the agent of the CONTRACTOR and any payment so made by the CITY shall be considered as payment made under the contract by the CITY to the CONTRACTOR and the CITY shall not be liable to the CONTRACTOR for any such payments made in good faith.

Any defective work that is either corrected or replaced shall be warrantied and guaranteed for a period of one year from the date of such correction or replacement.

L. Attorney's Fees: In the event either party commences any action, arbitration or legal proceedings for the enforcement of this Agreement, the prevailing party, as determined

by the court or arbitrator, shall be entitled to recovery of its attorney's fees and court costs incurred in the action brought thereon.

- M. **Headings:** Section headings are provided for organizational purposes only and do not in any manner affect the scope or intent of the provisions thereunder.
- N. **Firearms Prohibited:** Guns may not be carried by contractors /vendors/ consultants while working on City of Visalia premises without the expressed written approval of a City of Visalia Department Head, or an exemption in the contract. If a contractor/vendor/consultant is caught carrying a gun, without City permission, their contract will be terminated.
- O. **Access to Equipment:** CITY agrees to access agents and representatives of CONTRACTOR access to the facilities and equipment at any time during regular working hours for the sole purpose of performing the services.
- P. **Additional Services:** if the CITY requests the CONTRACTOR to perform any services or to provide any materials other than those specified in the Agreement, the CITY shall pay the CONTRACTOR for such additional services or materials at CONTRACTORS then-current rate schedule in addition to the charges provided for in this Agreement.