

## **CONTRACT**

CITY OF VISALIA

STATE OF CALIFORNIA

This Contract for the construction of the **MILL CREEK CULVERT REPLACEMENT** Project, is made between the City of Visalia, (hereinafter “the City”), and \_\_\_\_\_, (hereinafter referred to as Contractor) both parties having authority to enter into this Contract do agree to the following:

**ARTICLE I** - For and in consideration of the payments hereinafter mentioned to be made by the City, and under the conditions expressed in this Contract and Contract Documents (as those terms are defined in City of Visalia Standard Specifications), including the bonds submitted with this Contract, Contractor agrees at his own cost and expense, to do all the work and furnish all the materials necessary to construct and complete in a good, workmanlike, and substantial manner the **MILL CREEK CULVERT REPLACEMENT** Project, as a fully operational and functional facility for the intended purpose in accordance with the Contract Documents, and in accordance with the reference documents listed in the Contract Documents, which are also made a part hereof.

Said work to be done is shown upon the following plans:

**RFB No.: 24-25-60**  
**Project Name: MILL CREEK CULVERT REPLACEMENT**  
**CIP: 3010-72000/CP0773-999**

which said plans are hereby made a part of this contract.

**ARTICLE II** - Contractor agrees to receive and accept the following prices as full compensation for furnishing all materials and for doing all the work described in this Contract; also for all loss or damage arising out of the nature of the work aforesaid, or from the action of the elements, or from any unforeseen difficulties or obstructions which may arise or be encountered in the prosecution of the work until its acceptance by the City of Visalia and for all risks of every description connected with the work; also for all expenses incurred by or in consequence of the suspension or discontinuance of work and for well and faithfully completing the work, and the whole thereof, in the manner and according to the Contract Documents, and requirements of the Engineer under them, to wit:

*This area to be reserved for insertion of the final bid item table complete with the awarded contractor's final bid amounts.*

ARTICLE III - Contractor hereby agrees to indemnify and hold City and its officers, agents, employees and assigns, harmless from any liability imposed for injury (as defined by Government code 810.8), whether arising before or after completion of work hereunder, or in any manner directly or indirectly caused, occasioned or contributed to, or claimed to be caused, occasioned or contributed to, in whole or in part, by reason of any act or omission, including strict liability or negligence of Contractor, or of anyone acting under Contractor's direction or control or on its behalf, in connection with or incident to or arising out of the performance of this contract.

It is the intent of the parties that Contractor will indemnify, defend, and hold harmless City and its officers, agents, employees, and assigns, from any and all claims, demands, costs, suits or actions as set forth above regardless of the existence of passive concurrent negligence, on the part of the City or anyone acting under its direction or control or on its behalf. It is further the intent of the parties that this indemnification required is not intended to relieve City from liability for the active negligence of City, its officers, agency and employees.

The Contractor shall continuously protect City property, including work under construction, from damage, loss, or liability of any kind to persons or property arising in connection with the contract, direct or indirect, including that arising from rainfall, flood waters, and other action of the elements and all acts of third parties.

This indemnity and hold harmless provision, insofar as it may be adjudged to be against public policy, shall be void and unenforceable only to the minimum extent necessary so that the remaining terms of this indemnity and hold harmless provision may be within public policy and enforceable.

In an emergency affecting the safety of life or limb, work site, or any property, the Contractor is hereby permitted and directed to act at their discretion to prevent such threatened loss of injury, and in the event any instructions are given by the City of Visalia in any emergency, the Contractor shall unconditionally comply therewith.

With respect to the performance of work under this agreement, the Contractor shall maintain and shall require all of its subcontractors to maintain insurance as described below.

Worker's Compensation insurance with statutory limits, and employer's liability insurance with limits of not less than \$1,000,000 per accident.

Commercial General Liability insurance with a combined single limit of not less than \$1,000,000 per occurrence. Such insurance shall include products/completed operations liability, owner's and Contractor's protective, blanket contractual liability, personal injury liability, broad form property damage coverage and explosion, collapse and underground hazard coverage. Such insurance shall (a) name City, its appointed

and elected officials, officers, employees and agents as insureds; and (b) be primary with respect to any insurance or self-insurance programs maintained by the City; and (c) contain Standard cross liability provisions. Such additional insured endorsement maintained by Contractor and its subcontractors shall not be required to provide coverage for City for the active negligence of City.

Commercial Automobile Liability insurance with a combined single limit of not less than \$1,000,000 per occurrence. Such insurance shall include coverage for owned, hired and non-owned automobiles and shall be provided by a business automobile policy.

Contractor shall furnish properly executed certificates of insurance to City prior to commencement of work under this agreement, such certificates shall:

- a. Clearly evidence all coverage required above, including specific evidence of a separate endorsement naming the City as an insured;
- b. Indicate whether coverage provided is on a claims made or occurrence basis; and
- c. Provide that such insurance shall not be materially changed, terminated, or allowed to expire except on 30-days prior written notice to City's Purchasing Division, Attention:

Purchasing  
707 W. Acequia Avenue  
Visalia, CA 93291.

Such insurance shall be maintained from the time work first commences until completion of the work under this Agreement if an occurrence policy form is used. If a claims made policy is used, coverage shall be maintained during the contract term and for a period extending 5 years beyond the contract date. Contractor shall replace such certificates for policies expiring prior to completion of work under this agreement and shall continue to furnish certificates 4 years beyond the contract term, when Contractor has a claims made form(s). If Contractor, for any reason, fails to maintain insurance coverage which is required pursuant to this agreement, the same shall be deemed a material breach of contract. City, at its sole option, may terminate this agreement and/or obtain damages from the Contractor resulting from said breach. Alternatively, City may purchase such required insurance coverage, and without further notice to Contractor, City may deduct from sums due to Contractor any premium costs advanced by City for such insurance.

This insuring provision, insofar as it may be adjudged to be against public policy or in violation of Insurance Code Section 11580.04, shall be void and unenforceable only to the minimum extent necessary so that the remaining terms of the insuring provisions herein may be within public policy and enforceable.

ARTICLE IV - It is further expressly agreed by and between the City and the Contractor that should there be any conflict between the terms of this instrument and the bid or proposal of said Contractor, then this instrument shall control and nothing herein shall be considered as an acceptance of the said terms of said proposal conflicting with this instrument.

**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.

IN WITNESS WHEREOF, the parties have executed this agreement as of the date opposite their respective signatures.

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