



City of Placerville

Hangtown Creek Water Reclamation Facility

2300 Cool Water Creek Road

Placerville, CA 95667

Phone: (530) 642-5244

Notice Inviting Informal Bids

Water Reclamation Facility Digester No. 1 Servicing

CIP # 42109

The City of Placerville is requesting proposals for the above-mentioned project. Proposals must be Received by the Engineering Department by Thursday, April 10, 2025, at 3:00 pm. Late proposals will not be accepted.

Proposals may be hand delivered, mailed or emailed.

City of Placerville

Engineering Department - 3rd Floor

3101 Center Street

Placerville, CA 95667

Email: engineering@cityofplacerville.org – with the Project Name in the subject.

BIDS ARE REQUIRED FOR THE ENTIRE WORK DESCRIBED HEREIN:

Project Location: 2300 Cool Water Creek Road Placerville, CA 95667

General Work Description:

- Mobilization of necessary equipment and personnel to remove contents of digester #1.
- Dewater digester content on site.
- Removal of all digester solids content and transfer of any remaining liquid to landfill for lawful impoundment and disposal.
- Contractors will utilize the best management practices to minimize the volume of dilution and wash water generated in the cleaning process.
- The contractor must be confined space certified. Confined Space permit required to enter digester.
- Demobilization of equipment and personnel.

General: This contract is subject to nondiscrimination requirements pursuant to California Government Code Section 12990. The City of Placerville encourages Disadvantaged Business Enterprises to submit bids in response to this invitation.

Attention is directed to the following sections of the California Labor Code: Apprentices, Section 1777.5, "Working Hours", Sections 1810 to 1815; "Workers Compensation", Section 1860. The City of Placerville reserves the right to reject any or all bids or any parts thereof and waive any irregularities or informalities in any bid or in the bidding to the extent permitted by law and to make awards in all or part of the best interest of the City.

*We are a welcoming, active and business-friendly rural
foothill community built on California's rich gold rush history.*

By submission of a bid, Contractor acknowledges and accepts Business and Professions Code Section 7028.15 and Public Contract Code Sections 7106, 10232, 10162 Questionnaire with the submitted answer of “no”, and 10285.1 with no conviction within the preceding three years of any offenses referenced in that section.

By submission of a bid, Contractor acknowledges and accepts the City standard contract language provided in Attachment 1, or contract shall request any contract deviations in their bid proposal. Bidder shall provide a Certificate of Insurance and proof of Confined Space Certification upon contract execution.

Bonds: The successful bidder will be required to furnish, prior to performance of any work herein, a payment bond in the amount equal to one hundred percent (100%) of the total contract price.

Contractor License Classification: In accordance with the provisions of California Public Contract Code, Section 3300, the Contractor shall possess a Class A license at the time bids are received for this contract. Failure to possess the specified license(s) shall render the bid as non-responsive and shall act as a bar to the awarding of the contract to any bidder not possessing said license(s). Contractors submitting bids shall clearly state the license number, classification, and expiration date.

Wage Rate Requirements: Attention is directed to the minimum wage rate requirements as required by Section 1770 of the California Labor Code. Pursuant to Section 1773 of the Labor Code: the general prevailing wage rates in El Dorado County have been determined by the Director of the California Department of Industrial Relations. These wage rates (and the federal minimum wage rates for this project as predetermined by the United States Secretary of Labor) are set forth in the special provisions. As required by Section 1773.8 of the California Labor Code, the Contractor shall pay travel and subsistence payments to each worker needed to execute the contract. Bidders will be required to submit proof of DIR registration for themselves and all listed subcontractors prior to the award of the contract.

Submittals: The Contractor must provide a construction schedule within 5 calendar days of receipt of the Notice to Proceed for review and approval. The work is expected to take one week and must be completed within the timeframe listed below.

Project Schedule:

- Bids Due: April 10, 2025, at 3:00 pm
- City Council Contract Award: May 13, 2025
- Project Start: June 2, 2025
- Required Project Completion Date: July 31, 2025

Bid Pricing Format: Bid shall be in a lump sum format inclusive of mobilization, demobilization, and removal and transport of up to 45,000 gallons of liquid. Contractor to provide pricing per gallon for additional gallons in excess of 45,000 gallons of liquid, only to be authorized by the Project Manager as needed.

Questions: Questions regarding this Notice shall be directed to the Project Manager:
Frank Barragan, Senior Operator
Email: fbarragan@cityofplacerville.org
Phone: (530) 903-0685

Attachments: 1. Sample Contract

CITY OF PLACERVILLE

A handwritten signature in blue ink that reads "Melissa Savage". The signature is written in a cursive style and is positioned above a horizontal line.

Melissa Savage
City Engineer

3/20/2025
Date

CONTRACT
CITY OF PLACERVILLE

Water Reclamation Facility Digester No. 1 Servicing – CIP #42109

THIS CONTRACT ("Contract") made and entered by and between the City of Placerville, a political subdivision of the State of California (hereinafter referred to as "City") and **NAME**, a company duly qualified to conduct business in the State of California, whose principal place of business is **ADDRESS**, (hereinafter referred to as "CONTRACTOR") for the completion of the Work, described in more detail herein. The City and CONTRACTOR may be collectively referred to as the "parties."

WITNESSETH:

WHEREAS, City solicited informal bids for the specialized work contained within this contract; and

WHEREAS, Contractor has duly submitted a bid response for the captioned project upon which the City has awarded this contract;

WHEREAS, it is the intent of the parties hereto that such services be in conformity with all applicable federal, state and local laws.

NOW, THEREFORE, City and CONTRACTOR mutually agree as follows:

ARTICLE 1
SCOPE OF SERVICES

1.1 CONTRACTOR shall complete the Work as specified or indicated under the Bid Schedule entitled:

Water Reclamation Facility Digester No. 1 Servicing – CIP #42109

Scope of work includes:

- **To be completed**

1.2 The complete Contract consists of the following documents ("Contract Documents"):

The Contract Documents consist of Exhibit A as attached to this agreement, which includes this Agreement, and all Contract Change Orders issued in accordance with the Contract Documents which may be delivered or issued after the Effective Date of this Agreement and are not attached hereto; the prevailing Labor Surcharge And Equipment Rental Rates (when required) as determined by the Department of Industrial Relations to be in effect on the date the Work is accomplished; and all the obligations of City and of Contractor which are fully set forth and described therein; all Contract Documents which are hereby specially referred to and by such reference made a part hereof. All Contract Documents are intended to cooperate so that any work called for in one and not mentioned in the other is to be executed the same as if mentioned in all Contract Documents. Contractor agrees to perform all of its promises, covenants, and conditions set forth in the Contract Documents, and to abide by and perform all terms and conditions set forth therein. In case of conflict between this Agreement and any other contract document, this Agreement shall take precedence.

1.3 CONTRACTOR agrees to furnish all materials and all equipment and labor necessary to perform all Work and complete in a good and workmanlike manner, the Project as called for, and in the manner designated in, and in strict conformity with, the Contract Documents.

ARTICLE 2 TERM/PERFORMANCE PERIOD

2.1 This Contract shall go into effect on **date**, or the date when this contract is fully executed by signature, whichever is sooner, and shall be contingent upon City Council approval.

2.2 CONTRACTOR shall commence work upon receipt of written notification to proceed by City's Contract Administrator.

2.3 The Project shall be completed, and this Contract shall end **date**, unless extended by mutually agreed upon amendment executed in writing not less than thirty (30) days prior to the expiration of this Contract ("Contract Time").

2.4 CONTRACTOR is advised that any recommendation by City staff for contract award is not binding on City until the Contract is fully executed and approved by City Council and staff.

ARTICLE 3 COSTS AND PAYMENTS

3.1 The City hereby promises and agrees with the said Contractor to employ, and does hereby employ, the said Contractor to provide the material and to do the Work according to the terms and conditions of the Contract Documents herein contained and referred to, for the prices hereinafter set forth, and hereby contracts to pay the same at the time, in the manner and upon the conditions herein set forth; 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. The City shall pay the Contractor for the completion of the Work in accordance with the Contract Documents in current funds the Contract Prices named in the Contractor's Bid and Bid Price Schedule, a copy of which is attached hereto as Exhibit "A".

3.2 The City agrees to pay, and CONTRACTOR agrees to accept, in full payment for the work above agreed to be done, the sum of one hundred and sixty seven thousand seven hundred and fifty dollars (\$167,750) for the Work subject to additions and deductions as provided in the Contract Documents ("Contract Sum"), namely Contract Prices named in CONTRACTOR's Bid and Bid Price Schedule.

3.3 The parties acknowledge and agree that time is of the essence as to the performance of this Contract, and that the City will suffer financial loss if the Work is not completed on time, plus any extensions thereof allowed in accordance with the terms of this Contract. Accordingly, City and CONTRACTOR agree that as liquidated damages for any delay (but not as a penalty) the CONTRACTOR shall pay the City the sum of three thousand dollars (\$3,000) for each calendar day the Work remains uncompleted after the specified time permitted for its completion.

ARTICLE 4 AUTHORITY OF CITY CONTRACT ADMINISTRATOR

4.1 The City Officer or employee with responsibility for administering this contract is the City Engineer, or the City Engineer's designee. They shall be referred to as the City Contract Administrator for the purpose of the Contract Documents.

4.2 The City Contract Administrator is the representative of the City and has full authority to interpret the Contract Documents, to conduct the construction review and inspection of the CONTRACTOR's performance, and to decide questions, which arise during the course of the Work and

the City Contract Administrator's decisions on these matters, shall be final and conclusive. The City Contract Administrator has the authority to reject all work and materials, which do not conform to the Contract Documents, and has the authority to stop the Work whenever such stoppage may be necessary to insure the proper execution of this Contract. The City Contract Administrator's failure to stop the Work shall not obligate the City to accept defective or otherwise unacceptable work or otherwise affect the City Contract Administrator's or City's authority to reject work for any reason set forth in the Contract Documents.

4.3 If at any time CONTRACTOR's work force, tools, plant or equipment appear to the City Contract Administrator to be insufficient or inappropriate to secure the required quality of work or the proper rate of progress, the City Contract Administrator may order CONTRACTOR to increase their efficiency, improve their character, to augment their number or to substitute other personnel, new or additional tools, plant or equipment, as the case may be, and CONTRACTOR shall comply with such order. Neither the failure of the City Contract Administrator to demand such increase of efficiency, number, or improvement, nor the compliance by CONTRACTOR with the demand, shall relieve CONTRACTOR of its obligation to provide quality work at the rate of progress necessary to complete the Work within the specified time.

4.4 The City Contract Administrator may authorize minor variations in the work from the requirements of the Contract Documents which do not involve an adjustment in the Contract Price or the Contract Time, and thus, in the discretion of the City Contract Administrator, do not rise to an occasion for which a Change Order is necessary. These requests for minor variations may be accomplished by a Field Change Directives. CONTRACTOR shall comply promptly with any Field Change Directives. If the City Contract Administrator and CONTRACTOR are unable to agree on entitlement or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Time, or cost, as a result of a Field Change Directive, CONTRACTOR may commence the Change Order Protest procedures included in Article 5, Section 5.4 (Change Order Protest).

4.5 Any order given by the City Contract Administrator, not otherwise required by the Contract Documents to be in writing shall, on request of the CONTRACTOR, be given or confirmed by the City Contract Administrator in writing.

4.6 Whenever work, methods of procedure, or any other matters are made subject to direction or approval, such direction or approval will be given by the City Contract Administrator.

ARTICLE 5 CHANGES IN WORK

5.1 Change Orders

A Change Order, as used in this section, is a written instrument signed by the City Engineer that makes changes in the Work deemed necessary by the City Contract Administrator. Such changes include, but are not limited to:

- A.** In the Scope of Work;
- B.** In the sequence, method or manner of performance of the Work;
- C.** In the owner-furnished facilities, equipment, materials, services or site; and
- D.** Directing acceleration of the Work.

A Change Order may be issued to CONTRACTOR at any time, subject to applicable procurement limitations set forth in City's internal policies or municipal code, as may be amended.

5.2 If such changes cause an increase or decrease in CONTRACTOR's cost of, or time required for, performance of the Work, an equitable adjustment will be made, and this Contract will be modified in writing accordingly.

5.3 Change Order Form

A Change Order will set forth the work to be done or the method by which the change and cost adjustment, if any, will be determined, and the time of completion of the work.

Upon receipt of a Change Order, CONTRACTOR shall proceed with the ordered work. If ordered in writing by the City Contract Administrator, CONTRACTOR shall proceed with the work so ordered prior to actual receipt of a Change Order. A Change Order executed by CONTRACTOR and approved by the City Engineer and City Manager is an executed Change Order as that term is used throughout this section.

5.6 Applicability to Subcontractors

Any requirements under this Article 5 shall be equally applicable to Change Orders issued to Subcontractors by CONTRACTOR to the same extent required by CONTRACTOR.

5.7 Limitation on Changes

CONTRACTOR shall not be entitled to any amount for indirect costs, damages or expenses of any nature, including, but not limited to, so-called "impact" costs, labor inefficiency, wage, material or other escalations beyond the prices upon which the proposal is based and to which the parties have agreed pursuant to the provisions of this Article, and which CONTRACTOR, its Subcontractors and Sub-Subcontractors or any other person may incur as a result of delays, interferences, suspensions, changes in sequence or the like, for whatever cause, whether reasonable or unreasonable, foreseeable or unforeseeable, or avoidable or unavoidable, arising from the performance of any and all changes in the work performed pursuant to this section. It is understood and agreed that the CONTRACTOR's sole and exclusive remedy in such event shall be recovery of its direct costs as compensable hereunder and an extension of the time of the Contract, but only in accordance with the provisions of the Contract Documents.

It is expressly agreed that CONTRACTOR shall not be entitled to claim damages for anticipated profits on any portion of the Work that may be deleted.

The City reserves the right to contract with any person or firm other than the CONTRACTOR for any or all extra work.

ARTICLE 6 PROGRESS AND COMPLETION OF WORK

6.1 Commencement

CONTRACTOR shall begin the Work after receiving a Notice to Proceed within the period of time set forth in this Contract. Thereafter, CONTRACTOR shall diligently prosecute the Work to completion as specified in the Contract Documents.

6.2 Progress Schedule

CONTRACTOR shall submit within seven (7) days after execution of this Contract a detailed work schedule(s) which shall detail the actions of CONTRACTOR and Subcontractors working on the Project. This schedule(s) shall both show the dates at which CONTRACTOR will start and complete and conform to the completion time specified in the Work. The controlling operation, defined as the least float path, if any, shall be identified.

At the request of the City Contract Administrator, CONTRACTOR shall review, revise and resubmit the progress schedule to reflect progress.

ARTICLE 7 GUARANTEES

7.1 The CONTRACTOR warrants to the City that materials, equipment, and workmanship furnished for the Work will be good quality and new, unless otherwise required or permitted under the Contract Documents, that the Work will be free from defects or flaws and is of the highest quality and that the Work will conform with the requirements herein. Work not conforming to these requirements, including substitutions not properly approved and authorized, shall be considered defective.

7.2 CONTRACTOR shall repair or replace any or all work provided hereunder which is defective due to faulty materials, poor workmanship, or defective equipment at no expense to the City, ordinary wear or tear and unusual abuse or neglect excepted, during the term of this Contract and for a period of one year from the date of final accept the Work.

7.3 CONTRACTOR shall be required to repair or replace all adjacent facilities or areas which have been damaged or displaced due to contractor work performed under this Contract at no expense to the City during the term of this Contract and for a period of one year from the date of final acceptance of the Work.

7.4 The parties agree that this guarantee and the rights and obligations accruing therefrom shall be in addition to, and not by way of limitation in any manner whatsoever to, the rights, obligations, warranties or remedies otherwise provided for by law.

7.5 In the event of CONTRACTOR's failure to comply with the above-mentioned conditions within ten (10) calendar days after being notified in writing by the City, CONTRACTOR hereby authorizes City to proceed to have said defects repaired and made good at CONTRACTOR's expense, and CONTRACTOR will honor and pay all costs and charges therefore upon written demand.

ARTICLE 8 DISPUTES

8.1 Continue Work During Dispute

In the event of any dispute between the City and the CONTRACTOR, the CONTRACTOR will not stop Work but will watch over the work diligently to completion in the manner directed by the City, and the dispute shall be resolved by mediation or through a court of law after completion of the Work. However, all disputes must be submitted by CONTRACTOR in accordance with subsequent provisions of this Contract.

8.2 A Claim

A "Claim" is a separate demand by the CONTRACTOR sent by registered or certified mail, returned receipt requested for (a) a time extension, including, without limitation, a request for relief from damages or penalties for delay assessed by the City under the Contract Documents; (b) payment by the City of money or damages arising from work done by, or on behalf of, CONTRACTOR pursuant to the Contract Documents, and payment of which is not otherwise expressly provided for or the claimant is not otherwise entitled to; or (c) an amount the payment of which is disputed by the City. A Claim includes any claim within the scope of Public Contract Code section 20104 et seq. A Claim includes any dispute CONTRACTOR may have with the City, including one which does not require a Change Order Protest under Article 5, Section 5.4, and includes an alleged breach of this Contract by the City.

The Change Order Protest procedures above are fewer formal procedures that precede the more formal Claim process described herein. A Change Order Protest does not constitute a Claim.

8.3 City's Review of Claim

The City shall review the facts pertinent to the Claim, secure assistance from legal and other advisors, coordinate with the contract administrators, and within the time stipulated in the applicable subsection herein, render a written decision on the Claim. A copy of the decision shall be furnished to the CONTRACTOR by certified mail, return receipt requested, or any other method that provides evidence of receipt. The decision of the City shall be made final and conclusive except as is otherwise provided herein.

8.4 Requirements for Filing a Claim

For any Claim Subject to this section, the following requirements apply: The Claim shall be in writing and include the documents necessary to substantiate the Claim. Claims must be filed on or before the date of final payment. Nothing in this subdivision is intended to extend the time limit or supersede notice requirements otherwise provided by contract for the filing of Claims.

8.4.1 For Claims of less than fifty thousand dollars (\$50,000), the City shall respond in writing within 45 days of the receipt of the Claim or may request, in writing, within 30 days of receipt of the Claim, any additional documentation supporting the Claim or relating to defenses or Claims the City may have against the claimant. If additional information is thereafter required, it shall be requested and provided pursuant to this subdivision, upon mutual agreement of the City and the claimant. The City's written response to the Claim, as further documented, shall be submitted to the claimant within 15 days after the receipt of the further documentation or within a period of time no greater than that taken by the claimant in producing the additional information, whichever is greater.

8.4.2 For Claims of fifty thousand dollars (\$50,000) or more, but less than or equal to three hundred seventy-five thousand dollars (\$375,000), the City shall respond in writing to within 60 days of the receipt of the Claim or may request, in writing, within 30 days of receipt of the Claim, any additional documentation supporting the Claim or relating to defenses or Claims the City may have against the claimant. If additional information is thereafter required, it shall be requested and provided pursuant to this subdivision, upon mutual agreement of the City and the claimant. The City's written response to the Claim, as further documented, shall be submitted to the claimant within 30 days after the receipt of the further documentation or within a period of time no greater than that taken by the claimant in producing the additional information, whichever is greater.

8.4.3 If the claimant disputes the City's written response, or the City fails to respond within the time prescribed, the claimant may so notify the City, in writing, either within 15 days of the City's response or within 15 days of the City's failure to respond within the time prescribed, respectively, and demand an informal conference to meet and confer for the settlement of the issues in dispute. Upon a demand, the City shall schedule a meet and confer conference within 30 days for settlement of the dispute.

8.4.4 If following the meet and confer conference the Claim or any portion remains in dispute, the claimant may file a claim pursuant to Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910) of Part 3 of Division 3.6 of Title 1 of the Government Code. For the purpose of these provisions, the running of the period of time within which a claim must be filed shall be tolled from the time the claimant submits a written Claim pursuant to subdivision (a) until the time the Claim is denied as a result of the meet and confer process, including any period of time utilized by the meet and confer conference.

8.5 Claims Exempt from Review

The procedures and remedies provided in this Article 8 do not apply to:

- A.** Any claims by the City.
- B.** Any claims for or respecting personal injury or death or reimbursement or other compensation arising out of or resulting from liability for personal injury or death.
- C.** Any claim or dispute relating to stop payment requests or stop notices.
- D.** Any claim related to the approval, refusal to approve, or substitution of subcontractors, regardless of tier, and suppliers.

8.6 Procedure to Resolve Civil Claims

The City and CONTRACTOR shall follow procedures established for all civil actions filed to resolve claims pursuant to Section 20104.4 of the Public Contract Code.

8.6.1 As a condition precedent to the initiation of litigation, disputes in excess of a total value of \$375,000.00 shall first be submitted to the Claims procedures set forth in Section 9.4 of this Article.

8.7 Payment of Undisputed Portion of Claim

Payment by City of undisputed portion of Claim; interest on arbitration award or judgment.

8.7.1 City shall pay such portion of a Claim which is undisputed except as otherwise provided in this Contract.

8.7.2 In any suit filed under Section 20104.4, of the Public Contract Code, the City shall pay interest at the legal rate on any arbitration award or judgment. The interest shall begin to accrue on the date the suit is filed in a court of law.

8.8 Suit in El Dorado County Only

Any litigation arising out of this Contract shall be brought in El Dorado County and the CONTRACTOR hereby waives the removal provisions of California Code of Civil Procedure Section 394.

ARTICLE 9 TERMINATION FOR CAUSE

9.1 If the CONTRACTOR is adjudged as bankrupt or insolvent, or makes a general assignment for the benefit of its creditors or if a trustee or receiver is appointed for the CONTRACTOR or for any of its property, or if CONTRACTOR files a petition to take advantage of any debtor's act, or to reorganize under the bankruptcy or applicable laws, or on more than one occasion fails to supply sufficient skilled workmen or suitable material or equipment, or on more than one occasion fails to make prompt payments to subcontractors for labor, materials, or equipment, or disregards the authority of the City's Representative, or the Engineer, if one is appointed, or otherwise violates any provision of the Contract Documents, then the City may, without prejudice to any other right or remedy and after giving the CONTRACTOR and its Surety a minimum of 9 days from delivery of a written termination notice, terminate the services of the CONTRACTOR and take equipment and machinery thereon owned by the CONTRACTOR and finish the Work by whatever method the City may deem expedient. In such case, the CONTRACTOR shall not be entitled to receive any further payment until the Work is finished.

9.2 Without prejudice to other rights or remedies the City may have, if the CONTRACTOR fails to begin delivery of materials and equipment, to commence Work within the time specified, to maintain the rate of delivery of material, to execute the Work in the manner and at such locations as specified, or fails to maintain a work program which will ensure the City's interest, or, if the CONTRACTOR is not carrying out the intent of the Contract, an Inspector's written notice may be served upon the CONTRACTOR and the Surety on its faithful performance bond demanding satisfactory compliance with the Contract. If the CONTRACTOR or its Surety does not comply with such notice within 5 days after receiving it, or after starting to comply, fails to continue, the City may exclude it from the premises and take possession of all material and equipment, and complete the Work by City's own forces, by letting the unfinished Work to another CONTRACTOR, or by a combination of such methods.

9.3 Where the CONTRACTOR's services have been so terminated by the City, said termination shall not affect any right of the City against the CONTRACTOR then existing or which may thereafter accrue. Any retention or payment of monies by the City due the CONTRACTOR will not release the CONTRACTOR from compliance with the Contract Documents.

9.4 If the unpaid balance of the Contract Price exceeds the direct and indirect costs of completing the Work, including compensation for additional professional services, such excess shall be paid to the CONTRACTOR. If the sums under this Contract are insufficient for completion, the CONTRACTOR or Surety shall pay to the City within 5 days after the completion, all costs in excess of the Contract Price. In any event, the cost of completing the Work shall be charged against the CONTRACTOR and its Surety and may be deducted from any money due or becoming due from the City.

9.5 If the Surety assumes any part of the Work, it shall take the CONTRACTOR's place in all respect for that part and shall be paid by the City for all Work performed by it in accordance with the Contract. If the Surety assumes the entire Contract, all money due the CONTRACTOR at the time of its default shall be payable to the Surety as the work progresses, subject to the terms of this Contract.

9.6 The provisions of the section shall be in addition to all other rights and remedies available to the City under law.

9.7 If after notice of termination, it is determined for any reason that the CONTRACTOR was not in default, the rights and obligations of the parties shall be the same as if the notice of termination had not been issued. The Contract shall be equitably adjusted to compensate for such termination.

ARTICLE 10 TERMINATION FOR CONVENIENCE

10.1 City may terminate this Contract in whole or in part thirty (30) calendar days upon written notice to CONTRACTOR for any reason. If such termination is effected, City will pay for satisfactory services rendered prior to the effective dates as set forth in the Notice of Termination provided to CONTRACTOR, and for such other services, which City may agree to in writing as necessary for contract resolution. In no event, however, shall City be obligated to pay more than the total amount of the contract.

10.2 Upon receipt of said written notice, CONTRACTOR shall stop all work under the Contract except: (1) work specifically directed to be completed prior to termination, (2) work the Inspector deems necessary to secure the project for termination, (3) removal of equipment and plant from the site of the Work, (4) action that is necessary to protect materials from damage, (5) disposal of materials not yet used in the Work as directed by the City, and (6) cleanup of the site.

10.3 If the Contract is terminated for the City's convenience as provided herein, all finished or unfinished work and materials previously paid for shall, at the option of City, become its property. CONTRACTOR shall be paid an amount which reflects costs incurred for work provided to the date of notification of termination. In addition, CONTRACTOR shall be paid the reasonable cost, as solely judged by City, and without profit, for all work performed to secure the project for termination.

ARTICLE 11 AUDIT REVIEW PROCEDURES

11.1 The Contractor shall maintain books, records and accounts of all costs in accordance with generally accepted accounting principles and practices. The City and its authorized representatives shall have the right to audit the books, records and accounts of the Contractor under any of the following conditions:

11.1.1 The Contract is terminated for any reason in accordance with the provisions of the Contract Documents in order to arrive at equitable termination costs;

11.1.2 In the event of a disagreement between the Contractor and the City over the amount due the Contractor under the terms of the Contract;

11.1.3 To check or substantiate any amounts invoiced or paid which are required to reflect the costs of the Contractor, or the Contractor's efficiency or effectiveness under this Contract or in connection with extras, changes, claims, additions, back charges, or others, as may be provided for in this Contract;

11.1.4 If it becomes necessary to determine the City's rights and the Contractor's obligations under the Contract or to ascertain facts relative to any claim against the Contractor which may result in a charge against the City;

11.1.5 To determine any difference in cost occasioned by a permissible substitution;

11.1.6 And/or for any other reason in the City's sole judgment

11.2 Contractor shall provide the City (or its representatives), unlimited, reasonable access during working hours to the Contractor's books and records. The City's audit rights shall be liberally construed in the City's favor.

ARTICLE 12 SUBCONTRACTING

12.1 CONTRACTOR is engaged by City for its unique qualifications and skills as well as those of its personnel.

12.2 Nothing contained in this Contract or otherwise, shall create any contractual relation between City and any subcontractor(s), and no subcontract shall relieve CONTRACTOR of its responsibilities and obligations hereunder. CONTRACTOR agrees to be as fully responsible to City for the acts and omissions of its subcontractor(s) and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by CONTRACTOR. CONTRACTOR's obligation to pay its subcontractor(s) is an independent obligation from City's obligation to make payments to the CONTRACTOR.

12.3 CONTRACTOR shall perform the work contemplated with resources available within its own organization and no portion of the work pertinent to this Contract shall be subcontracted without written

authorization by City's Contract Administrator, except that, which is expressly identified in the approved Cost Proposal.

12.4 CONTRACTOR shall pay its subcontractors within ten (10) calendar days from receipt of each payment made to CONTRACTOR by City.

12.5 All subcontracts entered into as a result of this Contract shall contain all the provisions stipulated in this Contract to be applicable to subcontractors.

12.6 Any substitution of subcontractor(s) must be approved in writing by City's Contract Administrator prior to the start of work by the subcontractor(s).

ARTICLE 13 STATE PREVAILING WAGE RATES

13.1 CONTRACTOR shall comply with the State of California's General Prevailing Wage Rate requirements in accordance with California Labor Code, Section 1770, and all Federal, State, and local laws and ordinances applicable to the work.

13.2 Any subcontract entered into as a result of this Contract, if for more than \$25,000 for public works construction, alteration, demolition, repair or more than \$15,000 for the maintenance of public works, shall contain all of the provisions of this Article, unless the awarding agency has an approved labor compliance program by the Director of Industrial Relations.

13.3 When prevailing wages apply to the services described in the scope of work, transportation and subsistence costs shall be reimbursed at the minimum rates set by the Department of Industrial Relations (DIR) as outlined in the applicable Prevailing Wage Determination. See <http://www.dir.ca.gov>.

ARTICLE 15 CONTRACTOR TO CITY

It is understood that the services provided under this Contract shall be prepared in and with cooperation from City and its staff. It is further agreed that in all matters pertaining to this Contract, CONTRACTOR shall act as CONTRACTOR only to the City and shall not act as CONTRACTOR to any other individual or entity affected by this Contract nor provide information in any manner to any party outside of this Contract that would conflict with CONTRACTOR's responsibilities to the City during term hereof.

ARTICLE 16 INDEPENDENT CONTRACTOR

16.1 CONTRACTOR is, and shall be at all times, deemed independent and shall be wholly responsible for the manner in which it performs services required by terms of this Contract.

16.2 CONTRACTOR exclusively assumes responsibility for acts of its employees, associates and subcontractors, if any are authorized herein, as they relate to services to be provided under this Contract during the course and scope of their employment.

16.3 CONTRACTOR shall be responsible for performing the work under this Contract in a safe, professional, skillful and workmanlike manner and shall be liable for its own negligence and negligent acts

of its employees. City shall have no right of control over the manner in which work is to be done and shall, therefore, not be charged with responsibility of preventing risk to CONTRACTOR or its employees.

ARTICLE 17 NOTICE TO PARTIES

17.1 All notices to be given by the parties hereto shall be in writing and served by depositing same in the United States Post Office, postage prepaid and return receipt requested. Notices to City shall be in duplicate and addressed as follows:

City of Placerville
Hangtown Creek Water Reclamation Facility
2300 Coolwater Creek Rd
Placerville, California 95667
ATTN: Frank Barragan, Project Manager

Or to such other location as the City directs.

17.2 Notices to CONTRACTOR shall be addressed as follows:

NAME/ADDRESS

Or to such other location as the CONTRACTOR directs.

ARTICLE 18 INDEMNITY

18.1 Promptly upon execution of this Contract, CONTRACTOR specifically obligates itself and hereby agrees to protect, hold free and harmless, defend and indemnify the City, the City Contract Administrator and its consultants, and each of their officers, employees and agents, from any and all liability, penalties, costs, losses, damages, expenses, causes of action, claims or judgments, including attorney's fees, which arise out of or are in any way connected with the CONTRACTOR's, or its Subcontractors' or suppliers', performance of work under this Contract or failure to comply with any of the obligations contained in the Contract. This indemnity shall imply no reciprocal right of CONTRACTOR in any action on the Contract pursuant to California Civil Code section 1717 or section 1717.5. To the fullest extent legally permissible, this indemnity, defense and hold harmless agreement by CONTRACTOR shall apply to any and all acts or omissions, whether active or passive, on the part of CONTRACTOR or its agents, employees, representatives, or Subcontractor's agents, employees and representatives, resulting in claim or liability, irrespective of whether or not any acts or omissions of the parties to be indemnified hereunder may also have been a contributing factor to the liability, except such loss or damage which was caused by the active negligence, the sole negligence, or the willful misconduct of the City. The CONTRACTOR's obligations under this section shall apply to claims arising from CONTRACTOR's mistake, error, or neglect in preparing its bid for this project. CONTRACTOR's obligations under this section shall apply to claims arising from the CONTRACTOR's mistake, error, or neglect in preparing its bid for this project.

18.2 In any and all claims against the City, the City's Contract Administrator and each of their consultants, officers, employees and agents by any employee of CONTRACTOR, any subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, the indemnification obligation under this section shall not be limited in way by any limitation on the amount or type of damages, compensation or benefits payable by or for CONTRACTOR or any Subcontractor under Workers' Compensation statutes, disability benefit statutes or other employee benefit statutes.

**ARTICLE 19
INSURANCE**

19.1 CONTRACTOR shall procure and maintain for the duration of this Contract insurance against claims for injuries to persons or damages to property, which may arise from or in connection with the performance of the work by the CONTRACTOR, its agents, representatives, employees or subcontractors. The cost of such insurance shall be included in the CONTRACTOR's bid.

19.2 The City may require the CONTRACTOR or any subcontractor to furnish complete certified copies of all insurance policies affecting the coverage required by this Contract.

19.3 Prior to commencement of the work described in the scope of work and the project plans and specifications, CONTRACTOR shall furnish City a Certificate of Insurance stating that there is general comprehensive liability insurance presently in effect for CONTRACTOR.

19.3.1 The CONTRACTOR shall maintain in effect at all times during the performance of the work hereunder not less than the following coverage and limits of Commercial General and Automobile Liability insurance: The amount of insurance coverage shall not be less than \$2,000,000.00 per occurrence with an aggregate no less than two (2) times the required per occurrence limit applying to bodily injury, personal injury, and property damage, or any combination of the three. Any deductibles must be declared to and approved by the City.

19.4 The Certificate of Insurance will provide:

A. An endorsement providing that written notice shall be given to the City at least thirty (30) calendar days prior to termination, cancellation, or reduction of coverage in the policy.

B. A provision or endorsement naming the City, its officers, employees, and agents, each as additional insured's with respect to any potential liability arising out of the performance of any work under this Contract, and providing that such insurance is primary insurance as respects the interest of the City its officers, employees, and agents and that any other insurance, risk pool membership, or other liability protection maintained by the City is excess to the insurance required herein, and will not be called upon to contribute to any loss unless and until all limits available under the CONTRACTOR's insurance policy/policies have been paid. The additional insured coverage under the CONTRACTOR's policy shall be "primary and non-contributory" and will not seek contribution from the City's insurance or self-insurance and shall be at least as broad as CG 20 01 04 13.

C. Broad Form Property Damage, Personal Injury, Contractual Liability, Protective Liability, and Completed Operations coverages, and elimination of any exclusion regarding loss or damage to property caused by explosion or resulting from collapse of buildings or structures or damage to property underground, commonly referred to by insurers as the "XCU" hazards.

D. A provision or endorsement stating that City will not be responsible for any premiums or assessments on the policy.

E. A provision stating that the CONTRACTOR's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

19.5 CONTRACTOR agrees that the liability insurance herein provided for shall be in effect at all times during the term of this Contract. In the event said insurance coverage expires at any time or times during the term of this Contract, CONTRACTOR agrees to provide City at least thirty (30) days prior notice to said expiration date, and a new Certificate of Insurance evidencing insurance coverage as

provided for herein, for not less than either the remainder of the term of the contract, or for a period of not less than one (1) year. New Certificates of Insurance are subject to the approval of City.

19.6 Before commencement of the Work, the CONTRACTOR shall submit written evidence that it has obtained for the period of this Contract, Builder's Risk "All-Risk" Completed Value Insurance and/or Inland Marine "All-Risk" Installation Floater Insurance, as may be applicable, upon the entire project which is the subject of this Contract, including completed work and work in progress. The policy or policies of insurance shall name the CONTRACTOR, City, and City Contract Administrator as insured's as their respective interests may appear, and shall include an insurer's waiver of subrogation rights in favor of each. Such insurance may have a deductible clause, but the amount of the deductible shall be subject to the approval of the City, except that the deductible on earthquake coverage may be in accordance with the underwriter's requirements.

19.7 The requirements as to the types, limits, and the City's approval of insurance coverage to be maintained by the CONTRACTOR are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by the CONTRACTOR under the Contract

19.8 In the event CONTRACTOR fails to keep in effect at all times insurance coverage as herein provided, City may, in addition to any other remedies it may have, 1) obtain such insurance coverage as is not being maintained, in form and amount substantially the same as required by this Article, and deduct the cost of such insurance from any amounts due or which may become due the CONTRACTOR under this Contract; and 2) terminate this Contract upon occurrence of such event.

ARTICLE 20 ASSIGNMENT OF ANTI TRUST ACTIONS

20.1 In entering into a public works contract or a subcontract to supply goods, services, or materials pursuant to a public works contract, the CONTRACTOR or subcontractor offers and agrees to assign the awarding body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, services, or materials pursuant to the public works contract or the subcontract. This assignment shall be made and become effective at the time the awarding body tenders final payment to CONTRACTOR, without further acknowledgment by the parties.

20.2 If an awarding body or public purchasing body receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the assignor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the public body any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the public body as part of the bid price, less the expenses incurred in obtaining that portion of the recovery. Upon demand in writing by the assignor, the assignee shall, within one year from such demand, reassign the cause of action assigned under this part if the assignor has been or may have been injured by the violation of law for which the cause of action arose and (a) the assignee has not been injured thereby, or (b) the assignee declines to file a court action for the cause of action."

ARTICLE 21 SAFETY

21.1 The Contractor shall be solely and completely responsible for the conditions of the job Site, including safety of all persons and property during performance of the Work. This requirement shall apply continuously and not be limited to normal working hours. Safety provisions shall conform to all applicable federal, state, and local laws, ordinances, and codes, and to the rules and regulations

established by the California Division of Industrial Safety, and to other rules of law applicable to the Work.

21.2 All work and materials shall be in strict accordance with all applicable State, Federal and local laws, rules, regulations, and codes.

**ARTICLE 22
FINAL ACCEPTANCE AND DATE OF COMPLETION**

Whenever the CONTRACTOR shall deem all Work under this Contract to have been completed in accordance therewith, the CONTRACTOR shall so notify the City Contract Administrator in writing, and the City Contract Administrator shall promptly ascertain whether the Work has been satisfactorily completed and, if not, shall advise the CONTRACTOR in detail and in writing of any additional work required. When all the provisions of the Contract have been fully complied with, to the satisfaction of the City Contract Administrator, the City Contract Administrator shall proceed with all reasonable diligence to determine accurately the total value of all Work performed by the CONTRACTOR at the prices set forth in the Contract or fixed by Change Orders, and the total value of all extra work, all in accordance with the Contract. The City Contract Administrator will then certify to said final estimate and to the completion of the Work and will file copies thereof with the City and the CONTRACTOR, and shall cause of Notice of Completion to be filed with the El Dorado County Clerk-Recorder. The date of completion shall be the date of filing of the Notice of Completion. All guarantees, warranties, and securities securing said guarantees and warranties, shall commence on said date.

**ARTICLE 23
WARRANTY**

The Contractor warrants to the City that materials and equipment furnished for the Work will be good quality and new, unless otherwise required or permitted under the Contract Documents, that the Work will be free from defects or flaws and is of the highest quality of workmanship and that the Work will conform to the requirements herein. Work not conforming to these requirements, including substitutions not properly approved and authorized, shall be considered defective.

**ARTICLE 24
FINAL PAYMENT**

Within ten (10) days after the date of completion, the City will file in the Office of the County Recorder, a Notice of Completion of the Work herein agreed to be done by the CONTRACTOR. Within sixty (60) days of completion defined in Public Contract Code section 7107, the difference between said final estimate and all payments theretofore made to the CONTRACTOR shall be due and payable to the CONTRACTOR, subject to any requirements concerning the furnishings of a maintenance bond, and excepting only such sum or sums as may be withheld or deducted in accordance with the provisions of this Contract. All prior certifications upon which partial Payments may have been made, being merely estimates, shall be subject to correction in the final certificate.

**ARTICLE 25
FINAL RELEASE**

Final payment to the CONTRACTOR in accordance with the final estimate is contingent upon the CONTRACTOR furnishing the City with a signed written release of all claims against the City arising by virtue of the Contract. Disputed Contract claims in stated amounts may be specifically excluded by the CONTRACTOR from the operation of the release. The release shall be in substantially the following form:

WAIVER AND RELEASE UPON FINAL PAYMENT

The undersigned has been paid in full, less final payment, by the City for all labor, services, equipment, and material furnished to the City on the _____ (name of Project) located at _____ and does hereby waive and release the City, its officers, agents, and employees from all claims and liability to the Contractor arising out of, or in any way connected with, the Contract, except for the disputed contract claims specified below:

Notice of Disputed Claim and Amount

\$ _____

Date _____

Name, Title

Name of Contractor

**ARTICLE 26
CHANGES TO AGREEMENT**

25.1 This Contract may be amended or modified only by mutual written agreement of the parties.

25.2 CONTRACTOR shall only commence work covered by an amendment after the amendment is executed and notification to proceed has been provided by City's Contract Administrator.

**ARTICLE 27
PARTIAL INVALIDITY**

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

**ARTICLE 28
AGREEMENT DEFINITION**

This document and the documents referred to herein or exhibits hereto are the entire Contract between the parties and they incorporate or supersede all prior written or oral Contracts or understandings.

**ARTICLE 29
AUTHORIZED SIGNATURES**

The parties to this Contract represent that the undersigned individuals executing this Contract on their respective behalf are fully authorized to do so by law or other appropriate instrument and to bind upon said parties to the obligations set forth herein.

IN WITNESS WHEREOF, the parties hereto have executed this Contract the day and year first below written.

-- CITY OF PLACERVILLE --

-- CONTRACTOR --

Date: _____

Date: _____

M. Cleve Morris, City Manager

Authorized Representative

Print Name

ATTACHMENT: EXHIBIT "A", Contractors Bid and Bid Price Schedule

END OF CONTRACT