

CONTRACT
CITY OF FRESNO, CALIFORNIA
PUBLIC WORK OF IMPROVEMENT

THIS CONTRACT is made and entered into by and between CITY OF FRESNO, a California municipal corporation (hereinafter referred to as "City"), and Mountain Cascade Inc., (hereinafter referred to as "Contractor") as follows:

1. Contract Documents. The "Notice Inviting Bids," "Instructions to Bidders," "Bid Proposal," and the "Specifications" including "General Conditions," "Special Conditions," and "Technical Specifications" for the following: SEWER REHABILITATION AND SEWER MAIN RECONSTRUCTION IN MERCED STREET (Bid File No. 3540) copies of which are annexed hereto, together with all the drawings, plans, and documents specifically referred to in said annexed documents, including Performance and Payment Bonds, if required, and are hereby incorporated into and made a part of this Contract, and shall be known as the Contract Documents.

2. Price and Work. For the monetary consideration of Seven Million Three Hundred Ninety Eight Thousand Four Hundred Ninety Seven Dollars (\$7,398,497), as set forth in the Bid Proposal, Contractor promises and agrees to perform or cause to be performed, in a good and workmanlike manner, under the direction and to the satisfaction of the City's "Engineer," and in strict accordance with the Specifications, all of the work as set forth in the Contract Documents.

3. Payment. City accepts Contractor's Bid Proposal as stated and agrees to pay the consideration stated, at the times, in the amounts, and under the conditions specified in the Contract Documents.

4. Indemnification. To the furthest extent allowed by law including California Civil Code Section 2782, Contractor shall indemnify, hold harmless and defend City and each of its officers, officials, employees, agents and volunteers from any and all loss, liability, fines, penalties, forfeitures, costs and damages (whether in contract, tort or strict liability, including, but not limited to personal injury, death at any time and property damage) incurred by City, Contractor or any other person, and from any and all claims, demands and actions in law or equity (including attorney's fees and litigation expenses), arising or alleged to have arisen directly or indirectly out of performance of this Contract. Contractor's obligations under the preceding sentence shall apply regardless of whether City or any of its officers, officials, employees, agents or volunteers are passively negligent, but shall not apply to any loss, liability, fines, penalties, forfeitures, costs or damages caused by the active or sole negligence, or willful misconduct, of City or any of its officers, officials, employees, agents or volunteers.

If Contractor should subcontract all or any portion of the work to be performed under this Contract, Contractor shall require each subcontractor to indemnify, hold harmless and defend City and each of its officers, officials, employees, agents and volunteers in accordance with the terms of the preceding paragraph.

This section shall survive termination or expiration of this Contract.

5. Trench Shoring Detailed Plan. Contractor acknowledges the provisions of Section 6705 of the California Labor Code and, if said provisions are applicable to this Contract, agrees to comply therewith.

6. Worker's Compensation Certification. In compliance with the provisions of Section 1861 of the California Labor Code, Contractor hereby certifies as follows:

I am aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for worker's compensation or to undertake self-insurance in accordance with the provisions of that Code, and I will comply with such provisions before commencing the performance of work of this Contract and will make my subcontractors aware of this provision.

IN WITNESS WHEREOF, the parties have executed this Contract on the day and year here below written, of which the date of execution by City shall be subsequent to that of Contractor's, and this Contract shall be binding and effective upon execution by both parties.

Mountain Cascade, Inc

By: _____

Name: _____

(Type or print written signature.)

Title: _____

(If corporation or LLC, Board Chair,
Pres. or Vice Pres.)

Dated: _____

By: _____

Name: _____

(Type or print written signature.)

Title: _____

(If corporation or LLC, CFO, Treasurer,
Secretary or Assistant Secretary)

Dated: _____

CITY OF FRESNO,
a California municipal corporation

By: _____

Thomas Esqueda, Director
Department of Public Utilities

Dated: _____

ATTEST:

YVONNE SPENCE, CMC
City Clerk

By: _____

Deputy

No signature of City Attorney required. Standard
Document #DPW 23.0 has been used without
modification as certified by the undersigned.

By: _____

Orlando Gonzalez
Professional Engineer
Department of Public Utilities

City address:

City of Fresno Attention:
Orlando Gonzalez,
Professional Engineer
2101 G Street
Fresno, CA 93706

Job of File No. _____
 Name or Title of Job. _____
 Department No. _____



FAIR EMPLOYMENT PRACTICES COMPLIANCE REPORT

1. Name and Address of Contractor	PRIME []	SUB []	
			Yes No
2. Have you established a company-wide employment policy to assure that equal employment opportunity is given to all persons without regard to race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, sexual orientation or on any other basis prohibited by law?			
3. Have you notified all supervisors, foreman and other personnel officers in writing of the contents of the anti-discrimination clause and their responsibilities under it?			
4. Have notices setting forth the provisions of the Fair Employment Practice Section used in City of Fresno Contracts been posted in conspicuous places available to employees and applicants for employment on this Project?			
5. Have each of the Company's employee referrals including unions, employment agencies, advertisements, Department of Employment, etc, been notified of the contents of the anti-discrimination clause?			
5a. Has this been done in writing?			
6. Has each employee referral advised the Company that it will refer all qualified applicants for employment to the Company without regard to race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, sexual orientation or on any other basis prohibited by law?			
7. Has a collective bargaining agreement or other contract or understanding been made with a labor union (or unions) which covers the performance of any work or supplying of any materials under this Contract?			
7a. Do you operate under an Association Master Labor Agreement? If your answer is "yes", state the name of the Association. Are copies of those agreements on file with the City? [] Yes [] No With whom? _____			
7b. If you do not operate under an Association Master Labor Agreement then indicate what steps you have taken to attempt to develop an agreement which will: (1) Spell out responsibilities for nondiscrimination in hiring, referral, upgrading and training. (2) Otherwise implement an affirmative anti-discrimination program in terms of the unions' specific area of skill and geography, to the end that qualified minority workers will be available and given an equal opportunity for employment. In addition, if you have reached such an agreement, attach a copy of the provisions thereof which bear on (1) and (2) above.			
8. Have you encountered any opposition to the anti-discrimination clause by individuals, firms or organizations?			
If your answer to No. 8 is "Yes", identify the individual, firm or organization and briefly describe the nature of the opposition.			
9. Check principal sources for employee referrals.			
DEPT OF EMP.	EMP. AGENCIES	DIRECT HIRING	UNION OTHER
15. Const. Workers _____			
b. Other Workers _____			
10. The following person or persons are responsible for determining whom to hire or whether or not to hire workers on this particular Project:			
QUESTIONS 11 THROUGH 13 TO BE FILLED OUT BY PRIME CONTRACTOR ONLY:			
11. Have you awarded any subcontracts for work covered by your Contract?			
12. Have the anti-discrimination provisions been included in each of said subcontracts?			
13. Have all such Subcontractors been instructed to file compliance reports and have they been furnished with report forms?			
14. Dated this _____ day of _____, 20____, at _____ <div style="text-align: right;">(City and State)</div>			
15. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. <div style="text-align: right;">_____ (Contractor)</div>			

FAIR EMPLOYMENT PRACTICES COMPLIANCE REPORT
(continued)

INSTRUCTIONS TO CONTRACTORS

This Compliance Report is required by the Fair Employment Practices provisions of City of Fresno Contracts for the supplying of work, materials, or both.

This report is to be completed in its entirety for each prime Contract and all first tier subcontracts. The reports shall be submitted to the City after award of the Contract and prior to Notice to Proceed.

Additional sheets of paper may be attached if necessary to submit explanations or further information.

If the answers to any of the questions indicate non-compliance with the anti-discrimination provision of the Contract, a brief explanation of such answer must accompany the report.

It shall be the further responsibility of the Contractor to keep the information contained in the compliance report current and should there be changes in the Contractor's agreements with employee referrals, including unions or in the individuals responsible for hiring, etc., which would change the answers submitted by the Contractor in his/her original questionnaire, the Contractor should file a supplementary report containing revised answers to the applicable questions. Such changes from the original report are to be submitted in duplicate.

Upon completion of the Contract the Contractor must submit a final statement of compliance including statements that the original compliance report was submitted, that any changes in the original report were reported, and that the requirements of the Fair Employment Practices section were complied with during the Contract. If such a statement cannot be submitted in its entirety, a statement along the same lines with the exceptions noted must be submitted.

The City may require submission of additional information or reports on compliance at any time.

FINAL STATEMENT OF FAIR EMPLOYMENT PRACTICES COMPLIANCE

Name of Job or Contract _____

The undersigned is responsible to see that the Contractor has complied with the Fair Employment Practices section of the City of Fresno Contract indicated above. The original compliance report was submitted and no changes or additions to the original report became known to the Contractor or the undersigned except as noted below. The Contractor, in performance of the Contract, to the best of my knowledge, complied with said section of the Contract, except as noted below.

Dated this _____ day of _____, 20____, at _____
City and State

Changes or additions to the original compliance report _____
City

By _____

Deviations from compliance _____
Title _____

Contractor

By _____

Title _____

CITY OF FRESNO

PAYMENT BOND PUBLIC WORK

KNOW ALL MEN BY THESE PRESENTS: That [NAME OF CONTRACTOR]

as Principal (herein called 'Principal') and _____

as Surety (herein called 'Surety') are held and firmly bound onto the City of Fresno (herein called 'Obligee') in the just and full sum of [WRITTEN \$ AMOUNT] DOLLARS AND [WRITTEN CENTS AMOUNT] CENTS (\$[DOLLAR AMOUNT])

lawful money of the United States of America (said sum being equal to 100 percent of the estimated amount payable by the terms of the hereinafter described contract), for the payment of which, well and truly to be made, we hereby bind ourselves and ours, and each of our, heirs, executors, administrators, successors, and assigns, jointly and severally firmly by these presents.

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH, That

WHEREAS, Principal has been awarded a contract for the following described work of improvement and is required by Obligee to give this bond in connection with the execution of the written contract therefor (*insert brief description of work of improvement*):

[TITLE AND WORK]
(Bid File No. [BID FILE NO.]) [ALTERNATES (if any)]

NOW, THEREFORE, if Principal or subcontractors of Principal shall fail to pay any of the persons named in the Section 9100 of the Civil Code, or amounts due under the Unemployment Insurance Code with respect to work or labor performed by any such claimant, or prevailing wages due and penalties incurred pursuant to Sections 1774, 1775, 1813, or 1815 of the Labor Code, or for any amounts required to be deducted, withheld, and paid over to the Employment Development Department from the wages of employees of the Principal and subcontractors pursuant to Section 13020 of the Unemployment Insurance Code, with respect to the work and labor, the Surety will pay for the same, in an amount not exceeding the sum specified above, and also, in case suit is brought upon this bond, will pay, in addition to the face amount thereof, costs and reasonable expenses and fees, including reasonable attorney's fees, incurred by Obligee in successfully enforcing this obligation, to be awarded and fixed by the court, and to be taxed as costs and to be included in the judgment therein rendered.. The benefit of this bond shall inure to any of the persons named in Section 9100 of the Civil Code so as to give the right of action to those persons or their assigns in any suit brought upon this bond.

Should the condition of this bond be fully performed, then this obligation shall become null and void, otherwise it shall be and remain in full force and effect.

No extension of time granted to the Principal and no change, alteration or addition in any of the terms of the contract or any of the contract documents or the work to be performed thereunder, whether made after notice or not, shall release or otherwise affect the obligations of the Surety hereunder, and the Surety waives notice of any such extension, change, alteration or addition. The Surety, by the execution of this bond, represents and warrants that this bond has also been duly executed by the Principal and proper authority, and the Surety hereby waives any defense which it might have by reason of any failure of the Principal to execute or properly execute this bond.

In witness whereof, this instrument has been duly executed by the Principal and Surety above named, on the ____ day of _____, 20__.

[NAME OF CONTRACTOR]

PRINCIPAL

SURETY

**No signature of City Attorney required.
Standard Document #DPW 32.0 has been used
without modification, as certified by the undersigned.**

APPROVED:
City Manager, or his/her designee

By: _____

By: _____

Title: _____

Title: _____

Department of Public Works

Date: _____

DPW 32.0/12-20-12

CITY OF FRESNO

**PERFORMANCE BOND
PUBLIC WORK**

KNOW ALL MEN BY THESE PRESENTS: That [NAME OF CONTRACTOR]

as Principal (herein called 'Principal') and _____

as Surety (herein called 'Surety') are held and firmly bound onto the City of Fresno (herein called 'Obligee') in the just and full sum of [WRITTEN \$ AMOUNT] DOLLARS AND [WRITTEN CENTS AMOUNT] CENTS (\$[DOLLAR AMOUNT])

lawful money of the United States of America (said sum being equal to 100 percent of the estimated amount payable by the terms of the hereinafter described contract), for the payment of which, well and truly to be made, we hereby bind ourselves and ours, and each of our, heirs, executors, administrators, successors, and assigns, jointly and severally firmly by these presents.

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH, That

WHEREAS, Principal has been awarded a contract for the following described work of improvement and is required by Obligee to give this bond in connection with the execution of the written contract therefor (*insert brief description of work of improvement*):

[TITLE AND WORK]
(Bid File No. [BID FILE NO.]) [ALTERNATES (if any)]

NOW, THEREFORE, if Principal shall well and truly do and perform each and all of the covenants, conditions, and agreements of said contract on the Principal's part to be done and performed, and any and all alterations thereof made as therein provided, at the time and in the manner therein specified, and shall indemnify and save harmless the Obligee, its officers, officials, agents, employees and volunteers, as therein stipulated, then this obligation shall be null and void; otherwise, it shall remain in full force and effect.

As a part of the obligation secured hereby and in addition to the face amount specified therefor, there shall be included costs and reasonable expenses and fees, including reasonable attorney's fees, incurred by Obligee in successfully enforcing such obligation, all to be taxed as costs and included in any judgment rendered.

No extension of time granted to the Principal and no change, alteration or addition in any of the terms of the contract or any of the contract documents or the work to be performed thereunder, whether made after notice or not, shall release or otherwise affect the obligations of the Surety hereunder, and the Surety waives notice of any such extension, change, alteration or addition. The Surety, by the execution of this bond, represents and warrants that this bond has also been duly executed by the Principal and proper authority, and the Surety hereby waives any defense which it might have by reason of any failure of the Principal to execute or properly execute this bond.

In witness whereof, this instrument has been duly executed by the Principal and Surety above named, on the ____ day of _____, 20__.

[NAME OF CONTRACTOR]

PRINCIPAL

SURETY

**No signature of City Attorney required.
Standard Document #DPW 22.0 has been used
without modification, as certified by the undersigned.**

APPROVED:
City Manager, or his/her designee

By: _____

By: _____

Title: _____
Department of Public Works

Title: _____

Date: _____