

AGREEMENT
BETWEEN THE CITY OF SALINAS AND HA CONSTRUCTION

(To be completed and submitted for project award)

THIS AGREEMENT, made and entered into this ___ day of _____, 2023, by and between CITY OF SALINAS, a municipal corporation of the State of California, hereinafter called "City", and HA CONSTRUCTION hereinafter called "Contractor."

WITNESSETH

FIRST: Contractor hereby covenants and agrees to furnish and provide all labor, materials, tools, appliances, equipment, plant and transportation, and all other things required or necessary to be furnished, provide or done, and build, erect, construct and complete the work at the time and in the manner provided, and in strict accordance with, the Plans and Specifications therefore, for

**NATIVIDAD CREEK PARK
RESTROOM REHABILITATION PROJECT
CIP NO.9346**

adopted by the Council of the City of Salinas on June 20, 2023, and identified by the signature of Contractor and the signature of the Mayor of the City of Salinas.

SECOND: It is expressly understood and agreed that this Contract consists of the following documents, all of which are incorporated into this agreement and made a part hereof as fully and completely as if set forth herein verbatim, to wit:

- a. **Notice Inviting Sealed Proposals;**
- b. **Signed and executed Bid and Proposal of Contractor, and if any signed Addendum, as accepted by City;**
- c. **Bidder's Statement of Financial Responsibility, Technical Ability and Experience;**
- d. **Bidder's Statement of Subcontractors – Part I;**
- e. **Bidder's Statement of Subcontractors – Part II;**
- f. **Insurance Certification;**
- g. **Completely executed and signed all required Federal and City of Salinas forms;**
- h. **Instructions to Successful Bidder and General conditions;**
- i. **Bond of Faithful Performance;**
- j. **Payment Bond (Labor and Materials Bond);**
- k. **Certificate of Insurance;**
- l. **The aforesaid Plans and Specifications;**
- m. **Current California Building Standard Code;**
- n. **Design Standards and Standard Specifications and Standard Plans, 2008 Edition, or as amended, or otherwise indicated in the specifications; and**
- o. **This Agreement.**

THIRD: That said Contractor agrees to receive and accept the following prices as full compensation for furnishing all materials and for doing all the work embraced and contemplated in this Agreement and as set forth in the Proposal adopted by the City of Salinas, a true copy thereof hereto attached; also, for all loss or damage arising out of the nature of said work 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 the acceptance thereof by the City of Salinas and for all risk connected with the work, and for well and faithfully completing the work, and the whole thereof, in the manner and according to the said Plans and Specifications and the provisions of this agreement, and the requirements of the City Engineer under them, to wit: The prices as set forth in the Proposal of said Contractor for the work to be constructed and completed under this Agreement, which prices shall be considered as though repeated herein.

The Contractor and City hereby agree that the Contractor shall perform the work and be paid the amount of bid items No. 1-17 specified in the Proposal of the Contractor, for the as total price of One Hundred Fifty-one Thousand (\$151,000) Dollars.

The undersigned Contractor further agrees to so plan the work and to prosecute it with such diligence that said work, and all of it, shall be completed on or before the expiration of the time specified in the Proposal after execution of the Contract on behalf of the City of Salinas and the receipt from the City of Salinas of a notice to proceed with the work.

FOURTH: The City of Salinas hereby promise and agrees with said Contractor to employ, and does hereby employ, said Contractor to provide the materials and to do the work according to the terms and conditions herein contained and referred to, for the price aforesaid, and hereby Contracts to pay the same at the time, in the manner and upon the conditions set forth in the Specifications and the said parties, for themselves, their heirs, executors, administrators, successors, and assigns, do hereby agree to the full performance of the covenants herein contained.

FIFTH: No interest in this agreement shall be transferred by the Contractor to any other party, and any such transfer shall cause the annulment of this Contract, so far as the City of Salinas is concerned. All rights of action, however, for any breach of this Contract are reserved to City.

SIXTH: The Contractor shall keep harmless and indemnify the City of Salinas, its officers and employees and agents, from all loss, damage, cost or expense that arises or is set up for infringement of patent rights of anyone for use by the City of Salinas, its officers, employees or agents, or articles supplied by the Contractor under this Contract of which he/she is not entitled to use or sell. Contractor agrees to, at his/her own cost and expense, defend in court the City, its officers, agents, and employees, in any action which may be commenced or maintained against them or any of the, on account of any claimed infringement of patent rights, arising out of this agreement.

Contractor shall indemnify and save the City of Salinas and its officers, agents, and employees harmless against all claims for damages to person or property arising out of Contractor's execution of the work, or otherwise by the conduct of the Contractor or its employees, agents, Subcontractors, or others (including the active and passive negligence of the City, its officers, agents, and employees) in connection with the execution of the work covered by this Contract and any and all costs, expenses, attorney's fees and liability incurred by the City, its officers, agents, and employees) in connection with the execution of the work covered by this Contract and any and all costs, expenses, attorneys' fees and liability incurred by the City,

its officers, agents, or employees in defending against such claims, whether the same proceed to judgment or not, except only those claims arising from the sole negligence or willful conduct of the City, its officers, agents, or employees. Further, Contractor at its own expense shall, upon written request by the City, defend any such suit or action brought against the City, its officers, agents, or employees.

Contractor shall reimburse the City of Salinas for all costs and expense (including but not limited to fees and charge of architects, engineers, attorneys, and other professional and court costs) incurred by the City in enforcing the provisions of this Section.

SEVENTH: The Contractor agrees to immediately repair and replace all defective material and workmanship discovered within 1 year after acceptance of final payment by Contractor and to indemnify said City of Salinas against all loss and damage occasioned by any such defect, discovered within said 1 year, even though the damage or loss may not be ascertained until after the expiration thereof. Provided, however, that if such failure of the Contractor to perform should not, by reasonable diligence, be discoverable or discovered within said 1 year, then the obligation of the Contractor to repair and replace said defective material or workmanship shall continue until one year after the actual discovery thereof.

EIGHTH: The Contractor agrees at all times during the progress of the work to carry with insurance carriers approved by the City of Salinas full coverage workmen's compensation and public liability insurance in the form and to the extent called for in Section 7-1.12 of both the Standard Specifications, State of California, May 2006, and the Design Standards and Standard Specifications, Public Works Department, City of Salinas, 2008 Edition. Certificates of Insurance must specify whether coverage is on a "claims occurrence" or "claims made" form. If the policy is "claims made", Contractor will be required to obtain a bond which must remain in effect until 12 months following work completions.

Contractor shall also advise the insurance carrier to inform the City of the unpaid limits of the policy. Such insurance policy shall contain an endorsement that the same shall not be canceled nor the amount of coverage be reduced until at least 30 days after receipt by the City of Salinas by certified or registered mail of a written notice of such cancellation or reduction in coverage.

It is acknowledged by the parties to this agreement that insurance coverage required to be provided by the Contractor or any other party in favor of the City/additional insured is intended to apply first on a primary and non-contributing basis in relation to any other insurance of self-insurance (primary or excess) available to the City and any employee of the City. The Contractor agrees to have its policies endorsed accordingly. In addition, Contractor also accepts to provide commercial general liability (CGL) endorsement form *CG 20 10 11 85*. An acceptable alternative would be the use of two ISO forms together: the *CG 20 10 07 04* ("ongoing operations") and the *CG 20 37 10 01* ("completed operations"). The City may also accept any other comparable endorsement, which does not further limit coverage, and which may be approved and accepted by the City's Risk Management staff.

NINTH: Contractor agrees to comply with all applicable federal, state, and municipal laws and regulations, including but not limited to California Labor Code Division 2, Part 7, and Chapter 1.

Apprenticeship utilization: The contractor agrees to comply with the Department of Apprenticeship Standards of the California Labor Code Section 1777.5, and the following:

Prior to commencing work on the awarded contract, the Contractor shall submit contract award information (form DAS 140) to all applicable apprenticeship program(s) that can supply apprentices to the site of the public work. **A copy of this information shall also be provided to the City of Salinas.**

The ratio of work performed by apprentices to journeyman employed in a particular craft or trade on the public work shall be no less than one hour of apprentice work for every five hours of journeyman work.

At the end of each month of work on the contract, the Contractor and Subcontractors shall submit a record of utilization of apprentices for the previous months work.

Within 60 days after concluding work on the contract, each contractor and subcontractor shall submit to the City of Salinas and to the apprenticeship program a verified statement of the journeyman and apprentice hours performed on the contract.

IN WITNESS WHEREOF, City has caused this instrument to be executed and its corporate name and seal to be hereunto attached by its Mayor, pursuant to resolution theretofore duly adopted by the Council of the City of Salinas, and Contractor has caused this instrument to be executed, the day and year first hereinabove written.

CITY OF SALINAS, A Municipal Corporation

ATTEST:

BY _____
Mayor

City Clerk _____

(Attach Notary Acknowledgment)

Contractor (signature in blue ink)

NOTE: Please refer to the "General Instructions to Low Bidder" for specific signature requirements.

I hereby approved the form of the foregoing Contract this _____ day of _____, 20____.

Attorney for the City of Salinas

Checked by the City Engineer on _____

City Engineer

ALL SIGNATURES SHALL BE NOTARIZED EXCEPT THOSE OF CITY OFFICIALS