

## CONTRACTOR AGREEMENT

This Contract for Construction ("Contract"), is made and entered into this 26<sup>th</sup> day of June, 2023, by and between City of Coachella, a municipal corporation, organized under the laws of the State of California, with its principal place of business at 53462 Enterprise Way, Coachella, California 92236, sometimes hereinafter called the "City" and Superb Engineering, with its principal place of business at 1052 Oregon Trail, Banning, CA 92220, sometimes hereinafter called "Contractor."

WITNESSETH: That the parties hereto have mutually covenanted and agreed, and by these presents do covenant and agree with each other as follows:

### ARTICLE 1. SCOPE OF WORK.

The Contractor shall perform all Work within the time stipulated in the Contract, and shall provide all labor, materials, equipment, tools, utility services, and transportation to complete all of the Work required in strict compliance with the Contract Documents as specified in Article 5, below, for the following Project:

**Las Lunas & Calle Bouganvillea Retention Basin Landscape Improvement  
CITY PROJECT NO. LL-01 & LL-05**

Contractor is an independent contractor and not an agent of the City. The Contractor and its surety shall be liable to the City for any damages arising as a result of the Contractor's failure to comply with this obligation.

### ARTICLE 2. TERM.

The term of this Agreement shall commence on the 1<sup>st</sup> day of August 2023, and shall terminate by the 30<sup>th</sup> day of November 2023, unless terminated earlier as set forth herein. The full project shall be completed within **30 Working Days** from the date specified in the Notice to Proceed.

Contractor and City agree that time is of the essence regarding the performance of this Agreement. All work called for under this Agreement will require the Contractor submit and City approve a Project Schedule for completion of work requested.

### ARTICLE 3. CONTRACT PRICE.

The City shall pay to the Contractor as full compensation for the performance of the Contract, subject to any additions or deductions as provided in the Contract Documents, and including all applicable taxes and costs, the not to exceed sum of **One Hundred Seventy-Seven Thousand Thirty Nine Dollars and No Cents (\$177,039.00)**. Payment shall be made as set forth in the General Conditions. The City will pay to Contractor compensation based upon the prices set forth in the Proposal Schedule.

### ARTICLE 4. LIQUIDATED DAMAGES.

Contractor acknowledges that the City will sustain actual damages for each and every Working Day completion of the Project is delayed beyond the Contract Time (per approved Project Schedule). Because of the nature of the Project, it would be impracticable or extremely difficult to determine the City's actual damages. Accordingly, in accordance with Government Code section

53069.85, it is agreed that the Contractor will pay the City the sum of **\$500.00** for each and every Working Day of delay beyond the time prescribed in the Contract Documents. In the event this is not paid, the Contractor agrees the City may deduct that amount from any money due or that may become due the Contractor under the Contract. This Section does not exclude recovery of other damages specified in the Contract Documents. Liquidated damages may be deducted from progress payments due Contractor, Project retention or may be collected directly from Contractor, or from Contractor's surety. These provisions for liquidated damages shall not prevent the City, in case of Contractor's default, from terminating the Contractor.

## **ARTICLE 5. COMPONENT PARTS OF THE CONTRACT.**

The "Contract Documents" include the following:

- Notice Inviting Bids
- Instructions to Proposers
- ProposalForms
- ProposalAcknowledgement
- ProposalSchedule
- ProposalGuarantee
- Designation of Subcontractors
- Information Required of Proposers
- Non-Collusion Declaration Form
- Iran Contracting Act Certification
- Drug-Free Workplace Certification
- Asbestos-Free Material Certification
- Recycled Content Certification
- Public Works Contractor DIR Registration Certification
- Performance Bond
- Payment (Labor and Materials) Bond
- Contract for Construction
- General Conditions
- Special Conditions
- Technical Specifications
- Addenda
- Construction Plans and Drawings
- City of Coachella Standard Specifications and Procedures (June 2007)
- City of Coachella Standard Infrastructure Drawings (2007 Edition) including Surface Improvement Standards and Water Standards
- Standard Specifications for Public Works Construction "Greenbook" (2018), Except Sections 1-9
- Standard Plans for Public Works Construction "Greenbook" (2018)
- Caltrans Standard Specifications (2018), except Division 1
- Caltrans Standard Plans (2018)
- Applicable Local Agency Standards and Specifications, as last revised
- Reference Specifications
- Approved and fully executed Change Orders
- Permits
- Any other documents contained in or incorporated into the Contract

The Contractor shall complete the Work in strict accordance with all of the Contract Documents.

All of the Contract Documents are intended to be complementary. Work required by one of the Contract Documents and not by others shall be done as if required by all. In the event of conflict, the various Contract Documents will be given effect in the order set forth in the General Conditions. This Contract shall supersede any prior agreement of the parties.

**ARTICLE 6. PROVISIONS REQUIRED BY LAW AND CONTRACTOR COMPLIANCE.**

Each and every provision of law required to be included in these Contract Documents shall be deemed to be included in these Contract Documents. The Contractor shall comply with all requirements of applicable federal, state and local laws, rules and regulations, including, but not limited to, the provisions of the California Labor Code and California Public Contract Code which are applicable to this Work.

**ARTICLE 7. INDEMNIFICATION.**

Contractor shall provide indemnification and defense as set forth in the General Conditions.

**ARTICLE 8. PREVAILING WAGES.**

Contractor shall be required to pay the prevailing rate of wages in accordance with the Labor Code which such rates may be obtained online at <http://www.dir.ca.gov> and which must be posted at the job site.

**ARTICLE 9. FALSE CLAIMS.**

Contractor acknowledges that if a false claim is submitted to the City, it may be considered fraud and Contractor may be subject to criminal prosecution. Contractor acknowledges that the False Claims Act, California Government Code sections 12650, et seq., provides for civil penalties where a person knowingly submits a false claim to a public entity. These provisions include within their scope false claims made with deliberate ignorance of the false information or in reckless disregard of the truth or falsity of the information. In the event the City seeks to recover penalties pursuant to the False Claims Act, it is entitled to recover its litigation costs, including attorneys' fees. Contractor hereby acknowledges that the filing of a false claim may the Contractor to an administrative debarment proceeding wherein Contractor may be prevented from further bidding on public contracts for a period of up to five (5) years.

**[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK]**

IN WITNESS WHEREOF, this Contract has been duly executed by the above-named parties, on the day and year above written.

CITY OF COACHELLA

SUPERB ENGINEERING

By: \_\_\_\_\_  
Dr. Gabriel D. Martin  
City Manager

By: \_\_\_\_\_  
Its: \_\_\_\_\_

ATTEST:

Printed  
Name: \_\_\_\_\_

By: \_\_\_\_\_  
City Clerk

By: \_\_\_\_\_  
Its: \_\_\_\_\_

APPROVED AS TO FORM:

Printed  
Name: \_\_\_\_\_

By: \_\_\_\_\_  
Best Best & Krieger LLP  
City Attorney

\_\_\_\_\_  
Contractor's License Number and  
Classification

\_\_\_\_\_  
DIR Registration Number