REQUEST FOR QUALIFICATIONS AND PROPOSALS
AND
CONTRACT DOCUMENTS FOR

Dougherty Valley Geologic Hazard Abatement District
As-Needed Maintenance and Emergency Response Services

CITY OF SAN RAMON
PUBLIC WORKS DEPARTMENT
ENGINEERING SERVICES DIVISION
2401 Crow Canyon Road
San Ramon, California 94583
(925) 973-2670
Proposals Due: 2:00 p.m., Friday, May 10, 2019

Class “A” or “C-12” Contractor’s License Required

Maria Fierner, P.E.
Public Works Director
May 2019
CITY OF SAN RAMON

REQUEST FOR QUALIFICATIONS AND PROPOSALS

Dougherty Valley Geologic Hazard Abatement District
As-needed Maintenance and Emergency Response Services

May 2019

The Dougherty Valley Geologic Hazard Abatement District ("DV GHAD") hereby invites qualified contractors ("Proposers") to submit qualifications and proposals (collectively, "Proposals") in response to this Request for Qualifications and Proposals ("RFQP") for As-needed Maintenance and Emergency Response Services ("Project").

1. ABOUT SAN RAMON AND DV GHAD

The City is a charter city located in southern Contra Costa County, with a population of approximately 75,000. As a charter city, the City may be exempt from certain state law requirements as applied to the City's municipal affairs. Pursuant to the City's Article IV of the City Charter, and Section A7-6 of the San Ramon Municipal Code, public works contracts less than $500,000 are not subject to public bidding.

The Dougherty Valley Geologic Hazard Abatement District (DV GHAD) is an independent governmental organization which was formed for the purpose of preventing, mitigating, abating, and controlling geological hazards. The City Council members serve as the DV GHAD Board of Directors and the District is managed by City staff. The DV GHAD boundaries include the West Branch area, located at Crow Canyon Road and Dougherty Road, Old Ranch Summit, and the Dougherty Valley totaling approximately 2,767 acres of open space. Funding for the DV GHAD is obtained through an annual assessment on properties located within the DV GHAD boundaries.

2. SCOPE OF WORK AND TERM

2.1 Location

The DV GHAD boundaries and parcels that are currently owned by the DV GHAD (light color), or are anticipated to be owned by the DV GHAD (dark color) within the maximum contract term, are indicated on the map included in this section. Additional parcels may also be acquired by the DV GHAD and may be added to the areas to be maintained during the life of the contract.

2.2 Description

The work may include any or all of the following:
- Removal of weeds and debris from in and around concrete v-ditches
- Weed abatement on hillsides
- Crack sealing of v-ditches
- Repair and replacement of v-ditches
- Clean out of subdrain systems
- Installation of temporary drainage measures
- Installation of erosion control fabric, hydrosed and other erosion control measures
- Repair of landslides
- Emergency stabilization of landslides
- Other work as required to mitigate geologic hazards
Actual work performed under this contract shall be based on the needs of the DV GHAD and shall be defined in individual Work Orders.

The term of the agreement shall be for a period of one (1) year from the date of execution of the agreement. The DV GHAD shall have the option to renew said agreement for not more than three (3) successive one (1) year terms upon the same terms and conditions as provided in the agreement, subject to the limitations of the maximum Contract Price, as further discussed in Section 4, below.

Figure: Dougherty Valley Geologic Hazard Abatement District
3. CONTRACT DOCUMENTS AND DEFINED TERMS

3.1 Contract Documents. With the exception of documents that are incorporated by reference only, the Contract Documents for the Project, (including the Contract, General Conditions, bond forms, Special Conditions, and Technical Specifications), and any addenda thereto are solely available by downloading via City’s website at: http://www.sanramon.ca.gov/our_city/bids for Dougherty Valley Geologic Hazard Abatement District As-needed Maintenance and Emergency Response Services.

(A) Access and Download. From the City's website, click on the link to be directed to the QuestCDN website and the digital Contract Documents. Next, click on the “Dougherty Valley Geologic Hazard Abatement District As-needed Maintenance and Emergency Response Services” link on the left column to view and download the Contract Documents, and see the plan holders list.

(B) Plan Holders List. By downloading the Contract Documents, you will automatically be placed on the Plan Holders List. Proposals from Proposers who are not on the Plan Holders List may be rejected.

(C) Addenda. Any addenda issued prior to the deadline for submission of Proposals are part of the Contract Documents. Subject to the limitations of Public Contract Code section 4104.5, DV GHAD reserves the right to issue addenda modifying the RFQP or any Contract Documents. Each Proposer is solely responsible for accessing addenda via the City’s website, as specified above.

3.2 Defined Terms. All defined terms which are not otherwise defined in this RFQP have the meanings set forth in Article 1 of the General Conditions.

4. PAYMENT AND COST LIMITATION

The Contractor that is awarded the Contract will be paid for each properly completed Work Order, with no guaranteed total payment for the Project as a whole. Pursuant to the provisions cited in Section 1, above, the total dollar value of all Work Orders issued for this Project may not exceed $499,999. This amount reflects the maximum compensation available under the Contract. There is no minimum compensation; however, this RFQP and the Contract Documents are drafted on the assumption that certain legal requirements, including, but not limited to, prevailing wage and bond requirements, will be applicable to the Contract based on the potential total value.

5. LICENSE REQUIREMENTS

This Project requires a valid California contractor's license for the following classification(s): Class A or C-12.

6. LABOR, PREVAILING WAGE, AND DIR REGISTRATION REQUIREMENTS

6.1 General. Pursuant to California Labor Code § 1720 et seq., this Project is subject to the prevailing wage requirements applicable to the locality in which the Work is to be performed for each craft, classification or type of worker needed to perform the Work, including employer payments for health and welfare, pension, vacation, apprenticeship and similar purposes.

6.2 Rates. These prevailing rates are on file with the City and are available online at http://www.dir.ca.gov/DLSR. Each Contractor and Subcontractor must pay no less
than the specified rates to all workers employed to work on the Project. The schedule of per diem wages is based upon a working day of eight hours. The rate for holiday and overtime work must be at least time and one-half.

6.3 DIR Registration. DV GHAD may not accept a Proposal from or enter into the Contract with a contractor, without proof that the contractor is registered with the California Department of Industrial Relations (“DIR”) to perform public work pursuant to Labor Code § 1725.5, subject to limited legal exceptions.

6.4 Compliance. The Contract will be subject to compliance monitoring and enforcement by the DIR, under Labor Code § 1771.4.

7. BONDS AND INSURANCE REQUIREMENTS

The selected Proposer may be required to provide performance and payment bonds for each task order, each for 100% of the maximum task order price, as further specified in the Contract Documents. The insurance requirements are specified in Article 4 of the General Conditions, and the selected Proposer must provide the required bonds and proof of the required insurance coverage as a condition to award of the Contract, within ten (10) calendar days following notification of intent to recommend award of the Contract.

8. RETENTION AND SUBSTITUTION OF SECURITIES

Retention in the amount of five (5) percent will be withheld from payment for each Work Order to secure compliance with the Contract requirements, including repair or replacement of defective Work. Substitution of appropriate securities in lieu of retention amounts from progress payments is permitted under Public Contract Code § 22300.

9. SUBCONTRACTOR LIST

Each Subcontractor must be registered with the DIR to perform work on public projects. Each Proposal must include a completed Subcontractor List form, including the name, location of the place of business, California contractor license number, DIR registration number, and percentage of the Work to be performed (based on the base bid price) for each Subcontractor that will perform Work or service or fabricate or install Work for the Contractor in excess of one-half of 1% off the maximum Contract Price of $499,999. Any Subcontractor who is ineligible to perform work on a public works project under Labor Code §§ 1777.1 or 1777.7 is prohibited from performing work on the Project.

10. PRICE SCHEDULE

Each Proposal must include a completed Price Schedule, using the form provided. The Price Schedule will be used in evaluating competing Proposals during the RFQP process, and following award of the Contract, will be used as the basis for paying the Contractor for Work performed pursuant to a Work Order. The itemized prices must include all costs to perform each item listed in the Price Schedule as specified, including all labor, material, supplies, and equipment and all other direct or indirect costs such as applicable taxes, insurance and overhead.

11. QUALIFICATIONS

The City's evaluation of contractor qualifications will include consideration of the following:

 a. Experience of contractor with open space and applicable maintenance
 b. Experience of contractor with landslide repair and erosion control
 c. Experience of contractor working in creeks and sensitive habitat
 d. Quality of referenced work
e. Organization and staffing
f. Financial stability of company
g. Availability of equipment, tools, materials and staff with emphasis on ability to respond to emergencies
h. Cost based on unit rates and referenced projects and clients
i. Other information presented in proposal such as special equipment, unique approaches to the work, demonstrated ingenuity and other expertise.
j. Experience with GIS, web based or similar incident and work order tracking
k. Special equipment, unique approaches to the Work, and other relevant expertise.

12. ADDITIONAL INFORMATION

Questions, requests for clarifications, or objections regarding the RFQP, the Project, or the Contract Documents must be submitted in writing to Shane Hsieh, P.E., Associate Engineer, at chsieh@sanramon.ca.gov. Oral responses are not authorized and will not be binding on the City. Proposers should submit any such written inquiries or objections no later than May 3, 2019. Responses will be issued in the form of written addenda. Any objections to the RFQP, the RFQP procedures, or the Contract Documents will be deemed waived if not timely submitted in writing as specified in this paragraph.

13. PROPOSALS

13.1 Proposal Form. All Proposals must be submitted using the Qualifications and Proposal form accompanying this RFQP, fully completed as directed. The Qualifications and Proposal form must be accompanied by the Price Schedule and Subcontractor List, using the forms provided and completed as directed. Each Proposer is responsible for review of the Contract Documents. A Proposer is responsible for notifying DV GHAD of any errors, omissions, inconsistencies, or conflicts it discovers in the Contract Documents, acting solely in its capacity as a contractor and subject to the limitations of Public Contract Code § 1104. Notification of any such errors, omissions, inconsistencies, or conflicts must be submitted in writing to the DV GHAD by the deadline for submission of questions or objections, set forth in section 12, above. DV GHAD expressly disclaims responsibility for assumptions a Proposer might draw from the presence or absence of information provided by City. No person, firm, or corporation may submit or be a party to more than one Proposal. However, a person, firm, or corporation that has submitted a subcontract proposal or quote to a Proposer may submit subcontract proposals or quotes to other Proposers.

13.2 Authorization and Execution. Each Proposal must be signed by the bidder’s authorized representative. A Proposal submitted by a partnership must be signed in the partnership name by a general partner with authority to bind the partnership. A Proposal submitted by a corporation must be signed with the legal name of the corporation, followed by the signature and title of two officers of the corporation with full authority to bind the corporation to the terms of the Proposal, under California Corporation Code § 313.

13.3 Proposal Submission. Completed Proposals, including the Qualifications and Proposal form, Price Schedule, Subcontractor List, and any attachments, must be sealed in an envelope and submitted to the District Clerk’s Office at 7000 Bollinger Canyon Road, San Ramon, CA 94583, and received by the District Clerk’s office no later than: 2:00 PM, Friday, May 10, 2019 (using the clock in the District Clerk’s Office). The envelope must be addressed as follows:
The envelope must also be clearly labeled, as follows, with the Proposer’s name, address, and its registration number with the California Department of Industrial Relations (“DIR”) for bidding on public works contracts (Labor Code §§ 1725.5 and 1771.1):

[CONTRACTOR COMPANY NAME]
[STREET ADDRESS]
[CITY, STATE, ZIP CODE]
DIR Registration No: ______________

Faxed or emailed Proposals will not be accepted, unless otherwise specified. Late submissions will be returned unopened. Proposals may not be modified after the deadline for submission. Each Proposer is solely responsible for all of its costs to prepare and submit its Proposal and by submitting a Proposal waives any right to recover those costs from City. All Proposals will be subject to public disclosure under the California Public Records Act (Government Code § 6250 et seq.) upon the conclusion of the City’s RFQP evaluation process.

13.3 Proposal Evaluation and Selection. The Proposals will be reviewed and evaluated by an evaluation panel comprised of qualified DV GHAD staff and/or consultants selected by the DV GHAD Deputy District Manager. Proposals which are incomplete, illegible, which state exceptions to the Contract Documents, or which otherwise do not comply with the stated requirements may be rejected as nonresponsive. The evaluation panel will rank the responsive Proposals on best overall qualifications, factoring in past project references, and best overall pricing, based on the Price Schedule.

14. AWARD

DV GHAD will award the Contract(s), if at all, to the responsible Proposer(s) whose Proposal(s) is determined by City, acting in its sole discretion, to be the most advantageous to DV GHAD. The DV GHAD reserve the right to award more than one contract as determined by the evaluation panel. The selected Proposer(s) will be notified by DV GHAD staff of intent to recommend that the DV GHAD Board award the Contract to that Proposer(s). Within ten calendar days of that notification, the selected Proposer(s) must submit the executed Contract and submit the required bonds and insurance certifications and endorsements to the DV GHAD. DV GHAD may, at any time, reject the Proposal of any selected Proposer that fails to comply with these requirements, and may offer the Contract to the next highest ranked Proposer.

15. RESERVATIONS OF RIGHTS

This RFQP is not a formal request for bids nor an offer by the DV GHAD to contract with a Proposer responding to this RFQP. This RFQP does not commit DV GHAD to award or enter into the Contract. DV GHAD reserves the unfettered right to reject any or all Proposals at any time. DV GHAD reserves the right to modify the RFQP, the deadline for submission of Proposals, the Contract Documents, or the scope of Work at any time prior to the deadline for submission of Proposals and will notify the Proposers on the Plan Holders List of any such changes by issuing an addendum. The DV GHAD reserves the right to waive immaterial irregularities in a Proposal or in the RFQP procedures. DV GHAD reserves the right to cancel, modify, or postpone this RFQP or the Project at any time. The DV GHAD expressly disclaims responsibility for any assumptions a
Proposer might draw from the presence or absence of information provided by the DV GHAD in any form.

16. **TENTATIVE SCHEDULE**

The following tentative schedule is provided solely for general planning based on currently available information. All dates and durations are subject to revision by City.

<table>
<thead>
<tr>
<th>ACTIVITY</th>
<th>DATE / DEADLINE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Deadline for RFQP Questions</td>
<td>May 3, 2019</td>
</tr>
<tr>
<td>Proposals Due</td>
<td>May 10, 2019</td>
</tr>
<tr>
<td>Proposal Evaluation</td>
<td>TBD</td>
</tr>
<tr>
<td>Notice of Intended Selection</td>
<td>TBD</td>
</tr>
<tr>
<td>Award of Contract</td>
<td>TBD</td>
</tr>
<tr>
<td>Initial Work Order Issuance</td>
<td>TBD</td>
</tr>
</tbody>
</table>

17. **LICENSE(S)**

The successful Proposer(s) and its Subcontractor(s) must possess the California contractor’s license(s) in the classification(s) required by law to perform the Work. The successful bidder must also obtain a City business license within <5> days following City’s issuance of the Notice of Potential Award. Subcontractors must also obtain a City business license before performing any Work.

END OF REQUEST FOR QUALIFICATIONS AND PROPOSALS
QUALIFICATIONS AND PROPOSAL

Dougherty Valley Geologic Hazard Abatement District As-needed Maintenance and Emergency Response Services

The Proposer hereby submits this Qualifications and Proposal to the Dougherty Valley Geologic Hazard Abatement District ("DV GHAD") in response to the DV GHAD’s Request for Qualifications and Proposals ("RFQP") for the above-referenced project ("Project") and in accordance with the Contract Documents referenced in the RFQP.

PART I - QUALIFICATIONS

A. General Information

Proposer Business Name: _______________________________________________

Check One:  ___ Corporation (State of incorporation: ___________________)
           ___ Partnership
           ___ Sole Proprietorship
           ___ Joint Venture of: __________________________________
           ___ Other: ___________________________________________

Main Office Address and Phone: ______________________________________
________________________________________________________________
Local Office Address and Phone: _____________________________________
________________________________________________________________
Website address: __________________________________________________

Owner of Business: ________________________________________________

Contact Name and Title:_____________________________________________

Contact Phone and Email: ___________________________________________

Proposer’s California Contractor’s License Number(s): ___________________

Proposer’s DIR Registration Number: ________________________________

B. Proposer Experience

1. How many years has Proposer been in business under its present business name? _____ years

2. Has Proposer completed projects similar in type and size to this Project as a general contractor? _____ Yes _____ No
3. Has Proposer ever been disqualified from a bid on grounds that it is not responsible, or otherwise disqualified or disbarred from bidding under state or federal law?  
   _____ Yes  _____ No

   If yes, provide additional information on a separate sheet regarding the disqualification or disbarment, including the name and address of the agency or owner of the project, the type and size of the project, the reasons that Proposer was disqualified or disbarred, and the month and year in which the disqualification or disbarment occurred.

4. Has Proposer ever been terminated for cause, alleged default, or legal violation from a construction project, either as a general contractor or as a subcontractor?  
   _____ Yes  _____ No

   If yes, provide additional information on a separate sheet regarding the termination, including the name and address of the agency or owner of the subject project, the type and size of the project, whether Proposer was under contract as a general contractor or a subcontractor, the reasons that Proposer was terminated, and the month and year in which the termination occurred.

5. Briefly describe Proposer’s experience with respect to items 5.a – 5.i, listed below, on separate sheet(s) labelled “Responses to Qualifications and Proposal Part I, B.5.” A concise paragraph for each item is appropriate, with emphasis on neatness, clarity, and brevity.
   
   a. Experience of contractor with open space and applicable maintenance
   b. Experience of contractor with landslide repair and erosion control
   c. Experience of contractor working in creeks and sensitive habitat
   d. Ability to respond to emergency repair needs
   e. Availability of equipment, tools, materials and staff with emphasis on ability to respond to emergencies
   f. Experience with GIS, web based or similar incident and work order tracking
   g. Business organization and financial capacity to perform the Work on an on-call basis;
   h. Adequate full-time, skilled labor and supervision to perform the Work on an on-call basis;
   i. Special equipment, unique approaches to the Work, and other relevant expertise.

6. List three of Proposer’s recent past public projects performed as general contractor which are most similar to this Project including scope and character of the work:

   Project #1: _____________________________________________
   Project #2: _____________________________________________
   Project #3: _____________________________________________

   Using the tables provided below, provide all of the following information for each project identified above, using “N/A” for any information that is clearly inapplicable to that project, and attaching clearly labelled additional pages if space is needed for additional explanation:
a. Project name, location, and description;
b. Owner (name, address, email, and phone number);
c. Architect or engineer (name, email, and phone number);
d. Project and/or construction manager (name, email, and phone number);
e. Whether this was a task order or on-call contract;
f. Initial contract price and final contract price (including change orders);
g. Original scheduled completion date and actual date of completion;
h. Time extensions granted (number of days);
i. Number and amount of stop notices filed;
j. Amount of any liquidated damages assessed against Proposer; and
k. Nature and resolution of any project-related claim, lawsuit, mediation, or arbitration involving Proposer.

<table>
<thead>
<tr>
<th>Project #1:</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Item:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>a.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>b.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>c.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>d.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>e.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>f.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>g.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>h.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>i.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>j.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>k.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Additional pages attached for Project #1? _____ Yes _____ No

<table>
<thead>
<tr>
<th>Project #2:</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Item:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>a.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>b.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>c.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>d.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>e.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>f.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>g.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>h.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>i.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>j.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>k.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Additional pages attached for Project #2? _____ Yes _____ No
Project #3:

<table>
<thead>
<tr>
<th>Item</th>
<th>Project Information</th>
</tr>
</thead>
<tbody>
<tr>
<td>a.</td>
<td></td>
</tr>
<tr>
<td>b.</td>
<td></td>
</tr>
<tr>
<td>c.</td>
<td></td>
</tr>
<tr>
<td>d.</td>
<td></td>
</tr>
<tr>
<td>e.</td>
<td></td>
</tr>
<tr>
<td>f.</td>
<td></td>
</tr>
<tr>
<td>g.</td>
<td></td>
</tr>
<tr>
<td>h.</td>
<td></td>
</tr>
<tr>
<td>i.</td>
<td></td>
</tr>
<tr>
<td>j.</td>
<td></td>
</tr>
<tr>
<td>k.</td>
<td></td>
</tr>
</tbody>
</table>

Additional pages attached for Project #3? _____ Yes _____ No

C. Safety

1. Provide Proposer’s Experience Modification Rate (EMR) for the last three years:

<table>
<thead>
<tr>
<th>Year</th>
<th>EMR</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

2. Complete the following, based on information provided in Proposer’s CalOSHA Form 300 or Form 300A, Annual Summary of Work-Related Illnesses and Injuries, from the most recent past calendar year:

   Number of lost workday cases: _____
   Number of medical treatment cases: _____
   Number of deaths: _____

3. Has Proposer ever been cited, fined, or prosecuted by any local, state, or federal agency, including OSHA, CalOSHA, or EPA, for violation of any law, regulation, or requirements pertaining to health and safety? 
   _____ Yes _____ No

   If yes, provide additional information on a separate sheet regarding each such citation, fine, or prosecution, including the name and address of the agency or owner of the project, the type and size of the project, the reasons for and nature of the citation, fine, or prosecution, and the month and year in which the incident giving rise to the citation, fine, or prosecution occurred.

4. Name, title, and email for person responsible for Proposer’s safety program:

   Name ___________________________ Title ___________________________ Email ___________________________
PART II - PROPOSAL

1. **Price Schedule.** Proposer proposes to perform and fully complete each Work Order issued for the Project as specified in the Contract Documents, within the time required for full completion of each Work Order, including all labor, materials, supplies, and equipment and all other direct or indirect costs including, but not limited to, taxes, insurance and all overhead in the accompanying Price Schedule.

2. **Addenda.** Proposer agrees that it has confirmed receipt of or access to, and reviewed, all addenda issued for this Proposal. Proposer waives any claims it might have against the City based on its failure to receive, access, or review any addenda for any reason. Proposer specifically acknowledges receipt of the following addenda:

<table>
<thead>
<tr>
<th>Addendum</th>
<th>Date Received</th>
<th>Addendum</th>
<th>Date Received</th>
</tr>
</thead>
<tbody>
<tr>
<td>#01</td>
<td></td>
<td>#05</td>
<td></td>
</tr>
<tr>
<td>#02</td>
<td></td>
<td>#06</td>
<td></td>
</tr>
<tr>
<td>#03</td>
<td></td>
<td>#07</td>
<td></td>
</tr>
<tr>
<td>#04</td>
<td></td>
<td>#08</td>
<td></td>
</tr>
</tbody>
</table>

3. **Proposer’s Certifications and Warranties.** By signing and submitting this Proposal, Proposer certifies and warrants the following:

   3.1 **Examination of Contract Documents.** Proposer has thoroughly examined the Contract Documents and represents that, to the best of Proposer’s knowledge, there are no errors, omissions, or discrepancies in the Contract Documents, subject to the limitations of Public Contract Code § 1104.

   3.2 **Local Conditions.** Proposer has had the opportunity to examine the local conditions within the DV GHAD.

   3.3 **Proposer Responsibility.** Proposer is a responsible contractor, with the necessary ability, capacity, experience, skill, qualifications, workforce, equipment, and resources to perform or cause the Work to be performed in accordance with the Contract Documents and within the Contract Time.

   3.4 **Responsibility for Proposal.** Proposer has carefully reviewed this Proposal and is solely responsible for any errors or omissions contained in its completed Proposal. All statements and information provided in this Proposal and enclosures are true and correct to the best of Proposer’s knowledge.

   3.5 **Nondiscrimination.** In preparing this Proposal, the Proposer has not engaged in discrimination against any prospective or present employee or Subcontractor on grounds of race, color, ancestry, national origin, ethnicity, religion, sex, sexual orientation, age, disability, or marital status.

   3.6 **Non-Collusion.** The undersigned has not colluded with any other proposer to submit a sham Proposal, engage in price fixing, or otherwise contravene a fair, competitive process in violation of the terms or intent of Public Contract Code section 7106.

4. **Award of Contract.** By signing and submitting this Proposal, Proposer agrees that if Proposer is awarded the Contract for the Project, within ten days following issuance of the Notice of Potential Award to Proposer, Proposer will do all of the following:
4.1 **Execute Contract.** Enter into the Contract with City in accordance with the terms of this Proposal, by signing and submitting to City the Contract prepared by City using the form included with the Contract Documents;

4.2 **Submit Required Bonds.** Submit to City a payment bond and a performance bond, each for 100% of the Contract Price, using the bond forms provided and in accordance with the requirements of the Contract Documents; and

4.3 **Insurance Requirements.** Submit to City the insurance certificate(s) and endorsement(s) as required by the Contract Documents.

This Proposal is hereby submitted on _________________________, 20__.  

s/ ___________________________________________________________________________  Name and Title

s/ ___________________________________________________________________________  Name and Title

[See Section 13.2 of RFQP]

Company Name __________________________________________________________________ License #, Expiration Date, and Classification

Address _________________________________________________________________________ DIR Registration #

City, State, Zip __________________________________________________________________ Phone

Contact Name _____________________________________________________________________ Contact Email

END OF QUALIFICATIONS AND PROPOSAL
PRICE SCHEDULE

This Price Schedule must be completed in ink and included with the sealed Proposal. Pricing must be provided for each Item as indicated. Items marked "(SW)" are Specialty Work that must be performed by a qualified Subcontractor. The lump sum or unit cost for each item must be inclusive of all costs, whether direct or indirect, including profit and overhead. The sum of all amounts entered in the "Extended Total Amount" column must be identical to the Base Price entered in Section 1 of Part II - Proposal of the Proposal form.

AL = Allowance  CF = Cubic Feet  CY = Cubic Yard  EA = Each  LB = Pounds
LF = Linear Foot  LS = Lump Sum  SF = Square Feet  TON = Ton (2000 lbs)

<table>
<thead>
<tr>
<th>ITEM NO.</th>
<th>ITEM DESCRIPTION</th>
<th>UNIT</th>
<th>UNIT COST</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>V-ditch Cleaning</td>
<td>$ per LF</td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>Weed Abatement</td>
<td>$ per acre</td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>Laborer</td>
<td>$ per hour</td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>Operator</td>
<td>$ per hour</td>
<td></td>
</tr>
<tr>
<td>5</td>
<td>Foreman</td>
<td>$ per hour</td>
<td></td>
</tr>
<tr>
<td>6</td>
<td>Excavator</td>
<td>$ per hour</td>
<td></td>
</tr>
<tr>
<td>7</td>
<td>Truck</td>
<td>$ per hour</td>
<td></td>
</tr>
<tr>
<td>8</td>
<td>Payment Bond</td>
<td>%</td>
<td></td>
</tr>
<tr>
<td>9</td>
<td>Performance Bond</td>
<td>%</td>
<td></td>
</tr>
<tr>
<td>10</td>
<td>Warranty Bond</td>
<td>%</td>
<td></td>
</tr>
<tr>
<td>11</td>
<td>Markup</td>
<td>%</td>
<td></td>
</tr>
</tbody>
</table>

PROPOSER NAME: ____________________________________________

END OF PRICE SCHEDULE
SUBCONTRACTOR LIST

For each Subcontractor that will perform a portion of the Work in an amount in excess of one-half of 1% of the maximum Contract Price of $499,999, the Proposer must list a description of the Work, the name of the Subcontractor, its California contractor license number, the location of its place of business, its DIR registration number, and the portion of the Work that the Subcontractor is performing based on a percentage of the maximum Contract Price of $499,999.

<table>
<thead>
<tr>
<th>DESCRIPTION OF WORK</th>
<th>SUBCONTRACTOR NAME</th>
<th>CALIFORNIA CONTRACTOR LICENSE NO.</th>
<th>LOCATION OF BUSINESS</th>
<th>DIR REG. NO.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

END OF SUBCONTRACTOR LIST

---

1 For street or highway construction this requirement applies to any subcontract of $10,000 or more.
TABLE OF CONTENTS

QUALIFICATIONS AND PROPOSAL ........................................................................................................ 1
PRICE SCHEDULE ...................................................................................................................................... 1
SUBCONTRACTOR LIST .............................................................................................................................. 1
Contract .................................................................................................................................................... 1
Payment Bond ........................................................................................................................................ 6
Performance Bond ................................................................................................................................. 8
Warranty Bond ....................................................................................................................................... 10

General Conditions .................................................................................................................................. 12

Article 1 - Definitions ................................................................................................................................ 12
Definitions .................................................................................................................................................. 12

Article 2 - Roles and Responsibilities .................................................................................................. 15
2.1 DV GHAD ........................................................................................................................................... 15
2.2 Contractor ......................................................................................................................................... 15
2.3 Subcontractors .................................................................................................................................. 18
2.4 Coordination of Work ....................................................................................................................... 18
2.5 Submittals .......................................................................................................................................... 19
2.6 Shop Drawings ............................................................................................................................... 19

Article 3 - Contract Documents ......................................................................................................... 20
3.1 Interpretation of Contract Documents ............................................................................................ 20
3.2 Order of Precedence ....................................................................................................................... 21
3.3 Caltrans Standard Specifications .................................................................................................. 21
3.4 For Reference Only ........................................................................................................................ 22
3.5 Current Versions ........................................................................................................................... 22
3.6 Conformed Copies ........................................................................................................................ 22

Article 4 - Bonds, Indemnity, and Insurance .................................................................................... 23
4.1 Payment and Performance Bonds .................................................................................................. 23
4.2 Indemnity ......................................................................................................................................... 23
4.3 Insurance .......................................................................................................................................... 23
4.4 Warranty Bond .................................................................................................................................. 25

Article 5 – NOT USED ........................................................................................................................... 26

Article 6 - Contract Modification ....................................................................................................... 26
6.1 Contract Modification ....................................................................................................................... 26
6.2 Contractor Change Order Requests ............................................................................................... 27
6.3 Adjustments to Contract Price ........................................................................................................ 28
6.4 Unilateral Change Order ................................................................................................................ 28
6.5 Non-Compliance Deemed Waiver ................................................................................................. 28

Article 7 - General Construction Provisions .................................................................................... 29
7.1 Permits, Fees, Business License, and Taxes .................................................................................. 29
7.2 Temporary Facilities ....................................................................................................................... 29
7.3 Noninterference and Site Management ......................................................................................... 29
7.4 Signs ................................................................................................................................................ 30
7.5 Project Site and Nearby Property Protections ............................................................................. 30
7.6 Materials and Equipment ............................................................................................................. 31
7.7 Substitutions ..................................................................................................................................... 32
7.8 Testing and Inspection ................................................................................................................... 32
7.9 Project Site Conditions and Maintenance ..................................................................................... 34
<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Article 12 - Dispute Resolution</td>
<td>45</td>
</tr>
<tr>
<td>12.1 Claims</td>
<td>45</td>
</tr>
<tr>
<td>12.2 Claims Submission</td>
<td>46</td>
</tr>
<tr>
<td>12.3 DV GHAD's Response</td>
<td>47</td>
</tr>
<tr>
<td>12.4 Meet and Confer</td>
<td>48</td>
</tr>
<tr>
<td>12.5 Mediation and Government Code Claims</td>
<td>48</td>
</tr>
<tr>
<td>12.6 Tort Claims</td>
<td>49</td>
</tr>
<tr>
<td>12.7 Arbitration</td>
<td>49</td>
</tr>
<tr>
<td>12.8 Burden of Proof and Limitations</td>
<td>49</td>
</tr>
<tr>
<td>12.9 Legal Proceedings</td>
<td>49</td>
</tr>
<tr>
<td>12.10 Other Disputes</td>
<td>49</td>
</tr>
<tr>
<td>Article 13 - Suspension and Termination</td>
<td>49</td>
</tr>
<tr>
<td>13.1 Suspension for Cause</td>
<td>49</td>
</tr>
<tr>
<td>13.2 Suspension for Convenience</td>
<td>50</td>
</tr>
<tr>
<td>13.3 Termination for Default</td>
<td>50</td>
</tr>
<tr>
<td>13.4 Termination for Convenience</td>
<td>51</td>
</tr>
<tr>
<td>13.5 Actions Upon Termination for Default or Convenience</td>
<td>52</td>
</tr>
<tr>
<td>Article 14 - Miscellaneous Provisions</td>
<td>53</td>
</tr>
<tr>
<td>14.1 Assignment of Unfair Business Practice Claims</td>
<td>53</td>
</tr>
<tr>
<td>14.2 Provisions Deemed Inserted</td>
<td>53</td>
</tr>
<tr>
<td>14.3 Waiver</td>
<td>53</td>
</tr>
</tbody>
</table>
14.4 Titles, Headings, and Groupings ................................................................. 53
14.5 Statutory and Regulatory References .................................................... 53
14.6 Survival ........................................................................................................ 53

Special Conditions .......................................................................................... 54

Technical Specifications ..................................................................................... 57
This public works contract ("Contract") is entered into by and between the Dougherty Valley Geologic Hazard Abatement District ("DV GHAD") and _________________________________ ("Contractor"), for the As-needed Maintenance and Emergency Response Services ("Project").

The parties agree as follows:

1. **Award of Contract.** In response to the DV GHAD's Request for Qualifications and Proposals ("RFQP"), Contractor submitted a Proposal to perform the specified scope of Work, pursuant to Work Orders issued by DV GHAD, including, but not limited to, removal and replacement of damaged concrete curb, gutter, sidewalk, valley gutters, driveways and/or median islands, installation of accessibility curb ramps, replacement of asphalt pavement in conjunction with concrete work, and miscellaneous concrete work, on an on-call, as-needed basis. On ______________, 20___, DV GHAD authorized award of this Contract to Contractor.

2. **Contract Documents.** The Contract Documents incorporated into this Contract include and are comprised of all of the documents listed below. The definitions provided in Article 1 of the General Conditions apply to all of the Contract Documents, including this Contract.
   2.1 Request for Qualifications and Proposals;
   2.2 Addenda, if any;
   2.3 Proposal, and all attachments thereto;
   2.4 Contract;
   2.5 Payment, Performance, and Warranty Bonds;
   2.6 Special Conditions;
   2.7 General Conditions;
   2.8 Technical Specifications;
   2.9 Appendix A – City of San Ramon Standard Details;
   2.10 Work Order(s); and
   2.11 Change Orders, if any.

3. **Scope of Work.** The Work to be performed under this Contract will be completed through individual Work Orders on an on-call, as-needed basis, as set forth in Section 4, below. Contractor agrees to perform all of the Work required for each Work Order, as specified in the Contract Documents, all of which are fully incorporated herein. Contractor must provide, furnish, and supply all things necessary and incidental for the timely performance and completion of the Work, including all necessary labor, materials, supplies, tools, plant, equipment, transportation, services, appliances, appurtenances, onsite facilities, and utilities, unless otherwise specified in the Contract Documents. Contractor also agrees to use its best efforts to diligently prosecute and complete the Work in a professional and expeditious manner and to meet or exceed the performance standards required by the Contract Documents.

4. **Work Orders.** When the need for Work arises under this Contract, as determined by the DV GHAD, the DV GHAD will issue a Work Order to Contractor, identifying the nature and location(s) of the specific Work to be performed and other information or instructions that may be relevant to performance of the Work encompassed in the Work Order.
   4.1 **Time for Completion.** A Work Order may specify time for commencement and completion of the Work included in the Work Order. Contractor must immediately notify the Project Manager if Contractor believes it will not be able to commence or complete the Work within the time(s) specified in the Work Order. The DV GHAD reserves the right to separately contract with another contractor or to use its own
forces to perform Work that Contractor is unable or unwilling to perform Work within the time specified by a Work Order.

4.2 **Work Order Schedule.** If required by the Work Order, Contractor must provide the DV GHAD with a detailed Work Order schedule for performing the specified Work. The Work Order schedule must identify “Work tasks,” “start day,” and “finish day” for each Work item specified in the Work Order. The schedule must comply with the requirements of Section 5.2 of the General Conditions. If the DV GHAD requests a Work Order meeting with Contractor prior to performance of Work specified in a Work Order, Contractor must submit the Work Order schedule at least five working days before the Work Order meeting. See General Conditions Section 5.3, regarding Delay and Extension of Contract Time.

4.3 **Completion of Work Order.** Once the Work specified in a Work Order is complete, Contractor must notify the Project Manager in writing. The Project Manager will inspect the Work and issue a punch list if there are any deficiencies in the Work. Contractor must complete or resolve the punch list items within the time specified by the Project Manager. If Contractor fails to complete or resolve the punch list items within the specified time, the DV GHAD may elect to complete or resolve the outstanding items and backcharge Contractor for the DV GHAD’s cost including a 25% markup, which may be deducted from any payment due or to become due to Contractor.

5. **Payment.** As full and complete compensation for Contractor’s timely performance and completion of the Work, including all direct and indirect costs to perform the Work, in strict accordance with the terms and conditions of the Contract Documents, the DV GHAD will pay Contractor for performance of each Work Order based on the itemized prices included in the Price Schedule, and as further specified in the Contract Documents. The total compensation payable to Contractor pursuant to this Contract will not exceed $499,999 (“Contract Price”).

6. **Term and Extensions.** This Contract will become effective on ______, 20__ (“Effective Date”), and will expire on June 30, 2020 (“Term”), unless (A) the Contract Price is exhausted before the end of the Term, (B) the Contract is terminated sooner in accordance with Article 13 of the General Conditions, or (C) the Contract is extended, as set forth below.

6.1 **Extension Terms.** At the DV GHAD’s option, to be exercised in the DV GHAD’s sole discretion, this Contract may be extended beyond the initial Term by up to three additional successive one-year terms (individually, an “Extension Term”), provided the total compensation due to Contractor under the Term and any Extension Term does not exceed the maximum Contract Price. The DV GHAD may elect to extend the Contract for an Extension Term by providing written notice of intent to Contractor at least 90 days prior to expiration of the current Term or Extension Term, as applicable. If Contractor does not wish to extend the Contract, it must notify the DV GHAD in writing within 21 days following the DV GHAD’s notice of intent to extend the Contract. Failure to timely notify the DV GHAD in this regard will be deemed agreement to extend the Contract.

6.2 **Conditions.** Any Extension Term will be subject to the same terms and agreements applicable to the initial Term except that the prices set forth in the Price Schedule may be adjusted by mutual agreement of the parties, memorialized in a Change Order, for a percentage not to exceed the Consumer Price Index increase for all urban consumers for the San Francisco-Oakland-Hayward area for the immediately preceding year.

7. **Liquidated Damages.** The DV GHAD will assess liquidated damages in the amount of $1000 per day or each day Work remains incomplete within the applicable Contract Time for
a Work Order. Any such liquidated damages may be deducted from City’s payments due or to become due to Contractor under this Contract.

8. **Labor Code Compliance.**

8.1 **General.** This Contract is subject to all applicable requirements of Chapter 1 of Part 7 of Division 2 of the Labor Code, including requirements pertaining to wages, working hours and workers’ compensation insurance, as further specified in Article 9 of the General Conditions.

8.2 **Prevailing Wages.** This Project is subject to the prevailing wage requirements applicable to the locality in which the Work is to be performed for each craft, classification or type of worker needed to perform the Work, including employer payments for health and welfare, pension, vacation, apprenticeship and similar purposes. Copies of these prevailing rates are available online at http://www.dir.ca.gov/DLSR.

8.3 **DIR Registration.** The DV GHAD may not enter into the Contract with a proposer without proof that the proposer and its Subcontractors are registered with the California Department of Industrial Relations to perform public work pursuant to Labor Code § 1725.5, subject to limited legal exceptions.

9. **Workers’ Compensation Certification.** Pursuant to Labor Code § 1861, by signing this Contract, Contractor certifies as follows: “I am aware of the provisions of Labor Code § 3700 which require every employer to be insured against liability for workers’ 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 the Work on this Contract.”

10. **Conflicts of Interest.** Contractor, its employees, Subcontractors and agents, may not have, maintain or acquire a conflict of interest in relation to this Contract in violation of any City ordinance or requirement, or in violation of any California law, including Government Code § 1090 et seq., or the Political Reform Act, as set forth in Government Code § 81000 et seq. and its accompanying regulations. Any violation of this Section constitutes a material breach of the Contract.

11. **Independent Contractor.** Contractor is an independent contractor under this Contract and will have control of the Work and the means and methods by which it is performed. Contractor and its Subcontractors are not employees of the DV GHAD and are not entitled to participate in any health, retirement, or any other employee benefits from the DV GHAD.

12. **Notice.** Any notice, billing, or payment required by or pursuant to the Contract Documents must be made in writing, signed, dated and sent to the other party by personal delivery, U.S. Mail, a reliable overnight delivery service, or by email as a PDF file. Notice is deemed effective upon delivery, except that service by U.S. Mail is deemed effective on the second working day after deposit for delivery. Notice for each party must be given as follows:

**DV GHAD:**
Dougherty Valley Geologic Hazard Abatement District
Attn: Christina Franco, District Clerk
7000 Bollinger Canyon Road
San Ramon, CA  94583

**Contractor:**
Name: ________________________________
Address: ________________________________
City/State/Zip: ___________________________

DV GHAD:  
As-needed Maintenance and Emergency Response Services  
CONTRACT Page 3

13.1 Assignment and Successors. Contractor may not assign its rights or obligations under this Contract, in part or in whole, without the DV GHAD’s written consent. This Contract is binding on Contractor’s and the DV GHAD’s lawful heirs, successors and permitted assigns.

13.2 Third Party Beneficiaries. There are no intended third party beneficiaries to this Contract.

13.3 Governing Law and Venue. This Contract will be governed by California law and venue will be in the Contra Costa County Superior Court, and no other place. Contractor waives any right it may have pursuant to Code of Civil Procedure § 394, to file a motion to transfer any action arising from or relating to this Contract to a venue outside of Contra Costa County, California.

13.4 Amendment. No amendment or modification of this Contract will be binding unless it is in a writing duly authorized and signed by the parties to this Contract.

13.5 Integration. This Contract and the Contract Documents incorporated herein, including authorized amendments or Change Orders thereto, constitute the final, complete, and exclusive terms of the agreement between The DV GHAD and Contractor.

13.6 Severability. If any provision of the Contract Documents is determined to be illegal, invalid, or unenforceable, in whole or in part, the remaining provisions of the Contract Documents will remain in full force and effect.

13.7 Authorization. Each individual signing below warrants that he or she is authorized to do so by the party that he or she represents, and that this Contract is legally binding on that party. If Contractor is a corporation, signatures from two officers of the corporation are required pursuant to California Corporation Code § 313.

[Signatures are on the following page.]
The parties agree to this Contract as witnessed by the signatures below:

**DV GHAD:**

<table>
<thead>
<tr>
<th>Signature</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>s/ Clarkson, Board Chair</td>
<td>Date: ___________________________</td>
</tr>
</tbody>
</table>

Approved as to form:

<table>
<thead>
<tr>
<th>Signature</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>s/ Martin Lysons, District Attorney</td>
<td>Date: ______________________________</td>
</tr>
</tbody>
</table>

Attest:

<table>
<thead>
<tr>
<th>Signature</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>s/ Christina Franco, District Clerk</td>
<td>Date: ___________________________</td>
</tr>
</tbody>
</table>

**CONTRACTOR:**

<table>
<thead>
<tr>
<th>Business Name</th>
<th>Seal:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Name, Title</td>
<td>Date: ___________________________</td>
</tr>
</tbody>
</table>

Second Signature (See Section 13.7):

<table>
<thead>
<tr>
<th>Signature</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>s/ Name, Title</td>
<td>Date: ___________________________</td>
</tr>
</tbody>
</table>

Contractor’s California License Number(s) and Expiration Date(s)

END OF CONTRACT
Payment Bond

The Dougherty Valley Geologic Hazard Abatement District ("DV GHAD") and _________________ ("Contractor") have entered into a contract, dated _________________, 20___ ("Contract") for the As-needed Maintenance and Emergency Response Services ("Project"). The Contract is incorporated by reference into this Payment Bond ("Bond").

1. **General.** Under this Bond, Contractor as principal and ____________________________, its surety ("Surety"), are bound to The DV GHAD as obligee in an amount not less than the maximum Contract Price of $499,999, under California Civil Code § 9550 et seq., to ensure payment to authorized claimants. This Bond is binding on the respective successors, assigns, owners, heirs, or executors of Surety and Contractor.

2. **Surety’s Obligation.** If Contractor or any of its Subcontractors fails to pay a person authorized in California Civil Code § 9100 to assert a claim against a payment bond, any amounts due under the Unemployment Insurance Code with respect to work or labor performed under the Contract, or any amounts required to be deducted, withheld, and paid over to the Employment Development Department from the wages of employees of Contractor and its Subcontractors under California Unemployment Insurance Code § 13020 with respect to the work and labor, then Surety will pay the obligation.

3. **Beneficiaries.** This Bond inures to the benefit of any of the persons named in California Civil Code § 9100, so as to give a right of action to those persons or their assigns in any suit brought upon this Bond. Contractor must promptly provide a copy of this Bond upon request by any person with legal rights under this Bond.

4. **Duration.** If Contractor promptly makes payment of all sums for all labor, materials, and equipment furnished for use in the performance of the Work required by the Contract, in conformance with the time requirements set forth in the Contract and as required by California law, Surety’s obligations under this Bond will be null and void. Otherwise, Surety’s obligations will remain in full force and effect.

5. **Waivers.** Surety waives any requirement to be notified of alterations to the Contract or extensions of time for performance of the Work under the Contract. Surety waives the provisions of Civil Code §§ 2819 and 2845. The DV GHAD waives the requirement of a new bond for any supplemental contract under Civil Code § 9550. Any notice to Surety may be given in the manner specified in the Contract and delivered or transmitted to Surety as follows:

   Attn: ________________________________
   Address: ________________________________
   City/State/Zip: ________________________________
   Phone: ________________________________
   Email: ________________________________

6. **Law and Venue.** This Bond will be governed by California law, and venue for any dispute pursuant to this Bond will be in the Contra Costa County Superior Court, and no other place. Surety will be responsible for The DV GHAD’s attorneys’ fees and costs in any action to enforce the provisions of this Bond.

   [Signatures are on the following page.]
7. **Effective Date; Execution.** This Bond is entered into and is effective on __________, 20__. 

**SURETY:**

________________________
Business Name

s/__________________________   ______________________________
Date

________________________
Name, Title

(Attach Acknowledgment with Notary Seal and Power of Attorney)

**CONTRACTOR:**

________________________
Business Name

s/__________________________   ______________________________
Date

________________________
Name, Title

**APPROVED BY THE DV GHAD:**

s/__________________________   ______________________________
Date

________________________
Name, Title

END OF PAYMENT BOND
The Dougherty Valley Geologic Hazard Abatement District ("DV GHAD") and _______________ ("Contractor") have entered into a contract, dated ________________, 20____ ("Contract") for the As-needed Maintenance and Emergency Response Services ("Project"). The Contract is incorporated by reference into this Performance Bond ("Bond").

1. **General.** Under this Bond, Contractor as Principal and _______________ , its surety ("Surety"), are bound to DV GHAD as obligee for an amount not less than the maximum Contract Price of $499,999 to ensure Contractor's faithful performance of its obligations under the Contract. This Bond is binding on the respective successors, assigns, owners, heirs, or executors of Surety and Contractor.

2. **Surety's Obligations.** Surety's obligations are co-extensive with Contractor's obligations under the Contract. If Contractor fully performs its obligations under the Contract, including its warranty obligations under the Contract, and Contractor has timely provided a warranty bond as required under the Contract, Surety's obligations under this Bond will become null and void upon the DV GHAD's acceptance of the Project, excluding any exceptions to acceptance, if any. Otherwise, Surety's obligations will remain in full force and effect until expiration of the one-year warranty period under the Contract.

3. **Waiver.** Surety waives any requirement to be notified of and further consents to any alterations to the Contract made under the applicable provisions of the Contract Documents, including changes to the scope of Work or extensions of time for performance of Work under the Contract. Surety waives the provisions of Civil Code §§ 2819 and 2845.

4. **Application of Contract Balance.** Upon making a demand on this Bond, the DV GHAD will make the Contract Balance available to Surety for completion of the Work under the Contract. For purposes of this provision, the Contract Balance is defined as the total amount payable by the DV GHAD to Contractor as the Contract Price minus amounts already paid to Contractor, and minus any liquidated damages, credits, or backcharges to which the DV GHAD is entitled under the terms of the Contract.

5. **Contractor Default.** Upon written notification from the DV GHAD of Contractor's termination for default under Article 13 of the Contract General Conditions, time being of the essence, Surety must act within the time specified in Article 13 to remedy the default through one of the following courses of action:

   5.1 Arrange for completion of the Work under the Contract by Contractor, with the DV GHAD’s consent, but only if Contractor is in default solely due to its financial inability to complete the Work;

   5.2 Arrange for completion of the Work under the Contract by a qualified contractor acceptable to The DV GHAD, and secured by performance and payment bonds issued by an admitted surety as required by the Contract Documents, at Surety's expense; or

   5.3 Waive its right to complete the Work under the Contract and reimburse the DV GHAD the amount of the DV GHAD’s costs to have the remaining Work completed.

6. **Surety Default.** If Surety defaults on its obligations under the Bond, the DV GHAD will be entitled to recover all costs it incurs due to Surety's default, including legal, design professional, or delay costs.
7. **Notice.** Any notice to Surety may be given in the manner specified in the Contract and sent to Surety as follows:

   Attn: _____________________________________________________
   Address: ___________________________________________________
   City/State/Zip: ______________________________________________
   Phone: ___________________________________________________
   Fax: ______________________________________________________
   Email: ____________________________________________________

8. **Law and Venue.** This Bond will be governed by California law, and venue for any dispute pursuant to this Bond will be in the Contra Costa County Superior Court, and no other place. Surety will be responsible for The DV GHAD’s attorneys’ fees and costs in any action to enforce the provisions of this Bond.

9. **Effective Date; Execution.** This Bond is entered into and effective on ________________________, 20__.

**SURETY:**

Business Name

s/__________________________________  ______________________________

Name, Title

(Attach Acknowledgment with Notary Seal and Power of Attorney)

**CONTRACTOR:**

Business Name

s/__________________________________  ______________________________

Name, Title

**APPROVED BY DV GHAD:**

s/__________________________________  ______________________________

Name, Title

END OF PERFORMANCE BOND
Warranty Bond

The Dougherty Valley Geologic Hazard Abatement District ("DV GHAD") and __________________ ("Contractor") have entered into a contract, dated _________________, 20___ ("Contract") for the As-needed Maintenance and ("Project"). The Contract is incorporated by reference into this Warranty Bond ("Bond").

1. General. Under this Bond, Contractor as principal and ____________________, its surety ("Surety"), are bound to the DV GHAD as obligee in the maximum amount of 15% of the final Contract Price, unless otherwise specified in the Contract Documents.

2. Warranty Period. The Contract requires Contractor to guarantee its work and that of its Subcontractors on the Project, against defects in materials or workmanship which are discovered during the one-year period commencing with the DV GHAD’s acceptance of the Project ("Warranty Period").

3. Surety’s Obligations. If Contractor faithfully carries out and performs its guarantee under the Contract, and, on due notice from the DV GHAD, repairs and remedies, at its sole expense, any and all defects in materials and workmanship in the Project which are discovered during the Warranty Period, or if Contractor promptly reimburses the DV GHAD for all loss and damage that the DV GHAD sustains because of Contractor’s failure to make such repairs in accordance with the Contract requirements, then Surety’s obligations under this Bond will be null and void. Otherwise, Surety’s obligations will remain in full force and effect.


5. Notice. Any notice to Surety may be given in the manner specified in the Contract and delivered or transmitted to Surety as follows:

   Attn: __________________________________________________________________________
   Address: __________________________________________________________________________
   City/State/Zip: ______________________________________________________________________
   Phone: ______________________________________________________________________________
   Fax: ________________________________________________________________________________
   Email: ______________________________________________________________________________

6. Law and Venue. This Bond will be governed by California law, and venue for any dispute pursuant to this Bond will be in the Contra Costa County Superior Court, and no other place. Surety will be responsible for the DV GHAD’s attorneys’ fees and costs in any action to enforce the provisions of this Bond.

7. Effective Date; Execution. This Bond is entered into and is effective on __________, 20______.

   [Signatures are on the following page.]
SURETY:

___________________________________
Business Name
s/__________________________________   ______________________________
Date

___________________________________
Name, Title

(Attach Acknowledgment with Notary Seal and Power of Attorney)

CONTRACTOR:

___________________________________
Business Name
s/__________________________________   ______________________________
Date

___________________________________
Name, Title

APPROVED BY DV GHAD:

s/ __________________________________  ______________________________
Date

____________________________________
Name, Title

END OF WARRANTY BOND
General Conditions

Article 1 - Definitions

Definitions. The following definitions apply to all of the Contract Documents unless otherwise indicated, e.g., additional definitions that apply solely to the Specifications or other technical documents. Defined terms and titles of documents are capitalized in the Contract Documents, with the exception of the following (in any tense or form): “day,” “furnish,” “including,” “install,” “work day” or “working day.”

ADA means the Americans with Disabilities Act.

Allowance means a specific amount that must be included in Contract Price to be used as specifically allocated by the DV GHAD.

Change Order means a written document duly approved and executed by the DV GHAD, which changes the scope of Work, the Contract Price, or the Contract Time.

City means the City of San Ramon, acting through its City Council, officers, employees, City Engineer, and any other authorized representatives.

Claim means a separate demand by Contractor for a change in the Contract Time or Contract Price, that has previously been submitted to the DV GHAD in accordance with the requirements of the Contract Documents, and which has been rejected by the DV GHAD, in whole or in part; or a written demand by Contractor objecting to the amount of Final Payment.

Contract means the signed agreement between the DV GHAD and Contractor for performing the Work required for the Project, and all documents expressly incorporated therein.

Contract Documents means, collectively, all of the documents listed as such in Section 2 of the Contract. The Contract Documents do not include documents provided “For Reference Only,” or documents that are intended solely to provide information regarding existing conditions.

Contract Price means the maximum total compensation to be paid to Contractor for performance of the Work, as set forth in the Contract and as may be amended by Change Order or adjusted for an Allowance. The Contract Price is not subject to adjustment due to inflation or due to the increased cost of labor, material, supplies or equipment following submission of the Proposal.

Contract Time means the time specified for complete performance of the Work, as set forth in a Work Order and as may be amended by Change Order.

Contractor means the individual, partnership, corporation, or joint-venture that has signed the Contract with the DV GHAD to perform the Work.

Day means a calendar day unless otherwise specified.

Design Professional means the licensed individual(s) or firm(s) retained by the DV GHAD to provide architectural, engineering, or electrical engineering design services for the Project. If no Design Professional has been retained for this Project, any reference to Design Professional is deemed to refer to the Engineer.

DIR means the California Department of Industrial Relations.

Drawings has the same meaning as Plans.
**Engineer** means the District Engineer for the DV GHAD and his or her authorized delegees.

**Excusable Delay** is defined in Section 5.3(B), Excusable Delay.

**Extension Term** has the meaning provided in Section 6.1 of the Contract, Extension Terms.

**Extra Work** means new or unforeseen work added to the Project, as determined by the Engineer in his or her sole discretion, including Work that was not part of or incidental to the scope of the Work when the Contractor's Proposal was submitted; Work that is substantially different from the Work as described in the Contract Documents at the time Proposals were due; or Work that results from a substantially differing and unforeseeable condition.

**Final Completion** means Contractor has fully completed all of the Work required by the Contract Documents to the DV GHAD's satisfaction, including all punch list items and any required commissioning or training, and has provided the DV GHAD with all required submittals, including the warranty bond, instructions and manuals, product warranties, and as-built drawings.

**Final Payment** means payment to Contractor of the unpaid Contract Price, including release of undisputed retention, less amounts withheld or deducted pursuant to the Contract Documents.

**Furnish** means to purchase and deliver for the Project.

**Government Code Claim** means a claim submitted pursuant to California Government Code § 900 et seq.

**Hazardous Materials** means any substance or material identified now or in the future as hazardous under any Laws, or any other substance or material that may be considered hazardous or otherwise subject to Laws governing handling, disposal, or cleanup.

**Including**, whether or not capitalized, means “including, but not limited to,” unless the context clearly requires otherwise.

**Inspector** means the individual(s) or firm(s) retained or employed by DV GHAD to inspect the workmanship, materials, and manner of construction of the Project and its components to ensure compliance with the Contract Documents and all applicable codes, regulations, and permits.

**Install** means to fix in place for materials, and to fix in place and connect for equipment.

**Laws** means all applicable local, state, and federal laws, regulations, rules, codes, ordinances, permits, orders, and the like enacted or imposed by or under the auspices of any governmental entity with jurisdiction over any of the Work or any performance of the Work.

**Non-Excusable Delay** is defined in Section 5.3(D), Non-Excusable Delay.

**Plans** means the DV GHAD-provided plans, drawings, details, or graphical depictions of the Project requirements, but does not include Shop Drawings.

**Project** means the As-needed Maintenance and Emergency Response Services, which is comprised of any and all on-call Work directed by the DV GHAD pursuant to individual Work Orders.

**Project Manager** means the individual designated by the DV GHAD to oversee and manage the Project on the DV GHAD’s behalf and may include his or her authorized delegee(s) when the Project Manager is unavailable. If no Project Manager has been designated for this Project, any reference to Project Manager is deemed to refer to the Engineer.

**Project Site** means the location(s) where Work is to be performed as required by a Work Order.
Proposal means the Proposal submitted by Contractor in response to the DV GHAD’s Request for Qualifications and Proposals, including the Qualifications and Proposal form, Price Schedule, Subcontractor List form, and all attachments thereto.

Recoverable Costs is defined in Section 5.3(F), Recoverable Costs.

Request for Information or RFI means Contractor’s written request for information about the Contract Documents, the Work or the Project, submitted to the DV GHAD in the manner and format specified by the DV GHAD.

Request for Qualifications and Proposals (or RFQP) means the request for proposals issued by the DV GHAD in May, 2019, soliciting proposals for Work on the Project, and including any addenda thereto.

Section, when capitalized in these General Conditions, means a numbered section or subsection of the General Conditions, unless the context clearly indicates otherwise.

Shop Drawings means drawings, plan details or other graphical depictions prepared by or on behalf of Contractor, and subject to the DV GHAD acceptance, which are intended to provide details for fabrication, installation, and the like, of items required by or shown in the Plans or Specifications.

Specialty Work means Work that must be performed by a specialized Subcontractor with the specified license or other special certification, and that the Contractor is not qualified to self-perform.

Specifications means the technical, text specifications describing the Project requirements, which are prepared for and incorporated into the Contract by or on behalf of the DV GHAD, and does not include the Contract, General Conditions or Special Conditions.

Subcontractor means an individual, partnership, corporation, or joint-venture retained by Contractor directly or indirectly through a subcontract to perform a specific portion of the Work. The term Subcontractor applies to subcontractors of all tiers, unless otherwise indicated by the context. A third party such as a utility performing related work on the Project is not a Subcontractor, even if Contractor must coordinate its Work with the third party.

Technical Specifications has the same meaning as Specifications.

Term has the meaning provided in Section 6 of the Contract, Term and Extensions.

Work means all of the construction and services necessary for or incidental to completing the requirements of a Work Order in conformance with the requirements of the Contract Documents.

Work Order means a written directive issued by the DV GHAD to the Contractor, which specifies a scope of Work to be performed by the Contractor, and specifies the time for completion of that Work.

Work Day or Working Day, whether or not capitalized, means a weekday when the DV GHAD is open for business, and does not include holidays observed by the DV GHAD.

Worksites means the place or places where the Work is performed, which includes, but may extend beyond the Project Site, including separate locations for staging, storage, or fabrication.
2.1 **DV GHAD.**

(A) **Board.** The DV GHAD Board has final authority in all matters affecting the Project, except to the extent it has delegated authority to the Engineer.

(B) **Engineer.** The Engineer, acting within the authority conferred by the DV GHAD Council, is responsible for administration of the Project on behalf of the DV GHAD, including authority to provide directions to the Design Professional and to Contractor to ensure proper and timely completion of each Work Order. The Engineer’s decisions are final and conclusive within the scope of his or her authority, including interpretation of the Contract Documents.

(C) **Project Manager.** The Project Manager assigned to the Project will be the primary point of contact for the Contractor and will serve as the DV GHAD’s representative for administration of each Work Order on behalf of the DV GHAD. Unless otherwise specified, all of Contractor’s communications to the DV GHAD (in any form) will go to or through the Project Manager. The DV GHAD reserves the right to reassign the Project Manager role at any time or to delegate duties to additional DV GHAD representatives, without prior notice to or consent of Contractor.

(D) **Design Professional.** The Design Professional is responsible for the overall design for each Work Order and, to the extent authorized by the DV GHAD, may act on the DV GHAD’s behalf to ensure performance of the Work in compliance with the Plans and Specifications, including any design changes authorized by Change Order. The Design Professional’s duties may include review of Contractor’s submittals, visits to any Worksite, inspecting the Work, evaluating test and inspection results, and participation in Project-related meetings, including any pre-construction conference, weekly meetings, and coordination meetings. The Design Professional’s interpretation of the Plans or Specifications is final and conclusive.

2.2 **Contractor.**

(A) **General.** Contractor must provide all labor, materials, supplies, equipment, services, and incidentals necessary to perform and timely complete the Work in strict accordance with the Contract Documents, and in an economical and efficient manner in the best interests of the DV GHAD, and with minimal inconvenience to the public.

(B) **Responsibility for the Work and Risk of Loss.** Contractor is responsible for supervising and directing all aspects of the Work to facilitate the efficient and timely completion of the Work. Contractor is solely responsible for and required to exercise full control over the Work, including the construction means, methods, techniques, sequences, procedures, safety precautions and programs, and coordination of all portions of the Work with that of all other contractors and Subcontractors, except to the extent that the Contract Documents provide other specific instructions. Contractor’s responsibilities extend to any plan, method or sequence suggested, but not required by the DV GHAD or specified in the Contract Documents. Throughout the Term and any Extension Term, Contractor bears all risks of injury or damage to the Work and the materials and equipment delivered to any Worksite, by any cause including fire, earthquake, wind, weather, vandalism or theft.

(C) **Project Administration.** Contractor must provide sufficient and competent administration, staff, and skilled workforce necessary to perform and timely complete the Work in accordance with the Contract Documents. Before starting the Work, Contractor must designate in writing and provide complete contact information, including telephone numbers and email address, for the officer or employee in Contractor’s organization who
is to serve as Contractor’s primary representative for the Project, and who has authority to act on Contractor’s behalf. A Subcontractor may not serve as Contractor’s primary representative.

(D) **On-Site Superintendent.** Contractor must, at all times during performance of the Work, provide a qualified and competent full-time superintendent acceptable to the DV GHAD, and assistants as necessary, who must be physically present at the Project Site while any aspect of the Work is being performed. The superintendent must have full authority to act and communicate on behalf of Contractor, and Contractor will be bound by the superintendent’s communications to the DV GHAD. The DV GHAD’s approval of the superintendent is required before the Work commences. If the DV GHAD is not satisfied with the superintendent’s performance, the DV GHAD may request a qualified replacement of the superintendent. Failure to comply may result in temporary suspension of the Work, at Contractor’s sole expense and with no extension of Contract Time, until an approved superintendent is physically present to supervise the Work. Contractor must provide written notice to the DV GHAD, as soon as practicable, before replacing the superintendent.

(E) **Standards.** Contractor must, at all times, ensure that the Work is performed in an efficient, skillful manner following best practices and in full compliance with the Contract Documents and Laws and applicable manufacturer’s recommendations. Contractor has a material and ongoing obligation to provide true and complete information, to the best of its knowledge, with respect to all records, documents, or communications pertaining to each Work Order, including oral or written reports, statements, certifications, Change Order requests, or Claims.

(F) **Meetings.** Contractor, its project manager, superintendent and any primary Subcontractors requested by the DV GHAD, must attend a pre-construction conference, if requested by the DV GHAD, as well as weekly Project progress meetings scheduled with the DV GHAD. If applicable, Contractor may also be required to participate in coordination meetings with other parties relating to other work being performed on or near a Project Site or in relation to the Work, including work or activities performed by the DV GHAD, other contractors, or other utility owners.

(G) **Construction Records.** Contractor will maintain up-to-date, thorough, legible, and dated daily job reports, which document all significant activity on each Work Order for each day that Work is performed for the Work Order. The daily report for each day must include the number of workers at the Project Site; primary Work activities; major deliveries; problems encountered, including injuries, if any; weather and site conditions; and delays, if any. Contractor will take date and time-stamped photographs to document general progress of each Work Order, including site conditions prior to construction activities, before and after photographs at offset trench laterals, existing improvements and utilities, damage and restoration. Contractor will maintain copies of all subcontracts, Project-related correspondence with subcontractors, and records of meetings with Subcontractors. Upon request by the DV GHAD, Contractor will permit review of and/or provide copies of any of these construction records.

(H) **Responsible Party.** Contractor is solely responsible to the DV GHAD for the acts or omissions of any Subcontractors, or any other party or parties performing portions of the Work or providing equipment, materials or services for or on behalf of Contractor or the Subcontractors. Upon the DV GHAD’s written request, Contractor must promptly and permanently remove from the Work Order, at no cost to the DV GHAD, any employee or Subcontractor or employee of a Subcontractor who the Engineer has determined to be incompetent, intemperate or disorderly, or who has failed or refused to perform the Work as required under the Contract Documents.
(I) **Correction of Defects.** Contractor must promptly correct, at Contractor’s sole expense, any Work that is determined by the DV GHAD to be deficient or defective in any way, including workmanship, materials, parts or equipment. Workmanship, materials, parts or equipment that do not conform to the requirements under the Plans, Specifications and every other Contract Document, as determined by the DV GHAD, will be considered defective and subject to rejection. Contractor must also promptly correct, at Contractor’s sole expense, any Work performed beyond the lines and grades shown on the Plans or established by the DV GHAD, and any Extra Work performed without the DV GHAD’s prior written approval. If Contractor fails to correct or to take reasonable steps toward correcting defective Work within five days following notice from the DV GHAD, or within the time specified in the DV GHAD’s notice to correct, the DV GHAD may elect to have the defective Work corrected by its own forces or by a third party, in which case the cost of correction will be deducted from the Contract Price. If the DV GHAD elects to correct defective Work due to Contractor’s failure or refusal to do so, the DV GHAD or its agents will have the right to take possession of and use any equipment, supplies, or materials available at the Project Site or any Worksite on the DV GHAD property, in order to effectuate the correction, at no extra cost to the DV GHAD. Contractor’s warranty obligations under Section 11.2, Warranty, will not be waived nor limited by the DV GHAD’s actions to correct defective Work under these circumstances. Alternatively, the DV GHAD may elect to retain defective Work, and deduct the difference in value, as determined by the Engineer, from payments otherwise due to Contractor. This paragraph applies to any defective Work performed by Contractor during the one-year warranty period under Section 11.2.

(J) **Contractor’s Records.** Contractor must maintain all of its records relating to the Work in any form, including paper documents, photos, videos, electronic records, approved samples, and the construction records required pursuant to paragraph (G), above. Records subject to this provision include complete Project cost records and records relating to preparation of Contractor’s Proposal, including estimates, take-offs, and price quotes or bids.

(1) Contractor’s cost records must include all supporting documentation, including original receipts, invoices, and payroll records, evidencing its direct costs to perform the Work, including, but not limited to, costs for labor, materials and equipment. Each cost record should include, at a minimum, a description of the expenditure with references to the applicable requirements of the Contract Documents, the amount actually paid, the date of payment, and whether the expenditure is part of the original Contract Price, related to an executed Change Order, or otherwise categorized by Contractor as Extra Work. Contractor’s failure to comply with this provision as to any claimed cost operates as a waiver of any rights to recover the claimed cost.

(2) Contractor must continue to maintain its Project-related records in an organized manner for a period of five years after expiration of the Term, or any Extension Term. Subject to prior notice to Contractor, the DV GHAD is entitled to inspect or audit any of Contractor’s Project records relating to the Project or to investigate Contractor’s plant or equipment during Contractor’s normal business hours. The record-keeping requirements set forth in this subsection 2.2(J) will survive expiration or termination of the Contract.

(K) **Copies of Project Documents.** Contractor and its Subcontractors must keep copies, at the Project Site, of all Work-related documents, including the Contract, permit(s), Plans, Specifications, Addenda, Contract amendments, Change Orders, RFIs and RFI responses, Shop Drawings, as-built drawings, schedules, daily records, testing and inspection reports or results, and any related written interpretations. These documents must be available to the DV GHAD for reference at all times during the Term or Extension Term.
2.3 Subcontractors.

(A) **General.** All Work which is not performed by Contractor with its own forces must be performed by Subcontractors. The DV GHAD reserves the right to approve or reject any and all Subcontractors proposed to perform the Work, for reasons including the Subcontractor’s poor reputation, lack of relevant experience, financial instability, and lack of technical ability or adequate trained workforce. Each Subcontractor must obtain a City business license before performing any Work.

(B) **Contractual Obligations.** Contractor must require each Subcontractor to comply with the provisions of the Contract Documents as they apply to the Subcontractor’s portion(s) of the Work, including the generally applicable terms of the Contract Documents, and to likewise bind their subcontractors. Contractor will provide that the rights that each Subcontractor may have against any manufacturer or supplier for breach of warranty or guarantee relating to items provided by the Subcontractor for the Project, will be assigned to the DV GHAD. Nothing in these Contract Documents creates a contractual relationship between a Subcontractor and the DV GHAD, but the DV GHAD is deemed to be a third-party beneficiary of the contract between Contractor and each Subcontractor.

(C) **Termination.** If the Contract is terminated, each Subcontractor’s agreement must be assigned by Contractor to the DV GHAD, subject to the prior rights of any surety, but only if and to the extent that the DV GHAD accepts, in writing, the assignment by written notification, and assumes all rights and obligations of Contractor pursuant to each such subcontract agreement.

(D) **Substitution of Subcontractor.** If Contractor requests substitution of a listed Subcontractor under Public Contract Code § 4107, Contractor is solely responsible for all costs the DV GHAD incurs in responding to the request, including legal fees and costs to conduct a hearing, and any increased subcontract cost to perform the Work that was to be performed by the listed Subcontractor.

2.4 Coordination of Work.

(A) **Concurrent Work.** The DV GHAD reserves the right to perform, have performed, or permit performance of other work on or adjacent to the Project Site while the Work is being performed for the Project. Contractor is responsible for coordinating its Work with other work being performed on or adjacent to the Project Site, including by any utility companies or agencies, and must avoid hindering, delaying, or interfering with the work of other contractors, individuals, or entities, and must ensure safe and reasonable site access and use as required or authorized by the DV GHAD. To the full extent permitted by law, Contractor must hold harmless and indemnify the DV GHAD against any and all claims arising from or related to Contractor's avoidable, negligent, or willful hindrance of, delay to, or interference with the work of any utility company or agency or another contractor or subcontractor.

(B) **Coordination.** If Contractor’s Work will connect or interface with work performed by others, Contractor is responsible for independently measuring and visually inspecting such work to ensure a correct connection and interface. Contractor is responsible for any failure by Contractor or its Subcontractors to confirm measurements before proceeding with connecting Work. Before proceeding with any portion of the Work affected by the construction or operations of others, Contractor must give the Project Manager prompt written notification of any defects Contractor discovers which will prevent the proper execution of the Work. Failure to give notice of any known or reasonably discoverable defects will be deemed acknowledgement by Contractor that the work of others is not defective and will not prevent the proper execution of the Work. Contractor must also
promptly notify the DV GHAD if work performed by others, including work or activities performed by the DV GHAD's own forces, is operating to hinder, delay, or interfere with Contractor's timely performance of the Work. The DV GHAD reserves the right to backcharge Contractor for any additional costs incurred due to Contractor's failure to comply with the requirements in this Section 2.4.

2.5 Submittals. Unless otherwise specified, Contractor must submit to the Engineer for review and acceptance, all schedules, Shop Drawings, samples, product data, and similar submittals required for each Work Order, as further specified in the Contract Documents, or upon request by the Engineer. Unless otherwise specified, all submittals, including Requests for Information, are subject to the general provisions of this Section, as well as specific submittal requirements that may be included elsewhere in the Contract Documents, including the Special Conditions or Specifications. The Engineer may require submission of a submittal schedule at or before a pre-construction conference, as may be specified in the Notice to Proceed.

(A) **General.** Contractor is responsible for ensuring that its submittals are accurate and conform to the Contract Documents.

(B) **Time and Manner of Submission.** Contractor must ensure that its submittals are prepared and delivered in a manner consistent with the current DV GHAD-accepted schedule for the Work and within the applicable time specified in the Contract Documents, or if no time is specified, in such time and sequence so as not to delay the performance of the Work or completion of the Work Order.

(C) **Required Contents.** Each submittal must include the Project name and Work Order number, Contractor's name and address, the name and address of any Subcontractor or supplier involved with the submittal, the date, and references to applicable Specification section(s) and/or drawing and detail number(s).

(D) **Required Corrections.** If corrections are required, Contractor must promptly make and submit any required corrections as specified in full conformance with the requirements of this Section, or other requirements that apply to that submittal.

(E) **Effect of Review and Acceptance.** Review and acceptance of a submittal by the DV GHAD will not relieve Contractor from complying with the requirements of the Contract Documents. Contractor is responsible for any errors in any submittal, and review or acceptance of a submittal by the DV GHAD is not an assumption of risk or liability by the DV GHAD.

(F) ** Enforcement.** Any Work performed or any material furnished, installed, fabricated or used without the DV GHAD's prior acceptance of a required submittal is performed or provided at Contractor's risk, and Contractor may be required to bear the costs incident thereto, including the cost of removing and replacing such Work, repairs to other affected portions of the Work or material, and the cost of additional time or services required of the DV GHAD, including costs for the Design Professional, Project Manager, or Inspector.

(G) **Excessive RFIs.** A RFI will be considered excessive or unnecessary if the DV GHAD determines that the explanation or response to the RFI is clearly and unambiguously discernable from the Contract Documents. The DV GHAD's costs to review and respond to excessive or unnecessary RFIs may be deducted from payments otherwise due to Contractor.

2.6 Shop Drawings. When Shop Drawings are required by the Specifications or requested by the Engineer, they must be prepared according to best practices at Contractor's expense. The Shop Drawings must be of a size and scale to clearly show all necessary
details. Unless otherwise specified in the Work Order, Shop Drawings must be provided to
the Engineer for review and acceptance at least ten days before the Work will be
performed. If the DV GHAD requires changes, the corrected Shop Drawings must be
resubmitted to the Engineer for review within the time specified by the Engineer. For all
Project components requiring Shop Drawings, Contractor will not furnish materials or
perform any Work until the Shop Drawings for those components are accepted by the DV
GHAD. Contractor is responsible for any errors or omissions in the Shop Drawings, shop
fits and field corrections; any deviations from the Contract Documents; and for the results
obtained by the use of Shop Drawings. Acceptance of Shop Drawings by the DV GHAD
does not relieve Contractor of Contractor’s responsibility.

2.7 Access to Work. Contractor must afford prompt and safe access to any Worksite by the
DV GHAD and its employees, agents, or consultants authorized by the DV GHAD; and
upon request by the DV GHAD, Contractor must promptly arrange for the DV GHAD
representatives to visit or inspect manufacturing sites or fabrication facilities for items to be
incorporated into the Work.

2.8 Personnel. Contractor and its Subcontractors must employ only competent and skillful
personnel to perform the Work. Contractor and its Subcontractor’s supervisors, security or
safety personnel, and employees who have unescorted access to the Project Site must
possess proficiency in English sufficient to read, understand, receive, and implement oral
or written communications or instructions relating to their respective job functions, including
safety and security requirements. Upon written notification from the Engineer, Contractor
and its Subcontractors must immediately discharge any personnel who are incompetent,
 disorderly, disruptive, threatening, abusive, or profane, or otherwise refuse or fail to comply
with the requirements of the Contract Documents or Laws, including Laws pertaining to
health and safety. Any such discharged personnel, may not be re-employed or permitted
on any Project Site in any capacity without the DV GHAD’s prior written consent.

Article 3 - Contract Documents

3.1 Interpretation of Contract Documents.

(A) Plans and Specifications. The Plans and Specifications included in the Contract
Documents are complementary. If Work is shown on one but not on the other, Contractor
must perform the Work as though fully described on both, consistent with the Contract
Documents and reasonably inferable from them as being necessary to produce the
indicated results. The Plans and Specifications are deemed to include and require
everything necessary and reasonably incidental to completion of the Work, whether or not
particularly mentioned or shown. Contractor must perform all Work and services and supply
all things reasonably related to and inferable from the Contract Documents. In the event of
a conflict between the Plans and Specifications, the Specifications will control, unless the
drawing(s) at issue are dated later than the Specification(s) at issue. Detailed drawings
take precedence over general drawings, and large-scale drawings take precedence over
smaller scale drawings. Any arrangement or division of the Plans and Specifications into
sections is for convenience and is not intended to limit the Work required by separate
trades. A conclusion presented in the Plans or Specifications is only a recommendation.
Actual locations and depths must be determined by Contractor’s field investigation.
Contractor may request access to underlying or background information in the DV GHAD’s
possession that is necessary for Contractor to form its own conclusions.

(B) Duty to Notify and Seek Direction. If Contractor becomes aware of a changed
condition in the Work, or of any ambiguity, conflict, inconsistency, discrepancy, omission,
or error in the Contract Documents, including the Plans or Specifications, Contractor must
promptly submit a Request for Information to the Engineer and wait for a response from
the DV GHAD before proceeding further with the related Work. The RFI must notify the DV GHAD of the issue and request clarification, interpretation or direction. The Engineer’s clarification, interpretation or direction will be final and binding on Contractor. If Contractor proceeds with the related Work before obtaining the DV GHAD’s response, Contractor will be responsible for any resulting costs, including the cost of correcting any incorrect or defective Work that results. Timely submission of a clear and complete RFI is essential to avoiding delay. Delay resulting from Contractor’s failure to submit a timely and complete RFI to the Engineer is Non-Excusable Delay. If Contractor believes that the DV GHAD’s response to an RFI justifies a change to the Contract Price or Contract Time, Contractor must perform the Work as directed, but may submit a timely Change Order request in accordance with the Contract Documents. (See Article 5 and 6.)

(C) **Figures and Dimensions.** Figures control over scaled dimensions.

(D) **Technical or Trade Terms.** Any terms that have well-known technical or trade meanings will be interpreted in accordance with those meanings, unless otherwise specifically defined in the Contract Documents.

(E) **Measurements.** Contractor must verify all relevant measurements in the Contract Documents and at the Project Site before ordering any material or performing any Work, and will be responsible for the correctness of those measurements or for costs that could have been avoided by independently verifying measurements.

(F) **Compliance with Laws.** The Contract Documents are intended to comply with Laws and will be interpreted to comply with Laws.

3.2 **Order of Precedence.** Information included in one Contract Document but not in another will not be considered a conflict or inconsistency. Unless otherwise specified in the Special Conditions, in case of any conflict or inconsistency among the Contract Documents, the following order of precedence will apply, beginning from highest to lowest, with the most recent version taking precedent over an earlier version:

(A) Change Orders;
(B) Addenda;
(C) Contract;
(D) Work Order(s);
(E) Notice of Intent to Recommend Award
(F) Notice(s) to Proceed (if used);
(G) Technical Specifications;
(H) Special Conditions;
(I) General Conditions;
(J) Payment, Performance and Warranty Bonds;
(K) Appendix A – City of San Ramon Standard Details;
(L) Proposal;
(M) Any documents prepared by and on behalf of a third party, that were not prepared specifically for this Project, such as the Caltrans Standard Specifications or Caltrans Special Provisions.

3.3 **Caltrans Standard Specifications.** Any reference to or incorporation of the Standard Specifications of the State of California, Department of Transportation ("Caltrans"), including “Standard Specifications,” “Caltrans Specifications,” “State Specifications,” or “CSS,” means the most current edition of Caltrans’ Standard Specifications, unless otherwise specified (“Caltrans Standard Specifications”), including the most current amendments as of the date that Contractor’s Proposal was submitted for this Project. The following provisions apply to use of or reference to the Caltrans Standard Specifications or Special Provisions:
(A) **Limitations.** The “General Provisions” of the Caltrans Standard Specifications, i.e., sections 1 through 9, do not apply to these Contract Documents with the exception of any specific provisions, if any, which are expressly stated to apply to these Contract Documents.

(B) **Conflicts or Inconsistencies.** If there is a conflict or inconsistency between any provision in the Caltrans Standard Specifications or Special Provisions and a provision of these Contract Documents, as determined by the DV GHAD, the provision in the Contract Documents will govern.

(C) **Meanings.** Terms used in the Caltrans Standard Specifications or Special Provisions are to be interpreted as follows:

1. Any reference to the “Engineer” is deemed to mean the District Engineer.
2. Any reference to the “Special Provisions” is deemed to mean the Special Provisions, unless the Caltrans Special Provisions are expressly included in the Contract Documents listed in Section 2 of the Contract.
3. Any reference to the “Department” or “State” is deemed to mean City or the DV GHAD.

3.4 **For Reference Only.** Contractor is responsible for the careful review of any document, study, or report provided by the DV GHAD or appended to the Contract Documents solely for informational purposes and identified as “For Reference Only.” Nothing in any document, study, or report so appended and identified is intended to supplement, alter, or void any provision of the Contract Documents. Contractor is advised that the DV GHAD or its representatives may be guided by information or recommendations included in such reference documents, particularly when making determinations as to the acceptability of proposed materials, methods, or changes in the Work. Any record drawings or similar final or accepted drawings or maps that are not part of the Contract Documents are deemed to be For Reference Only. The provisions of the Contract Documents are not modified by any perceived or actual conflict with provisions in any document that is provided For Reference Only.

3.5 **Current Versions.** Unless otherwise specified by the DV GHAD, any reference to standard specifications, technical specifications, or any City or state codes or regulations means the latest specification, code or regulation in effect at the time the Contract is signed.

3.6 **Conformed Copies.** If the DV GHAD prepares a conformed set of the Contract Documents following award of the Contract, it will provide Contractor with two hard copy (paper) sets and one copy of the electronic file in PDF format. It is Contractor's responsibility to ensure that all Subcontractors, including fabricators, are provided with the conformed set of the Contract Documents at Contractor's sole expense.

3.7 **Ownership.** No portion of the Contract Documents may be used for any purpose other than completion of the Work, as required under the Project, without prior written consent from the DV GHAD. Contractor is deemed to have conveyed the copyright in any designs, drawings, specifications, Shop Drawings, or other documents (in paper or electronic form) developed by Contractor for the Work, and the DV GHAD will retain all rights to such works, including the right to possession.
Article 4 - Bonds, Indemnity, and Insurance

4.1 Payment and Performance Bonds. Within ten days following issuance of the Notice of Intent to Recommend Award, Contractor is required to provide a payment bond and a performance bond, each in the penal sum of not less than 100% of the Contract Price, and each executed by Contractor and its surety using the bond forms included with the Contract Documents.

(A) Surety. Each bond must be issued and executed by a surety admitted in California. If an issuing surety cancels the bond or becomes insolvent, within seven days following written notice from the DV GHAD, Contractor must substitute a surety acceptable to the DV GHAD. If Contractor fails to substitute an acceptable surety within the specified time, the DV GHAD may, at its sole discretion, withhold payment from Contractor until the surety is replaced to the DV GHAD’s satisfaction, or terminate the Contract for default.

(B) Supplemental Bonds for Increase in Contract Price. If the Contract Price increases during construction by five percent or more over the original Contract Price, Contractor must provide supplemental or replacement bonds within ten days of written notice from the DV GHAD pursuant to this Section, covering 100% of the increased Contract Price and using the bond forms included with the Contract Documents.

4.2 Indemnity. To the fullest extent permitted by law, Contractor must indemnify, defend, and hold harmless the DV GHAD, its Council, officers, officials, employees, agents, volunteers, and consultants (individually, an “Indemnitee,” and collectively the “Indemnitees”) from and against any and all liability, loss, damage, claims, causes of action, demands, charges, fines, costs, and expenses (including, without limitation, attorney fees, expert witness fees, paralegal fees, and fees and costs of litigation or arbitration) (collectively, “Liability”) of every nature arising out of or in connection with the acts or omissions of Contractor, its employees, Subcontractors, representatives, or agents, in performing the Work or in failing to comply with any obligation of Contractor under the Contract, except such Liability caused by the active negligence, sole negligence, or willful misconduct of an Indemnitee. This indemnity requirement applies to any Liability arising from alleged defects in the content or manner of submission of Contractor’s Proposal for the Contract. Contractor’s failure or refusal to timely accept a tender of defense pursuant to this Contract will be deemed a material breach of the Contract. The DV GHAD will timely notify Contractor upon receipt of any third-party claim relating to the Contract, as required by Public Contract Code § 9201. Contractor waives any right to express or implied indemnity against any Indemnitee. Contractor’s indemnity obligations under this Contract will survive the expiration or any early termination of the Contract.

4.3 Insurance. No later than ten days following issuance of the Notice of Intent to Recommend Award, Contractor must procure and provide proof of the insurance coverage required by this Section in the form of certificates and endorsements acceptable to the DV GHAD. The required insurance must cover the activities of Contractor and its Subcontractors relating to or arising from the performance of the Work, and must remain in full force and effect at all times during the Term and any Extension Term. All required insurance must be issued by a company licensed to do business in the State of California, and each such insurer must have an A.M. Best's financial strength rating of “A” or better and a financial size rating of “VIII” or better. If Contractor fails to provide any of the required coverage in full compliance with the requirements of the Contract Documents, the DV GHAD may, at its sole discretion, purchase such coverage at Contractor’s expense and deduct the cost from payments due to Contractor, or terminate the Contract for default. The procurement of the required insurance will not be construed to limit Contractor’s liability under this Contract or to fulfill Contractor’s indemnification obligations under this Contract.
(A) **Policies and Limits.** The following insurance policies and limits are required for this Contract, unless otherwise specified in the Special Conditions:

1. **Commercial General Liability ("CGL") Insurance:** The CGL insurance policy must be issued on an occurrence basis, written on a comprehensive general liability form, and must include coverage for liability arising from Contractor’s or its Subcontractor’s acts or omissions in the performance of the Work, including contractor’s protected coverage, contractual liability, products and completed operations, and broad form property damage, with limits of at least $2,000,000 per occurrence and at least $5,000,000 general aggregate. The CGL insurance coverage may be arranged under a single policy for the full limits required or by a combination of underlying policies with the balance provided by excess or umbrella policies, provided each such policy complies with the requirements set forth in this Section, including required endorsements.

2. **Automobile Liability Insurance:** The automobile liability insurance policy must provide coverage of at least $2,000,000 combined single-limit per accident for bodily injury, death, or property damage, including hired and non-owned auto liability.

3. **Workers’ Compensation Insurance and Employer’s Liability:** The workers’ compensation and employer’s liability insurance policy must comply with the requirements of the California Labor Code, providing coverage of at least $1,000,000 or as otherwise required by the statute. If Contractor is self-insured, Contractor must provide its Certificate of Permission to Self-Insure, duly authorized by the DIR.

4. **Pollution Liability Insurance:** The pollution liability insurance policy must be issued on an occurrence basis, providing coverage of at least $2,000,000 for all loss arising out of claims for bodily injury, death, property damage, or environmental damage caused by pollution conditions resulting from the Work.

5. **Builder’s Risk Insurance:** The builder’s risk insurance policy must be issued on an occurrence basis, for all-risk or “all perils” coverage on a 100% completed value basis on the insurable portion of the Project for the benefit of the DV GHAD.

(B) **Notice.** Each certificate of insurance must state that the coverage afforded by the policy or policies will not be reduced, cancelled or allowed to expire without at least 30 days written notice to the DV GHAD, unless due to non-payment of premiums, in which case ten days written notice must be made to the DV GHAD.

(C) **Waiver of Subrogation.** Each required policy must include an endorsement providing that the carrier will waive any right of subrogation it may have against the DV GHAD.

(D) **Required Endorsements.** The CGL policy, automobile liability policy, pollution liability policy, and builder’s risk policy must include the following specific endorsements:

1. The DV GHAD, including its Board, officials, officers, employees, agents, volunteers and consultants (collectively, “Additional Insured”) must be named as an additional insured for all liability arising out of the operations by or on behalf of the named insured, and the policy must protect the Additional Insured against any and all liability for personal injury, death or property damage or destruction arising directly or indirectly in the performance of the Contract. The additional insured endorsement must be provided using ISO form CG 20 10 11 85 or an equivalent form approved by the DV GHAD.
(2) The inclusion of more than one insured will not operate to impair the rights of one insured against another, and the coverages afforded will apply as though separate policies have been issued to each insured.

(3) The insurance provided by Contractor is primary and no insurance held or owned by any Additional Insured may be called upon to contribute to a loss.

(4) This policy does not exclude explosion, collapse, underground excavation hazard, or removal of lateral support.

(E) Contractor’s Responsibilities. This Section 4.3 establishes the minimum requirements for Contractor’s insurance coverage in relation to this Project, but is not intended to limit Contractor’s ability to procure additional or greater coverage. Contractor is responsible for its own risk assessment and needs and is encouraged to consult its insurance provider to determine what coverage it may wish to carry beyond the minimum requirements of this Section. Contractor is solely responsible for the cost of its insurance coverage, including premium payments, deductibles, or self-insured retentions, and no Additional Insured will be responsible or liable for any of the cost of Contractor’s insurance coverage.

(F) Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions that apply to the required insurance (collectively, “deductibles”) in excess of $100,000 are subject to approval by the DV GHAD’s Risk Manager, acting in his or her sole discretion, and must be declared by Contractor when it submits its certificates of insurance and endorsements pursuant to this Section 4.3. If the DV GHAD’s Risk Manager determines that the deductibles are unacceptably high, at DV GHAD’s option, Contractor must either reduce or eliminate the deductibles as they apply to the DV GHAD and all required Additional Insured; or must provide a financial guarantee, to the DV GHAD’s satisfaction, guaranteeing payment of losses and related investigation, claim administration, and legal expenses.

(G) Subcontractors. Contractor must ensure that each Subcontractor is required to maintain the same insurance coverage required under this Section 4.3, with respect to its performance of Work on the Project, including those requirements related to the Additional Insureds and waiver of subrogation, but excluding pollution liability or builder’s risk insurance unless otherwise specified in the Special Conditions. A Subcontractor may be eligible for reduced insurance coverage or limits, but only to the extent approved in writing in advance by the DV GHAD’s Risk Manager. Contractor must confirm that each Subcontractor has complied with these insurance requirements before the Subcontractor is permitted to begin Work on the Project. Upon request by the DV GHAD, Contractor must provide certificates and endorsements submitted by each Subcontractor to prove compliance with this requirement. The insurance requirements for Subcontractors do not replace or limit the Contractor’s insurance obligations.

4.4 Warranty Bond. As a condition precedent to Final Completion, Contractor must submit a warranty bond, using the form included with the Contract Documents, to guarantee its Work as specified in Article 11, Completion and Warranty Procedures. The warranty bond must be issued by a surety admitted in California for 15% of the final Contract Price or as otherwise specified in the Contract Documents. If an issuing surety cancels the bond or becomes insolvent, within seven days following written notice from the DV GHAD, Contractor must substitute a surety acceptable to the DV GHAD.
Article 6 - Contract Modification

6.1 Contract Modification. Subject to the limited exception set forth in subsection (D) below, any change in the Work or the Contract Documents, including Contract Time, will not be a valid and binding change to the Contract unless it is formalized in a Change Order, including a “no-cost” Change Order or a unilateral Change Order. Changes in the Work pursuant to this Article 6 will not operate to release, limit, or abridge Contractor’s warranty obligations pursuant to Article 11 or any obligations of Contractor’s bond sureties.

(A) **DV GHAD-Directed Changes.** The DV GHAD may direct changes in the scope or sequence of Work or the requirements of the Contract Documents, without invalidating the Contract. Such changes may include Extra Work as set forth in subsection (C) below, or deletion or modification of portions of the Work. Contractor must promptly comply with the DV GHAD-directed changes in the Work in accordance with the original Contract Documents, even if Contractor and the DV GHAD have not yet reached agreement as to adjustments to payment or Contract Time for the change in the Work or for the Extra Work. Contractor is not entitled to extra compensation for cost savings resulting from “value engineering” pursuant to Public Contract Code § 7101, except to the extent authorized in advance by the DV GHAD in writing, and subject to any applicable procedural requirements for submitting a proposal for value engineering cost savings.

(B) **Disputes.** In the event of a dispute over entitlement to or the amount of a change in Contract Time or a change in compensation related to a DV GHAD-directed change in the Work, Contractor must perform the Work as directed and may not delay its Work or cease Work pending resolution of the dispute, but must continue to comply with its duty to diligently prosecute the performance and timely completion of the Work, including the Work in dispute. Likewise, in the event that the DV GHAD and Contractor dispute whether a portion or portions of the Work are already required by the Contract Documents or constitute Extra Work, or otherwise dispute the interpretation of any portion(s) of the Contract Documents, Contractor must perform the Work as directed and may not delay its Work or cease Work pending resolution of the dispute, but must continue to comply with its duty to diligently prosecute the performance and timely completion of the Work, including the Work in dispute, as directed by the DV GHAD. If Contractor refuses to perform the Work in dispute, the DV GHAD may, acting in its sole discretion, elect to delete the Work from the Contract and reduce the Contract Price accordingly, and self-perform the Work or direct that the Work be performed by others. Alternatively, the DV GHAD may elect to terminate the Contract for convenience or for cause. Contractor’s sole recourse for an unresolved dispute related to changes in the Work or performance of any Extra Work is to comply with the dispute resolution provisions set forth in Article 12, below.

(C) **Extra Work.** The DV GHAD may direct Contractor to perform Extra Work related to the Project. Contractor must promptly perform any Extra Work as directed or authorized by the DV GHAD in accordance with the original Contract Documents, even if Contractor and the DV GHAD have not yet reached agreement on adjustments to compensation or Contract Time for such Extra Work. Contractor must maintain detailed daily records that itemize the cost of each element of Extra Work, and sufficiently distinguish the direct cost of the Extra Work from the cost of other Work performed. For each day that Contractor performs Extra Work, or Work that Contractor contends is Extra Work, Contractor must submit no later than the following Working Day, a daily report of the Extra Work performed that day and the related costs, together with copies of certified payroll, invoices, and other documentation substantiating the costs (“Extra Work Report”). The Engineer will make any adjustments to Contractor’s Extra Work Report(s) based on the Engineer’s records of the Work. When an Extra Work Report(s) is agreed on and signed by both the DV GHAD and
Contractor, the Extra Work Report(s) will become the basis for payment under a duly authorized and signed Change Order. Failure to submit the required documentation by close of business on the next Working Day is deemed a full and complete waiver for any change in the Contract Price or Contract Time for any Extra Work performed that day.

(D) **Minor Changes and RFIs.** Minor field changes, including RFI replies from the DV GHAD, that do not affect the Contract Price or Contract Time and that are approved by the Engineer acting within his or her scope of authority, do not require a Change Order. By executing an RFI reply from the DV GHAD, Contractor agrees that it will perform the Work as clarified therein, with no change to the Contract Price or Contract Time.

(E) **Remedy for Non-Compliance.** Contractor’s failure to promptly comply with a DV GHAD-directed change is deemed a material breach of the Contract, and in addition to all other remedies available to it, the DV GHAD may, at its sole discretion, hire another contractor or use its own forces to complete the disputed Work at Contractor’s sole expense, and may deduct the cost from the Contract Price.

6.2 **Contractor Change Order Requests.** Contractor must submit a request or proposal for a change in the Work, compensation for Extra Work, or a change in the Contract Price or Contract Time as a written Change Order request or proposal.

(A) **Time for Submission.** Any request for a change in the Contract Price or the Contract Time must be submitted in writing to the Engineer within ten calendar days of the date that Contractor first encounters the circumstances, information or conditions giving rise to the Change Order request, even if the total amount of the requested change in the Contract Price or impact on the Contract Time is not yet known at that time. If the DV GHAD requests that Contractor propose the terms of a Change Order, unless otherwise specified in the DV GHAD’s request, Contractor must provide the Engineer with a written proposal for the change in the Contract Price or Contract Time within five working days of receiving the DV GHAD’s request, in a form satisfactory to the Engineer.

(B) **Required Contents.** Any Change Order request or proposal submitted by Contractor must include a complete breakdown of actual or estimated costs and credits, and must itemize labor, materials, equipment, taxes, insurance, subcontract amounts, and, if applicable, Extra Work Reports. Any estimated cost must be updated in writing as soon as the actual amount is known.

(C) **Required Documentation.** All claimed costs must be fully documented, and any related request for an extension of time or delay-related costs must be included at that time and in compliance with the requirements of Article 5 of the General Conditions. Upon request, Contractor must permit the DV GHAD to inspect its records, subcontract agreements, subcontract change orders, purchase orders, invoices, or receipts associated with the claimed costs.

(D) **Required Form.** Contractor must use the DV GHAD’s form(s) for submitting all Change Order requests or proposals, unless otherwise specified by the DV GHAD.

(E) **Certification.** All Change Order requests must be signed by Contractor and must include the following certification:

"The undersigned Contractor certifies under penalty of perjury that its statements and representations in this Change Order request are true and correct. Contractor warrants that this Change Order request is comprehensive and complete as to the Work or changes referenced herein, and agrees that any known or foreseeable costs, expenses, or time extension requests not included herein, are deemed waived."

"The undersigned Contractor certifies under penalty of perjury that its statements and representations in this Change Order request are true and correct. Contractor warrants that this Change Order request is comprehensive and complete as to the Work or changes referenced herein, and agrees that any known or foreseeable costs, expenses, or time extension requests not included herein, are deemed waived."
6.3 **Adjustments to Contract Price.** The amount of any increase or decrease in the Contract Price will be determined based on one of the following methods listed below, in the order listed with unit pricing taking precedence over the other methods. Markup applies only to DV GHAD-authorized time and material Work, and does not apply to any other payments to Contractor.

(A) **Unit Pricing.** Amounts previously provided by Contractor in the form of unit prices, either in a Price Schedule or in a post-award schedule of values pursuant to Section 8.1, Schedule of Values, will apply to determine the price for the affected Work, to the extent applicable unit prices have been provided for that type of Work. No additional markup for overhead, profit, or other indirect costs will be added to the calculation.

(B) **Lump Sum.** A mutually agreed upon lump sum for the affected Work with no additional markup for overhead, profit, or other indirect costs.

(C) **Time and Materials.** On a time and materials basis, if and only to the extent compensation on a time and materials basis is expressly authorized by the DV GHAD in advance of Contractor’s performance of the Work and subject to any not-to-exceed limit. Time and materials compensation for increased costs or Extra Work (but not decreased costs or deleted Work), will include allowed markup for overhead, profit, and other indirect costs, and which may include a not-to-exceed limit, calculated as the total of the following sums:

1. All direct labor costs provided by the Contractor, excluding superintendence, project management, or administrative costs, plus 15% markup;
2. All direct material costs provided by the Contractor, including sales tax, plus 15% markup;
3. All direct plant and equipment rental costs provided by the Contractor, plus 15% markup;
4. All direct additional subcontract costs plus 10% markup for Work performed by Subcontractors; and
5. Increased bond or insurance premium costs computed at 1.5% of total of the previous four sums.

6.4 **Unilateral Change Order.** If the parties dispute the terms of a proposed Change Order, including disputes over the amount of compensation or extension of time that Contractor has requested, the value of deleted or changed Work, what constitutes Extra Work, or quantities used, the DV GHAD may elect to issue a unilateral Change Order, directing performance of the Work, and authorizing a change in the Contract Price or Contract Time for the amount of compensation or added time that the DV GHAD believes is merited. Contractor’s sole recourse to dispute the terms of a unilateral Change Order is to submit a timely Claim pursuant to Article 12, below.

6.5 **Non-Compliance Deemed Waiver.** Contractor waives its entitlement to any increase in the Contract Price or Contract Time if Contractor fails to fully comply with the provisions of this Article. Contractor will not be paid for unauthorized Extra Work.
Article 7 - General Construction Provisions

7.1 Permits, Fees, Business License, and Taxes.

(A) **Permits, Fees, and City Business License.** Contractor must obtain and pay for all permits, fees, or licenses required to perform the Work, including a City business license. Contractor must cooperate with and provide notifications to all government agencies with jurisdiction over the Project, as may be required. Contractor must provide the DV GHAD with copies of all records of permits and permit applications, payment of required fees, and any licenses required for the Work.

(B) **Taxes.** Contractor must pay for all taxes on labor, material and equipment, except Federal Excise Tax to the extent that the DV GHAD is exempt from Federal Excise Tax.

7.2 Temporary Facilities. Contractor must provide, at Contractor’s sole expense, any and all temporary facilities for the Work, including an onsite staging area for materials and equipment, a field office, sanitary facilities, utilities, storage, scaffolds, barricades, walkways, and any other temporary structure required to safely perform the Work along with any incidental utility services. The location of all temporary facilities must be approved by the DV GHAD prior to installation. Temporary facilities must be safe and adequate for the intended use and installed and maintained in accordance with Laws and the Contract Documents. Contractor must fence and screen the Project Site and, if applicable, any separate Worksites, including the staging area, and its operation must minimize inconvenience to neighboring properties. Additional provisions pertaining to temporary facilities may be included in the Specifications or Special Conditions.

(A) **Utilities.** Contractor must install and maintain the power, water, sewer and all other utilities required for the Project Site, including the piping, wiring, internet and wifi connections, and any related equipment necessary to maintain the temporary facilities.

(B) **Removal and Repair.** Contractor must promptly remove all such temporary facilities when they are no longer needed or upon completion of the Work, whichever comes first. Contractor must promptly repair any damage to the DV GHAD’s property or to other property caused by the installation, use, or removal of the temporary facilities, and must promptly restore the property to its original or intended condition.

7.3 Noninterference and Site Management. Contractor must avoid interfering with the DV GHAD’s use of its property at or adjacent to the Project Site, including use of roadways, entrances, parking areas, walkways, and structures. Contractor must also minimize disruption of access to private property in the vicinity of the Work. Contractor must coordinate with affected property owners, tenants, and businesses, and maintain some vehicle and pedestrian access to their residences or properties at all times. Temporary access ramps, fencing or other measures must be provided as needed. Before blocking access to a private driveway or parking lot, Contractor must provide effective notice to the affected parties at least 48 hours in advance of the pending closure and allow them to remove vehicles. Private driveways, residences and parking lots must have access to a roadway during non-Work hours.

(A) **Offsite Acquisition.** Unless otherwise provided by the DV GHAD, Contractor must acquire, use and dispose of, at its sole expense, any additional Worksites, licenses, easements, and temporary facilities necessary to access and perform the Work.

(B) **Offsite Staging Area and Field Office.** If additional space beyond the Project Site is needed, such as for the staging area or the field office, Contractor may need to make arrangements with the nearby property owner(s) to secure the space. Before using or occupying any property owned by a third party, Contractor must provide the DV GHAD
with a copy of the necessary license agreement, easement, or other written authorization from the property owner, together with a written release from the property owner holding the DV GHAD harmless from any related liability, in a form acceptable to the District Attorney.

(C) Traffic Management. Contractor must provide traffic management and traffic controls as specified in the Contract Documents, as required by Laws, and as otherwise required to ensure the public and worker safety, and to avoid interference with public or private operations or the normal flow of vehicular, bicycle, or pedestrian traffic.

7.4 Signs. No signs may be displayed on or about the DV GHAD’s property, except signage which is required by Laws or by the Contract Documents, without the DV GHAD’s prior written approval as to size, design, and location.

7.5 Project Site and Nearby Property Protections.

(A) General. Contractor is responsible at all times, on a 24-hour basis and at its sole cost, for protecting the Work, the Project Site, and the materials and equipment to be incorporated into the Work, until the DV GHAD has accepted the Work specified in a Work Order, excluding any exceptions to acceptance, if any. Except as specifically authorized by the DV GHAD, Contractor must confine its operations to the area of the Project Site indicated in the Plans and Specifications. Contractor is liable for any damage caused by Contractor or its Subcontractors to the Work, the DV GHAD’s property, the property of adjacent or nearby property owners and the work or personal property of other contractors working for the DV GHAD, including damage related to Contractor’s failure to adequately secure the Work or any Worksite.

1) Subject to the DV GHAD’s approval, Contractor will provide and install safeguards to protect the Work; any Worksite, including the Project Site; the DV GHAD’s real or personal property and the real or personal property of adjacent or nearby property owners, including plant and tree protections.

2) City wastewater systems may not be interrupted. If the Work disrupts existing sewer facilities, Contractor must immediately notify the DV GHAD and establish a plan, subject to the DV GHAD’s approval, to convey the sewage in closed conduits back into the sanitary sewer system. Sewage must not be permitted to flow in trenches or be covered by backfill.

3) Contractor must remove with due care, and store at the DV GHAD’s request, any objects or material from the Project Site that the DV GHAD will salvage or reuse at another location.

4) If directed by Engineer, Contractor must promptly repair or replace any property damage, as specified by the Engineer. However, acting in its sole discretion, the DV GHAD may elect to have the property damage remedied otherwise, and may deduct the cost to repair or replace the damaged property from payment otherwise due to Contractor.

5) Contractor will not permit any structure or infrastructure to be loaded in a manner that will damage or endanger the integrity of the structure or infrastructure.

(B) Securing Project Site. After completion of Work each day, Contractor must secure the Project Site and, to the extent feasible, make the area reasonably accessible to the public unless the DV GHAD approves otherwise. All excess materials and equipment not protected by approved traffic control devices must be relocated to the staging area or demobilized. Trench spoils must be hauled off the Project Site daily and open excavations
must be protected with steel plates. Contractor and Subcontractor personnel may not occupy or use the Project Site for any purpose during non-Work hours, except as may be provided in the Contract Documents or pursuant to prior written authorization from the DV GHAD.

(C) **Unforeseen Conditions.** If Contractor encounters facilities, utilities, or other unknown conditions not shown on or reasonably inferable from the Plans or apparent from inspection of the Project Site, Contractor must immediately notify the DV GHAD and promptly submit a Request for Information to obtain further directions from the Engineer. Contractor must avoid taking any action which could cause damage to the facilities or utilities pending further direction from the Engineer. The Engineer’s written response will be final and binding on Contractor. If the Engineer’s subsequent direction to Contractor affects Contractor’s cost or time to perform the Work, Contractor may submit a Change Order request as set forth in Article 6 above.

(D) **Support; Adjacent Properties.** Contractor must provide, install, and maintain all shoring, bracing, and underpinning necessary to provide support to the DV GHAD’s property and adjacent properties and improvements thereon. Contractor must provide notifications to adjacent property owners as may be required by Laws. See also, Section 7.15, Trenching of Five Feet or More.

(E) **Notification of Property Damage.** Contractor must immediately notify the DV GHAD of damage to any real or personal property resulting from Work on the Project. Contractor must immediately provide a written report to the DV GHAD of any such property damage in excess of $500 (based on estimated cost to repair or replace) within 24 hours of the occurrence. The written report must include: (1) the location and nature of the damage, and the owner of the property, if known; (2) the name and address of each employee of Contractor or any Subcontractor involved in the damage; (3) a detailed description of the incident, including precise location, time, and names and contact information for known witnesses; and (4) a police or first responder report, if applicable. If Contractor is required to file an accident report with another government agency, Contractor will provide a copy of the report to the DV GHAD.

7.6 Materials and Equipment.

(A) **General.** Unless otherwise specified, all materials and equipment required for the Work must be new, free from defects, and of the best grade for the intended purpose, and furnished in sufficient quantities to ensure the proper and expeditious performance of the Work. Contractor must employ measures to preserve the specified quality and fitness of the materials and equipment. Unless otherwise specified, all materials and equipment required for the Work are deemed to include all components required for complete installation and intended operation and must be installed in accordance with the manufacturer’s recommendations or instructions. Contractor is responsible for all shipping, handling, and storage costs associated with the materials and equipment required for the Work. Contractor is responsible for providing security and protecting the Work and all of the required materials, supplies, tools and equipment at Contractor’s sole cost until the DV GHAD has formally accepted the Work. Contractor will not assign, sell, mortgage, or hypothecate any materials or equipment for the Project, or remove any materials or equipment that have been installed or delivered.

(B) **DV GHAD-Provided.** If the Work includes installation of materials or equipment to be provided by the DV GHAD, Contractor is solely responsible for the proper examination, handling, storage, and installation in accordance with the Contract Documents. Contractor must notify the DV GHAD of any defects discovered in DV GHAD-provided materials or equipment, sufficiently in advance of scheduled use or installation to afford adequate time to procure replacement materials or equipment as needed. Contractor
is solely responsible for any loss of or damage to such items which occurs while the items are in Contractor’s custody and control, the cost of which may be offset from the Contract Price and deducted from any payment(s) due to Contractor.

(C) **Intellectual Property Rights.** Contractor must, at its sole expense, obtain any authorization or license required for use of patented or copyright-protected materials, equipment, devices or processes that are incorporated into the Work. Contractor’s indemnity obligations in Article 4 apply to any claimed violation of intellectual property rights in violation of this provision.

### 7.7 Substitutions.

(A) **“Or Equal.”** Any Specification or Work Order designating a material, product, or thing (collectively, “item”) or service by specific brand or trade name, followed by the words “or equal,” is intended only to indicate the quality and type of item or service desired, and Contractor may request use of any equal item or service. Unless otherwise stated in the Specifications or a Work Order, any reference to a specific brand or trade name for an item that is used solely for the purpose of describing the type of item desired, will be deemed to be followed by the words “or equal.” A substitution will only be approved if it is a true “equal” item in every aspect of design, function, and quality, as determined by the DV GHAD, including dimensions, weight, maintenance requirements, durability, fit with other elements, and schedule impacts.

(B) **Request for Substitution.** A request for substitution of an item or service must be submitted in writing to the Engineer for approval in advance, within the applicable time period provided in the Contract Documents. If no time period is specified, the substitution request may be submitted any time within five days after the date of issuance of a Work Order, or sufficiently in advance of the time needed to avoid delay of the Work, whichever is earlier.

(C) **Substantiation.** Any available data substantiating the proposed substitute as an equal item or service must be submitted with the written request for substitution. Contractor’s failure to timely provide all necessary substantiation, including any required test results as soon as they are available, is grounds for rejection of the proposed substitution, without further review.

(D) **Burden of Proving Equality.** Contractor has the burden of proving the equality of the proposed substitution at Contractor’s sole cost. The DV GHAD has sole discretion to determine whether a proposed substitution is equal, and the DV GHAD’s determination is final.

(E) **Approval or Rejection.** If the proposed substitution is approved, Contractor is solely responsible for any additional costs or time associated with the substituted item or service. If the proposed substitution is rejected, Contractor must, without delay, install the item or use the service as specified by the DV GHAD.

(F) **Contractor’s Obligations.** The DV GHAD’s approval of a proposed substitution will not relieve Contractor from any of its obligations under the Contract Documents. In the event Contractor makes an unauthorized substitution, Contractor will be solely responsible for all resulting cost impacts, including the cost of removal and replacement and the impact to other design elements.

### 7.8 Testing and Inspection.

(A) **General.** All materials, equipment, and workmanship used in the Work are subject to inspection and testing by the DV GHAD at all times and locations during construction
and/or fabrication and at any Worksite, including at shops and yards as well as at the Project Site. All manufacturers’ application or installation instructions must be provided to the Inspector at least ten days prior to the first such application or installation. Contractor must, at all times, make the Work available for testing or inspection. Neither the DV GHAD’s inspection or testing of Work, nor its failure to do so, operate to waive or limit Contractor’s duty to complete the Work in accordance with the Contract Documents.

(B) **Scheduling and Notification.** Contractor must cooperate with the DV GHAD in coordinating the inspections and testing. Contractor must submit samples of materials, at Contractor’s expense, and schedule all tests required by the Contract Documents in time to avoid any delay to the progress of the Work. Contractor must notify the Engineer no later than noon of the Working Day before any inspection or testing and must provide timely notice to the other necessary parties as specified in the Contract Documents. If Contractor schedules an inspection or test beyond regular Work hours, or on a Saturday, Sunday, or recognized City holiday, Contractor must notify the Engineer at least two Working Days in advance for approval. If approved, Contractor must reimburse the DV GHAD for the cost of the overtime inspection or testing. Such costs, including the DV GHAD’s hourly costs for required personnel, may be deducted from payments otherwise due to Contractor.

(C) **Responsibility for Costs.** The DV GHAD will bear the initial cost of inspection and testing to be performed by independent testing consultants retained by the DV GHAD, subject to the following exceptions:

1. Contractor will be responsible for the costs of any subsequent tests which are required to substantiate compliance with the Contract Documents, and any associated remediation costs.

2. Contractor will be responsible for inspection costs, at the DV GHAD’s hourly rates, for inspection time lost because the Work is not ready or Contractor fails to appear for a scheduled inspection.

3. If any portion of the Work that is subject to inspection or testing is covered or concealed by Contractor prior to the inspection or testing, Contractor will bear the cost of making that portion of the Work available for the inspection or testing required by the Contract Documents, and any associated repair or remediation costs.

4. Contractor is responsible for properly shoring all compaction test sites deeper than five feet below grade, as required under Section 7.15 below.

5. Any Work or material that is defective or fails to comply with the requirements of the Contract Documents must be promptly repaired, removed, replaced, or corrected by Contractor, at Contractor’s sole expense, even if that Work or material was previously inspected or included in a progress payment.

(D) **Contractor’s Obligations.** Contractor is solely responsible for any delay occasioned by remediation of defective or noncompliant Work or material. Inspection of the Work does not in any way relieve Contractor of its obligations to perform the Work as specified. Any Work done without the required inspection(s) will also be subject to rejection by the DV GHAD.

(E) **Distant Locations.** If required off-site testing or inspection must be conducted at a location more than 100 miles from the Project Site, Contractor is solely responsible for the additional travel costs required for testing and/or inspection at such locations.
Final Inspection. The provisions of this Section 7.8 also apply to final inspection under Article 11, Completion and Warranty Provisions.

7.9 Project Site Conditions and Maintenance. Contractor must at all times, on a 24-hour basis and at its sole cost, maintain the Project Site and staging and storage areas in clean, neat, and sanitary condition and in compliance with all Laws pertaining to safety, air quality, and dust control. Adequate toilets must be provided, and properly maintained and serviced for all workers on the Project Site, located in a suitably secluded area, subject to the DV GHAD’s prior approval. Contractor must also, on a daily basis and at its sole cost, remove and properly dispose of the debris and waste materials from the Project Site.

(A) Air Emissions Control. Contractor must not discharge smoke or other air contaminants into the atmosphere in violation of any Laws.

(B) Dust and Debris. Contractor must minimize and confine dust and debris resulting from the Work. Contractor must abate dust nuisance by cleaning, sweeping, and immediately sprinkling with water excavated areas of dirt or other materials prone to cause dust, and within one hour after the Engineer notifies Contractor that an airborne nuisance exists. The Engineer may direct that Contractor provide an approved water-spraying truck for this purpose. If water is used for dust control, Contractor will only use the minimum necessary. Contractor must take all necessary steps to keep waste water out of streets, gutters, or storm drains. See Section 7.19, Environmental Control. If the DV GHAD determines that the dust control is not adequate, the DV GHAD may have the work done by others and deduct the cost from the Contract Price. Contractor will immediately remove any excess excavated material from the Project Site and any dirt deposited on public streets.

(C) Clean up. Before discontinuing Work in an area, Contractor must clean the area and remove all debris and waste along with the construction equipment, tools, machinery, and surplus materials.

(1) Except as otherwise specified, all excess materials, and the materials removed from existing improvements on the Project Site with no salvage value or intended reuse by the DV GHAD, will be Contractor’s property.

(2) Hauling trucks and other vehicles leaving the Project Site must be cleaned of exterior mud or dirt before traveling on City streets. Materials and loose debris must be delivered and loaded to prevent dropping materials or debris. Contractor must immediately remove spillage from hauling on any publicly traveled way. Streets affected by Work must be kept clean by street sweeping.

(D) Disposal. Contractor must dispose of all debris and waste materials in a safe and legal manner. Contractor may not burn or bury waste materials on the Project Site. Contractor will not allow any dirt, refuse, excavated material, surplus concrete or mortar, or any associated washings, to be disposed of onto streets, into manholes or into the storm drain system.

(E) Completion. At the completion of the Work, Contractor must remove from the Project Site all of its equipment, tools, surplus materials, waste materials and debris, presenting a clean and neat appearance. Before demobilizing from the Project Site, Contractor must ensure that all surfaces are cleaned, sealed, waxed, or finished as applicable, and that all marks, stains, paint splatters, and the like have been properly removed from the completed Work and the surrounding areas. Contractor must ensure that all parts of the construction are properly joined with the previously existing and adjacent improvements and conditions. Contractor must provide all cutting, fitting and patching needed to accomplish that requirement. Contractor must also repair or replace all existing...
improvements that are damaged or removed during the Work, both on and off the Project Site, including curbs, sidewalks, driveways, fences, signs, utilities, street surfaces and structures. Repairs and replacements must be at least equal to the previously existing improvements, and the condition, finish and dimensions must match the previously existing improvements. Contractor must restore to original condition all property or items that are not designated for alteration under the Contract Documents and leave each Worksite clean and ready for occupancy or use by the DV GHAD.

(F) **Non-Compliance.** If Contractor fails to comply with its maintenance and cleanup obligations or any DV GHAD clean up order, the DV GHAD may, acting in its sole discretion, elect to suspend the Work until the condition(s) is corrected with no increase in the Contract Time or Contract Price, or undertake appropriate cleanup measures without further notice and the cost will be deducted from any amounts due or to become due to Contractor.

7.10 **Instructions and Manuals.** Contractor must provide to the DV GHAD three copies each of all instructions and manuals required by the Contract Documents, unless otherwise specified. These must be complete as to drawings, details, parts lists, performance data, and other information that may be required for the DV GHAD to easily maintain and service the materials and equipment installed pursuant to a Work Order.

(A) **Submittal Requirements.** All manufacturers’ application or installation instructions must be provided to the DV GHAD at least ten days prior to the first such application. The instructions and manuals, along with any required guarantees, must be delivered to the DV GHAD for review.

(B) **Training.** Contractor or its Subcontractors must train the DV GHAD’s personnel in the operation and maintenance of any complex equipment or systems as a condition precedent to Final Completion, if required in the Contract Documents.

7.11 **As-built Drawings.** Contractor and its Subcontractors must prepare and maintain at the Project Site a detailed, complete and accurate as-built set of the Plans which will be used solely for the purpose of recording changes made in any portion of the original Plans in order to create accurate record drawings at the end of the Work specified in a Work Order.

(A) **Duty to Update.** The as-built drawings must be updated as changes occur, on a daily basis if necessary. The DV GHAD may withhold the estimated cost for the DV GHAD to have the as-built drawings prepared from payments otherwise due to Contractor, until the as-built drawings are brought up to date to the satisfaction of the DV GHAD. Actual locations to scale must be identified on the as-built drawings for all runs of mechanical and electrical work, including all site utilities installed underground, in walls, floors, or otherwise concealed. Deviations from the original Plans must be shown in detail. The exact location of all main runs, whether piping, conduit, ductwork or drain lines, must be shown by dimension and elevation. The location of all buried pipelines, appurtenances, or other improvements must be represented by coordinates and by the horizontal distance from visible above-ground improvements.

(B) **Final Completion.** Contractor must verify that all changes in the Work are depicted in the as-built drawings and must deliver a complete set of as-built drawings, for all Work Orders, to the Engineer for review and acceptance as a condition precedent to Final Completion and Final Payment.

7.12 **Existing Utilities.**

(A) **General.** The Work may be performed in developed, urban areas with existing utilities, both above and below ground, including utilities identified in the Contract
Documents or in other informational documents or records. Contractor must take due care to locate identified or reasonably identifiable utilities before proceeding with trenching, excavation, or any other activity that could damage or disrupt existing utilities. This may include excavation with small equipment, potholing, or hand excavation, and, if practical, using white paint or other suitable markings to delineate the area to be excavated. Except as otherwise provided herein, Contractor will be responsible for costs resulting from damage to identified or reasonably identifiable utilities due to Contractor’s negligence or failure to comply with the Contract Documents, including the requirements in this Article 7.

(B) Unidentified Utilities. Pursuant to Government Code § 4215, if, during the performance of the Work, Contractor discovers utility facilities not identified by the DV GHAD in the Contract Documents, Contractor must immediately provide written notice to the DV GHAD and the utility. The DV GHAD assumes responsibility for the timely removal, relocation, or protection of existing main or trunkline utility facilities located on the Project Site if those utilities are not identified in the Contract Documents. Contractor will be compensated in accordance with the provisions of the Contract Documents for the costs of locating, repairing damage not due to Contractor’s failure to exercise reasonable care, and removing or relocating utility facilities not indicated in the Plans or Specifications with reasonable accuracy, and for equipment on the Project Site necessarily idled during such work. Contractor will not be assessed liquidated damages for delay in completion of the Work, to the extent the delay was caused by the DV GHAD’s failure to provide for removal or relocation of the utility facilities.

7.13 Notice of Excavation. Contractor must comply with all applicable requirements in Government Code §§ 4216 through 4216.5, which are incorporated by reference herein. Government Code § 4216.2 requires that, except in an emergency, Contractor must contact the appropriate regional notification center, or Underground Services Alert, at least two working days, but not more than 14 calendar days, before starting any excavation if the excavation will be conducted in an area that is known, or reasonably should be known, to contain subsurface installations. Contractor may not begin excavation until it has obtained and submitted to Engineer an inquiry identification number from Underground Services Alert.

7.14 Trenching and Excavations of Four Feet or More. As required by Public Contract Code § 7104, if the Work includes digging trenches or other excavations that extend deeper than four feet below the surface, the provisions in this Section apply to the Work and the Project.

(A) Duty to Notify. Contractor must promptly, and before the following conditions are disturbed, provide written notice to the DV GHAD if Contractor finds any of the following conditions:

(1) Material that Contractor believes may be a hazardous waste, as defined in § 25117 of the Health and Safety Code, that is required to be removed to a Class I, Class II, or Class III disposal site in accordance with the provisions of existing Laws;

(2) Subsurface or latent physical conditions at the Project Site differing from those indicated by information about the Project Site made available to Contractor prior to the deadline for submitting proposals; or

(3) Unknown physical conditions at the Project Site of any unusual nature, materially different from those ordinarily encountered and generally recognized as inherent in work of the character required by the Contract Documents.

(B) DV GHAD Investigation. The DV GHAD will promptly investigate the conditions and if the DV GHAD finds that the conditions do materially differ or do involve hazardous
waste, and cause a decrease or increase in Contractor’s cost of, or the time required for, performance of any part of the Work, the DV GHAD will issue a Change Order.

(C) **Disputes.** In the event that a dispute arises between the DV GHAD and Contractor regarding any of the conditions specified in subsection (B) above, or the terms of a Change Order issued by the DV GHAD, Contractor will not be excused from completing the Work within the Contract Time, but must proceed with all Work to be performed under the Work Order. Contractor will retain any and all rights provided either by the Contract or by Laws which pertain to the resolution of disputes between Contractor and the DV GHAD.

**7.15 Trenching of Five Feet or More.** As required by Labor Code § 6705, if the Contract Price exceeds $25,000 and the Work includes the excavation of any trench or trenches of five feet or more in depth, a detailed plan must be submitted to the DV GHAD for acceptance in advance of the excavation. The detailed plan must show the design of shoring, bracing, sloping, or other provisions to be made for worker protection from the hazard of caving ground during the excavation. If the plan varies from the shoring system standards, it must be prepared by a California registered civil or structural engineer. Use of a shoring, sloping, or protective system less effective than that required by the Construction Safety Orders is prohibited.

**7.16 New Utility Connections.** Except as otherwise specified, the DV GHAD will pay connection charges and meter costs for new permanent utilities required by the Contract Documents, if any. Contractor must notify the DV GHAD sufficiently in advance of the time needed to request service from each utility provider so that connections and services are initiated in accordance with the Work schedule.

**7.17 Lines and Grades.** Contractor is required to use any benchmark provided by the Engineer. Unless otherwise specified in the Contract Documents, Contractor must provide all lines and grades required to execute the Work. Contractor must also provide, preserve, and replace if necessary, all construction stakes required for the Work. All stakes or marks must be set by a California licensed surveyor or a California registered civil engineer. Contractor must notify the Engineer of any discrepancies found between Contractor’s staking and grading and information provided by the Contract Documents. Upon completion, all Work must conform to the lines, elevations, and grades shown in the Plans, including any changes directed by a Change Order.

**7.18 Historic or Archeological Items.**

(A) **Contractor’s Obligations.** Contractor must ensure that all persons performing Work at the Project Site are required to immediately notify the Project Manager, upon discovery of any potential historic or archeological items, including historic or prehistoric ruins, a burial ground, archaeological or vertebrate paleontological site, including fossilized footprints or other archeological, paleontological or historical feature on the Project Site (collectively, “Historic or Archeological Items”).

(B) **Discovery; Cessation of Work.** Upon discovery of any potential Historic or Archeological Items, Work must be stopped within an 85-foot radius of the find and may not resume until authorized in writing by the DV GHAD. If required by the DV GHAD, Contractor must assist in protecting or recovering the Historic or Archeological Items, with any such assistance to be compensated as Extra Work on a time and materials basis under Article 6, Contract Modification. At the DV GHAD’s discretion, a suspension of Work required due to discovery of Historic or Archeological Items may be treated as Excusable Delay pursuant to Article 5, or as a suspension for convenience under Article 13.
7.19 **Environmental Control.** Contractor must not pollute any drainage course or its tributary inlets with fuels, oils, bitumens, acids, insecticides, herbicides or other harmful materials. Contractor must prevent the release of any hazardous material or hazardous waste into the soil or groundwater, and prevent the unlawful discharge of pollutants into the DV GHAD's storm drain system and watercourses as required below. Contractor and its Subcontractors must at all times in the performance of the Work comply with all Laws concerning pollution of waterways.

(A)** *Stormwater Permit.* Contractor must comply with all applicable conditions of the State Water Resources Control Board National Pollutant Discharge Elimination System General Permit for Waste Discharge Requirements for Discharges of Stormwater Runoff Associated with Construction Activity (“Stormwater Permit”).

(B)** *Contractor’s Obligations.* If required for the Work, a copy of the Stormwater Permit is on file in the DV GHAD’s principal administrative offices, and Contractor must comply with it without adjustment of the Contract Price or the Contract Time. Contractor must timely and completely submit required reports and monitoring information required by the conditions of the Stormwater Permit. Contractor also must comply with all other Laws governing discharge of stormwater, including applicable municipal stormwater management programs.

7.20 **Noise Control.** Contractor must comply with all applicable noise control Laws. Noise control requirements apply to all equipment used for the Work or related to the Work, including trucks, transit mixers or transient equipment that may or may not be owned by Contractor.

7.21 **Mined Materials.** Pursuant to the Surface Mining and Reclamation Act of 1975, Public Resources Code § 2710 et seq., any purchase of mined materials, such as construction aggregate, sand, gravel, crushed stone, road base, fill materials, and any other mineral materials must originate from a surface mining operation included on the AB 3098 List, which is available online at: [ftp://ftp.consrv.ca.gov/pub/omr/AB3098%20List/AB3908List.pdf](ftp://ftp.consrv.ca.gov/pub/omr/AB3098%20List/AB3908List.pdf).

**Article 8 - Payment**

8.1 **Schedule of Values.** If required by the DV GHAD, prior to submitting its first application for payment, Contractor must prepare and submit to the Project Manager a schedule of values apportioned to the various divisions and phases of the Work, including mobilization and demobilization. If a Price Schedule was submitted with Contractor's Proposal, the amounts in the schedule of values must be consistent with the Price Schedule. The items must be sufficiently detailed to enable accurate evaluation of the percentage of completion claimed in each application for payment, and the assigned value consistent with any itemized or unit pricing submitted with Contractor's Proposal. If the DV GHAD does not require a separate schedule of values pursuant to this paragraph, all references to the “schedule of values” will be deemed to mean Contractor’s Price Schedule.

(A)** *Measurements for Unit Price Work.* Materials and items of Work to be paid for on the basis of unit pricing will be measured according to the methods specified in the Contract Documents.

(B)** *Deleted or Reduced Work.* Contractor will not be compensated for Work that the DV GHAD has deleted or reduced in scope, except for any labor, material or equipment costs for such Work that Contractor reasonably incurred before Contractor learned that the Work could be deleted or reduced. Contractor will only be compensated for those actual,
direct and documented costs incurred, and will not be entitled to any mark up for overhead or lost profits.

8.2 **Progress Payments.** Following the last day of each month, or as otherwise required by the Special Conditions or Specifications, Contractor will submit to the Project Manager a monthly application for payment for Work performed during the preceding month based on the estimated value of the Work performed during that preceding month.

(A) **Application for Payment.** Each application for payment must be itemized to include labor, materials, and equipment incorporated into the Work, and materials and equipment delivered to the Project Site, as well as authorized and approved Change Orders. Each payment application must be supported by the unit prices submitted with Contractor's Price Schedule and/or schedule of values (if required by the DV GHAD) and any other substantiating data required by the Contract Documents.

(B) **Payment of Undisputed Amounts.** The DV GHAD will pay the undisputed amount due within 30 days after Contractor has submitted a complete and accurate payment application, subject to Public Contract Code § 20104.50. The DV GHAD will deduct a percentage from each progress payment as retention, as set forth in Section 8.5, below, and may withhold additional amounts as set forth in Section 8.3, below.

8.3 **Adjustment of Payment Application.** The DV GHAD may adjust or reject the amount requested in a payment application, including application for Final Payment, in whole or in part, if the amount requested is disputed or unsubstantiated. Contractor will be notified in writing of the basis for the modification to the amount requested. The DV GHAD may also deduct or withhold from payment otherwise due based upon any of the circumstances and amounts listed below. Sums withheld from payment otherwise due will be released when the basis for that withholding has been remedied and no longer exists.

(A) For Contractor's unexcused failure to perform the Work as required by the Contract Documents, including correction or completion of punch list items, the DV GHAD may withhold or deduct an amount based on the DV GHAD's estimated cost to correct or complete the Work.

(B) For loss or damage caused by Contractor or its Subcontractors arising out of or relating to performance of the Work or any failure to protect the Project Site, the DV GHAD may deduct an amount based on the estimated cost to repair or replace.

(C) For Contractor's failure to pay its Subcontractors and suppliers when payment is due, the DV GHAD may withhold an amount equal to the total of past due payments and may opt to pay that amount separately via joint check pursuant to Section 8.6(B), Joint Checks.

(D) For Contractor's failure to timely correct rejected, nonconforming, or defective Work, the DV GHAD may withhold or deduct an amount based on the DV GHAD's estimated cost to correct or complete the Work.

(E) For any unreleased stop notice, the DV GHAD may withhold 125% of the amount claimed.

(F) For Contractor's failure to submit any required schedule or schedule update in the manner and within the time specified in the Contract Documents, the DV GHAD may withhold an amount equal to five percent of the total amount requested until Contractor complies with its schedule submittal obligations.
(G) For Contractor's failure to maintain or submit as-built documents in the manner and within the time specified in the Contract Documents, the DV GHAD may withhold or deduct an amount based on the DV GHAD's cost to prepare the as-builts.

(H) For Work performed without Shop Drawings that have been accepted by the DV GHAD, when accepted Shop Drawings are required before proceeding with the Work, the DV GHAD may deduct an amount based on the estimated costs to correct unsatisfactory Work or diminution in value.

(I) For fines, payments, or penalties assessed under the Labor Code, the DV GHAD may deduct from payments due to Contractor as required by Laws and as directed by the Division of Labor Standards Enforcement.

(J) For any other costs or charges that may be withheld or deducted from payments to Contractor, as provided in the Contract Documents, including liquidated damages, the DV GHAD may withhold or deduct such amounts from payment otherwise due to Contractor.

8.4 Early Occupancy. Neither the DV GHAD’s payment of progress payments nor its partial or full use or occupancy of the Work constitutes acceptance of any part of the Work.

8.5 Retention. The DV GHAD will retain five percent of the full amount due on each Work Order payment (i.e., the amount due before any withholding or deductions pursuant to Section 8.3, Adjustment to Payment Application), or the percentage stated in the Request for Qualifications and Proposals, whichever is greater, as retention to ensure full and satisfactory performance of the Work. Contractor is not entitled to any reduction in the rate of withholding at any time, nor to release of any retention before 35 days following expiration of the Term or Extension Term.

(A) Substitution of Securities. As provided by Public Contract Code § 22300, Contractor may request in writing that it be allowed, at its sole expense, to substitute securities for the retention withheld by the DV GHAD. Any escrow agreement entered into pursuant to this provision must fully comply with Public Contract Code § 22300 and will be subject to approval as to form by the DV GHAD’s legal counsel. If the DV GHAD exercises its right to draw upon such securities in the event of default pursuant to section (7) of the statutory Escrow Agreement for Security Deposits in Lieu of Retention, pursuant to subdivision (f) of Public Contract Code § 22300 (“Escrow Agreement”), and if Contractor disputes that it is in default, its sole remedy is to comply with the dispute resolution procedures in Article 12 and the provisions therein. It is agreed that if any individual authorized to give or receive written notice on behalf of a party pursuant to section (10) of the Escrow Agreement are unavailable to give or receive notice on behalf of that party due to separation from employment, retirement, death, or other circumstances, the successor or delegatee of the named individual is deemed to be the individual authorized to give or receive notice pursuant to section (10) of the Escrow Agreement.

(B) Release of Undisputed Retention. All undisputed retention, less any amounts that may be assessed as liquidated damages, retained for stop notices, or otherwise withheld pursuant to Section 8.3, Adjustment of Payment Application, will be released as Final Payment to Contractor no sooner than 35 days following recordation of the notice of completion, and no later than 60 days following acceptance of the Project by the DV GHAD’s governing body or authorized designee pursuant to Section 11.1(C), Acceptance, or, if the Project has not been accepted, no later than 60 days after the Project is otherwise considered complete pursuant to Public Contract Code § 7107(c).

8.6 Payment to Subcontractors and Suppliers. Each month, Contractor must promptly pay each Subcontractor and supplier the value of the portion of labor, materials, and equipment...
incorporated into the Work or delivered to the Project Site by the Subcontractor or supplier during the preceding month. Such payments must be made in accordance with the requirements of Laws pertaining to such payments, and those of the Contract Documents and applicable subcontract or supplier contract.

(A) **Withholding for Stop Notice.** Pursuant to Civil Code § 9358, the DV GHAD will withhold 125% of the amount claimed by an unreleased stop notice, a portion of which may be retained by the DV GHAD for the costs incurred in handling the stop notice claim, including attorneys’ fees and costs, as authorized by law.

(B) **Joint Checks.** The DV GHAD reserves the right, acting in its sole discretion, to issue joint checks made payable to Contractor and a Subcontractor or supplier, if the DV GHAD determines this is necessary to ensure fair and timely payment for a Subcontractor or supplier who has provided services or goods for the Work. As a condition to release of payment by a joint check, the joint check payees may be required to execute a joint check agreement in a form provided or approved by the District Attorney’s Office. The joint check payees will be jointly and severally responsible for the allocation and disbursement of funds paid by joint check. Payment by joint check will not be construed to create a contractual relationship between the DV GHAD and a Subcontractor or supplier of any tier beyond the scope of the joint check agreement.

8.7 **Release of Claims.** The DV GHAD may, at any time, require that payment of the undisputed portion of any progress payment or Final Payment be contingent upon Contractor furnishing the DV GHAD with a written waiver and release of all claims against the DV GHAD arising from or related to the portion of Work covered by those undisputed amounts subject to the limitations of Public Contract Code § 7100. Any disputed amounts may be specifically excluded from the release.

8.8 **Warranty of Title.** Contractor warrants that title to all work, materials, or equipment incorporated into the Work and included in a request for payment will pass over to the DV GHAD free of any claims, liens, or encumbrances upon payment to Contractor.

**Article 9 - Labor Provisions**

9.1 **Discrimination Prohibited.** Discrimination against any prospective or present employee engaged in the Work on grounds of race, color, ancestry, national origin, ethnicity, religion, sex, sexual orientation, age, disability, or marital status is strictly prohibited. Contractor and its Subcontractors are required to comply with all applicable Laws prohibiting discrimination, including the California Fair Employment and Housing Act (Govt. Code § 12900 et seq.), Government Code § 11135, and Labor Code §§ 1735, 1777.5, 1777.6, and 3077.5.

9.2 **Labor Code Requirements.**

(A) **Eight Hour Day.** Pursuant to Labor Code § 1810, eight hours of labor constitute a legal day’s work under this Contract.

(B) **Penalty.** Pursuant to Labor Code § 1813, Contractor will forfeit to the DV GHAD as a penalty, the sum of $25.00 for each day during which a worker employed by Contractor or any Subcontractor is required or permitted to work more than eight hours in any one calendar day or more than 40 hours per calendar week, except if such workers are paid overtime under Labor Code § 1815.
Apprentices. Contractor is responsible for compliance with the requirements governing employment and payment of apprentices, as set forth in Labor Code § 1777.5, which is fully incorporated by reference.

Notices. Pursuant to Labor Code § 1771.4, Contractor is required to post all job site notices prescribed by Laws.

9.3 Prevailing Wages. Each worker performing Work under this Contract that is covered under Labor Code §§ 1720 or 1720.9, including cleanup at the Project Site, must be paid at a rate not less than the prevailing wage as defined in §§ 1771 and 1774 of the Labor Code. The prevailing wage rates are on file with the DV GHAD and available online at http://www.dir.ca.gov/dlsr. Contractor must post a copy of the applicable prevailing rates at the Project Site.

(A) Penalties. Pursuant to Labor Code § 1775, Contractor and any Subcontractor will forfeit to the DV GHAD as a penalty up to $200.00 for each calendar day, or portion a day, for each worker paid less than the applicable prevailing wage rate. Contractor must also pay each worker the difference between the applicable prevailing wage rate and the amount actually paid to that worker.

(B) Federal Requirements. If this Project is subject to federal prevailing wage requirements in addition to California prevailing wage requirements, Contractor and its Subcontractors are required to pay the higher of the currently applicable state or federal prevailing wage rates.

9.4 Payroll Records. Contractor must comply with the provisions of Labor Code §§ 1776 and 1812 and all implementing regulations, which are fully incorporated by this reference, including requirements for electronic submission of payroll records to the DIR.

(A) Contractor and Subcontractor Obligations. Contractor and each Subcontractor must keep accurate payroll records, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed in connection with the Work. Each payroll record must contain or be verified by a written declaration that it is made under penalty of perjury, stating both of the following:

(1) The information contained in the payroll record is true and correct; and

(2) Contractor or the Subcontractor has complied with the requirements of Labor Code §§ 1771, 1811, and 1815 for any Work performed by its employees on the Project.

(B) Certified Record. A certified copy of an employee’s payroll record must be made available for inspection or furnished to the employee or his or her authorized representative on request, to the DV GHAD, to the Division of Labor Standards Enforcement, to the Division of Apprenticeship Standards of the DIR, and as further required by the Labor Code.

(C) Enforcement. Upon notice of noncompliance with Labor Code § 1776, Contractor or Subcontractor has ten days in which to comply with the requirements of this section. If Contractor or Subcontractor fails to do so within the ten-day period, Contractor or Subcontractor will forfeit a penalty of $100.00 per day, or portion a day, for each worker for whom compliance is required, until strict compliance is achieved. Upon request by the Division of Apprenticeship Standards, or the Division of Labor Standards Enforcement, these penalties will be withheld from payments then due to Contractor.
9.5 Labor Compliance. Pursuant to Labor Code § 1771.4, the Contract for this Project is subject to compliance monitoring and enforcement by the DIR.

10.1 Safety Precautions and Programs. Contractor and its Subcontractors are fully responsible for safety precautions and programs, and for the safety of persons and property in the performance of the Work. Contractor and its Subcontractors must at all times comply with all applicable safety Laws and seek to avoid injury, loss, or damage to persons or property by taking reasonable steps to protect its employees and other persons at any Worksite, materials and equipment stored on or off site, and property at or adjacent to any Worksite.

(A) Reporting Requirements. Contractor must immediately notify the DV GHAD of any death, serious injury or illness resulting from Work. Contractor must immediately provide a written report to the DV GHAD of each recordable accident or injury occurring at any Worksite within 24 hours of the occurrence. The written report must include: (1) the name and address of the injured or deceased person; (2) the name and address of each employee of Contractor or of any Subcontractor involved in the incident; (3) a detailed description of the incident, including precise location, time, and names and contact information for known witnesses; and (4) a police or first responder report, if applicable. If Contractor is required to file an accident report with a government agency, Contractor will provide a copy of the report to the DV GHAD.

(B) Legal Compliance. Contractor’s safety program must comply with the applicable legal and regulatory requirements. Contractor must provide the DV GHAD with copies of all notices required by Laws.

(C) Contractor’s Obligations. Any damage or loss caused by Contractor arising from the Work which is not insured under property insurance must be promptly remedied by Contractor.

(D) Remedies. If the DV GHAD determines, in its sole discretion, that any part of the Work or Project Site is unsafe, the DV GHAD may, without assuming responsibility for Contractor’s safety program, require Contractor or its Subcontractor to cease performance of the Work or to take corrective measures to the DV GHAD’s satisfaction. If Contractor fails to promptly take the required corrective measures, the DV GHAD may perform them and deduct the cost from the Contract Price. Contractor agrees it is not entitled to submit a Claim for damages, for an increase in Contract Price, or for a change in Contract Time based on Contractor’s compliance with the DV GHAD’s request for corrective measures pursuant to this provision.

10.2 Hazardous Materials. Unless otherwise specified in the Contract Documents, this Contract does not include the removal, handling, or disturbance of any asbestos or other Hazardous Materials. If Contractor encounters materials on the Project Site that Contractor reasonably believes to be asbestos or other Hazardous Materials, and the asbestos or other Hazardous Materials have not been rendered harmless, Contractor may continue Work in unaffected areas reasonably believed to be safe, but must immediately cease work on the area affected and report the condition to the DV GHAD. No asbestos, asbestos-containing products or other Hazardous Materials may be used in performance of the Work.

10.3 Material Safety. Contractor is solely responsible for complying with § 5194 of Title 8 of the California Code of Regulations, including by providing information to Contractor’s employees about any hazardous chemicals to which they may be exposed in the course of the Work. A hazard communication program and other forms of warning and training...
about such exposure must be used. Contractor must also maintain Safety Data Sheets (“SDS”) at the Project Site, as required by Laws, for materials or substances used or consumed in the performance of the Work. The SDS will be accessible and available to Contractor’s employees, Subcontractors, and the DV GHAD.

(A) **Contractor Obligations.** Contractor is solely responsible for the proper delivery, handling, use, storage, removal, and disposal of all materials brought to the Project Site and/or used in the performance of the Work. Contractor must notify the Engineer if a specified product or material cannot be used safely.

(B) **Labeling.** Contractor must ensure proper labeling on any material brought onto the Project Site so that any persons working with or in the vicinity of the material may be informed as to the identity of the material, any potential hazards, and requirements for proper handling, protections, and disposal.

### 10.4 Hazardous Condition.
Contractor is solely responsible for determining whether a hazardous condition exists or is created during the course of the Work, involving a risk of bodily harm to any person or risk of damage to any property. If a hazardous condition exists or is created, Contractor must take all precautions necessary to address the condition and ensure that the Work progresses safely under the circumstances. Hazardous conditions may result from, but are not limited to, use of specified materials or equipment, the Work location, the Project Site condition, the method of construction, or the way any Work must be performed.

### 10.5 Emergencies.
In an emergency affecting the safety or protection of persons, Work, or property at or adjacent to any Worksite, Contractor must take reasonable and prompt actions to prevent damage, injury, or loss, without prior authorization from the DV GHAD if, under the circumstances, there is inadequate time to seek prior authorization from the DV GHAD.

**Article 11 - Completion and Warranty Provisions**

### 11.1 Warranty.

(A) **General.** Contractor warrants that all materials and equipment will be new unless otherwise specified, of good quality, in conformance with the Contract Documents, and free from defective workmanship and materials. Contractor further warrants that the Work will be free from material defects not intrinsic in the design or materials required in the Contract Documents. Contractor warrants that materials or items incorporated into the Work comply with the requirements and standards in the Contract Documents, including compliance with Laws, and that any Hazardous Materials encountered or used were handled as required by Laws. At the DV GHAD’s request, Contractor must furnish satisfactory evidence of the quality and type of materials and equipment furnished. Contractor’s warranty does not extend to damage caused by normal wear and tear, or improper use or maintenance.

(B) **Warranty Period.** Contractor’s warranty must guarantee its Work for a period of one year from the date of completion of each Work Order (the “Warranty Period”), except when a longer guarantee is provided by a supplier or manufacturer or is required by the Specifications or Special Conditions. Contractor must obtain from its Subcontractors, suppliers and manufacturers any special or extended warranties required by the Contract Documents.
(C) **Subcontractors.** The warranty obligations in the Contract Documents apply to Work performed by Contractor and its Subcontractors, and Contractor agrees to be co-guarantor of such Work.

(D) **Contractor’s Obligations.** Upon written notice from the DV GHAD to Contractor of any defect in the Work discovered during the Warranty Period, Contractor or its responsible Subcontractor must promptly correct the defective Work at its own cost. Contractor’s obligation to correct defects discovered during the Warranty Period will continue past the expiration of the Warranty Period as to any defects in Work for which Contractor was notified prior to expiration of the Warranty Period. Work performed during the Warranty Period (“Warranty Work”) will be subject to the warranty provisions in this Section 11.2 for a one-year period that begins upon completion of such Warranty Work to the DV GHAD’s satisfaction.

(E) **DV GHAD’s Remedies.** If Contractor or its responsible Subcontractor fails to correct defective Work within ten days following notice by the DV GHAD, or sooner if required by the circumstances, the DV GHAD may correct the defects to conform with the Contract Documents at Contractor’s sole expense. Contractor must reimburse the DV GHAD for its costs in accordance with subsection (H), below.

(F) **Emergency Repairs.** In cases of emergency where any delay in correcting defective Work could cause harm, loss or damage, the DV GHAD may immediately correct the defects to conform with the Contract Documents at Contractor’s sole expense. Contractor or its surety must reimburse the DV GHAD for its costs in accordance with subsection (H), below.

(G) **Reimbursement.** Contractor must reimburse the DV GHAD for its costs to repair under subsections (F) or (G), above, within 30 days following the DV GHAD’s submission of a demand for payment pursuant to this provision. If the DV GHAD is required to initiate legal action to compel Contractor’s compliance with this provision, and the DV GHAD is the prevailing party in such action, Contractor and its surety are solely responsible for all of the DV GHAD’s attorney’s fees and legal costs expended to enforce Contractor’s warranty obligations herein in addition to any and all costs the DV GHAD incurs to correct the defective Work.

Article 12 - Dispute Resolution

12.1 **Claims.** This Article applies to and provides the exclusive procedures for any Claim arising from or related to the Contract or performance of the Work.

(A) **Definition.** “Claim” means a separate demand by Contractor, submitted in writing by registered or certified mail with return receipt requested, for a change in the Contract Time, including a time extension or relief from liquidated damages, or a change in the Contract Price, when the demand has previously been submitted to the DV GHAD in accordance with the requirements of the Contract Documents, and which has been rejected or disputed by the DV GHAD, in whole or in part.

(B) **Limitations.** A Claim may only include the portion of a previously rejected demand that remains in dispute between Contractor and the DV GHAD. With the exception of any dispute regarding the amount of money actually paid to Contractor as Final Payment, Contractor is not entitled to submit a Claim demanding a change in the Contract Time or the Contract Price, which has not previously been submitted to the DV GHAD in full compliance with Article 5 and Article 6, and subsequently rejected in whole or in part by the DV GHAD.
(C) **Scope of Article.** This Article is intended to provide the exclusive procedures for submission and resolution of Claims of any amount and applies in addition to the provisions of Public Contract Code § 9204 and § 20104 et seq., which are incorporated by reference herein.

(D) **No Work Delay.** Notwithstanding the submission of a Claim or any other dispute between the parties related to the Project or the Contract Documents, Contractor must perform the Work and may not delay or cease Work pending resolution of a Claim or other dispute, but must continue to diligently prosecute the performance and timely completion of the Work, including the Work pertaining to the Claim or other dispute.

(E) **Informal Resolution.** Contractor will make a good faith effort to informally resolve a dispute before initiating a Claim, preferably by face-to-face meeting between authorized representatives of Contractor and the DV GHAD.

12.2 **Claims Submission.** The following requirements apply to any Claim subject to this Article:

(A) **Substantiation.** The Claim must be submitted to the DV GHAD in writing, clearly identified as a “Claim” submitted pursuant to this Article 12 and must include all of the documents necessary to substantiate the Claim including the Change Order request that was rejected in whole or in part, and a copy of the DV GHAD’s written rejection that is in dispute. The Claim must clearly identify and describe the dispute, including relevant references to applicable portions of the Contract Documents, and a chronology of relevant events. Any Claim for additional payment must include a complete, itemized breakdown of all known or estimated labor, materials, taxes, insurance, and subcontract, or other costs. Substantiating documentation such as payroll records, receipts, invoices, or the like, must be submitted in support of each component of claimed cost. Any Claim for an extension of time or delay costs must be substantiated with a schedule analysis and narrative depicting and explaining claimed time impacts.

(B) **Claim Format and Content.** A Claim must be submitted in the following format:

1. Provide a cover letter, specifically identifying the submission as a “Claim” submitted under this Article 12 and specifying the requested remedy (e.g., amount of proposed change to Contract Price and/or change to Contract Time).

2. Provide a summary of each Claim, including underlying facts and the basis for entitlement, and identify each specific demand at issue, including the specific Change Order request (by number and submittal date), and the date of the DV GHAD’s rejection of that demand, in whole or in part.

3. Provide a detailed explanation of each issue in dispute. For multiple issues included within a single Claim or for multiple Claims submitted concurrently, separately number and identify each individual issue or Claim, and include the following for each separate issue or Claim:

   a. A succinct statement of the matter in dispute, including Contractor’s position and the basis for that position;

   b. Identify and attach all documents that substantiate the Claim, including relevant provisions of the Contract Documents, RFIs, calculations, and schedule analysis (see subsection (A), Substantiation, above);

   c. A chronology of relevant events; and
d. Analysis and basis for claimed changes to Contract Price, Contract Time, or any other remedy requested.

(4) Provide a summary of issues and corresponding claimed damages. If, by the time of the Claim submission deadline (below), the precise amount of the requested change in the Contract Price or Contract Time is not yet known, Contractor must provide a good faith estimate, including the basis for that estimate, and must identify the date by which it is anticipated that the Claim will be updated to provide final amounts.

(5) Include the following certification, executed by Contractor's authorized representative:

“The undersigned Contractor certifies under penalty of perjury that its statements and representations in this Claim submittal are true and correct. Contractor warrants that this Claim submittal is comprehensive and complete as to the matters in dispute, and agrees that any costs, expenses, or delay not included herein are deemed waived.”

(C) Submission Deadlines.

(1) A Claim must be submitted within 15 days following the date that the DV GHAD notified Contractor in writing that a request for a change in the Contract Time or Contract Price, duly submitted in compliance with Article 5 and Article 6, has been rejected in whole or in part. This Claim deadline applies even if Contractor cannot yet quantify the total amount of any requested change in the Contract Time or Contract Price. If the Contractor cannot quantify those amounts, it must submit an estimate of the amounts claimed pending final determination of the requested remedy by Contractor.

(2) With the exception of any dispute regarding the amount of Final Payment, any Claim must be filed on or before the date of Final Payment or will be deemed waived.

(3) A Claim disputing the amount of Final Payment must be submitted within 15 days of the effective date of Final Payment, under Section 8.7, Final Payment.

(4) Strict compliance with these Claim submission deadlines is necessary to ensure that any dispute may be mitigated as soon as possible, and to facilitate cost-efficient administration of the Project. Any Claim that is not submitted within the specified deadlines will be deemed waived by Contractor.

12.3 DV GHAD’s Response. The DV GHAD will respond within 45 days of receipt of the Claim with a written statement identifying which portion(s) of the Claim are disputed, unless the 45-day period is extended by mutual agreement of the DV GHAD and Contractor or as otherwise allowed under Public Contract Code § 9204. However, if the DV GHAD determines that the Claim is not adequately substantiated pursuant to Section 12.2(A), Substantiation, the DV GHAD may first request in writing, within 30 days of receipt of the Claim, any additional documentation supporting the Claim or relating to defenses to the Claim that the DV GHAD may have against the Claim.

(A) Additional Information. If additional information is thereafter required, it may be requested and provided upon mutual agreement of the DV GHAD and Contractor. If Contractor’s Claim is based on estimated amounts, Contractor has a continuing duty to update its Claim as soon as possible with information on actual amounts in order to facilitate prompt and fair resolution of the Claim.
(B) **Non-Waiver.** Any failure by the DV GHAD to respond within the times specified above will not be construed as acceptance of the Claim, in whole or in part, or as a waiver of any provision of these Contract Documents.

12.4 **Meet and Confer.** If Contractor disputes the DV GHAD’s written response, or the DV GHAD fails to respond within the specified time, within 15 days of receipt of the DV GHAD’s response or within 15 days of the DV GHAD’s failure to respond within the applicable 45-day time period under Section 12.3, respectively, Contractor may notify the DV GHAD of the dispute in writing sent by registered or certified mail, return receipt requested, and demand an informal conference to meet and confer for settlement of the issues in dispute. If Contractor fails to dispute the DV GHAD’s response in writing within the specified time, Contractor’s Claim will be deemed waived.

(A) **Schedule Meet and Confer.** Upon receipt of the demand to meet and confer, the DV GHAD will schedule the meet and confer conference to be held within 30 days, or later if needed to ensure the mutual availability of each of the individuals that each party requires to represent its interests at the meet and confer conference.

(B) **Location for Meet and Confer.** The meet and confer conference will be scheduled at a location at or near the DV GHAD’s principal office.

(C) **Written Statement After Meet and Confer.** Within ten working days after the meet and confer has concluded, the DV GHAD will issue a written statement identifying which portion(s) of the Claim remain in dispute, if any.

(D) **Submission to Mediation.** If the Claim or any portion remains in dispute following the meet and confer conference, within ten working days after the DV GHAD issues the written statement identifying any portion(s) of the Claim remaining in dispute, the Contractor may identify in writing disputed portion(s) of the Claim, which will be submitted for mediation, as set forth below.

12.5 **Mediation and Government Code Claims.**

(A) **Mediation.** Within ten working days after the DV GHAD issues the written statement identifying any portion(s) of the Claim remaining in dispute following the meet and confer, the DV GHAD and Contractor will mutually agree to a mediator, as provided under Public Contract Code § 9204. Mediation will be scheduled to ensure the mutual availability of the selected mediator and all of the individuals that each party requires to represent its interests. If there are multiple Claims in dispute, the parties may agree to schedule the mediation to address all outstanding Claims at the same time. The parties will share the costs of the mediator and mediation fees equally, but each party is otherwise solely and separately responsible for its own costs to prepare for and participate in the mediation, including costs for its legal counsel or any other consultants.

(B) **Government Code Claims.**

(1) Timely presentation of a Government Code Claim is a condition precedent to filing any legal action based on or arising from the Contract. Compliance with the Claim submission requirements in this Article 12 is a condition precedent to filing a Government Code Claim.

(2) The time for filing a Government Code Claim will be tolled from the time Contractor submits its written Claim pursuant to Section 12.2, above, until the time that Claim is denied in whole or in part at the conclusion of the meet and confer process, including any period of time used by the meet and confer process.
However, if the Claim is submitted to mediation, the time for filing a Government Code Claim will be tolled until conclusion of the mediation, including any continuations, if the Claim is not fully resolved by mutual agreement of the parties during the mediation or any continuation of the mediation.

12.6 **Tort Claims.** This Article does not apply to tort claims and nothing in this Article is intended nor will be construed to change the time periods for filing tort-based Government Code Claims.

12.7 **Arbitration.** It is expressly agreed, under Code of Civil Procedure § 1296, that in any arbitration to resolve a dispute relating to this Contract, the arbitrator’s award must be supported by law and substantial evidence.

12.8 **Burden of Proof and Limitations.** Contractor bears the burden of proving entitlement to and the amount of any claimed damages. Contractor is not entitled to damages calculated on a total cost basis, but must prove actual damages. Contractor is not entitled to speculative, special, or consequential damages, including home office overhead or any form of overhead not directly incurred at the Project Site or any other Worksite; lost profits; loss of productivity; lost opportunity to work on other projects; diminished bonding capacity; increased cost of financing for the Project; extended capital costs; non-availability of labor, material or equipment due to delays; or any other indirect loss arising from the Contract. The Eichleay Formula or similar formula will not be used for any recovery under the Contract. The DV GHAD will not be directly liable to any Subcontractor or supplier.

12.9 **Legal Proceedings.** In any legal proceeding that involves enforcement of any requirements of the Contract Documents, the finder of fact will receive detailed instructions on the meaning and operation of the Contract Documents, including conditions, limitations of liability, remedies, claim procedures, and other provisions bearing on the defenses and theories of liability. Detailed findings of fact will be requested to verify enforcement of the Contract Documents. All of the DV GHAD’s remedies under the Contract Documents will be construed as cumulative, and not exclusive, and the DV GHAD reserves all rights to all remedies available under law or equity as to any dispute arising from or relating to the Contract Documents or performance of the Work.

12.10 **Other Disputes.** The procedures in this Article 12 will apply to any and all disputes or legal actions, in addition to Claims, arising from or related to this Contract, including disputes regarding suspension or early termination of the Contract, unless and only to the extent that compliance with a procedural requirement is expressly and specifically waived by the DV GHAD. Nothing in this Article is intended to delay suspension or termination under Article 13.

**Article 13 - Suspension and Termination**

13.1 **Suspension for Cause.** In addition to all other remedies available to the DV GHAD, if Contractor fails to perform or correct work in accordance with the Contract Documents, including non-compliance with applicable environmental or health and safety Laws, the DV GHAD may immediately order the Work, or any portion of it, suspended until the circumstances giving rise to the suspension have been eliminated to the DV GHAD’s satisfaction.

(A) **Failure to Comply.** Contractor will not be entitled to an increase in the Contract Time or Contract Price for a suspension occasioned by Contractor’s failure to comply with the Contract Documents.
No Duty to Suspend. The DV GHAD’s right to suspend the Work will not give rise to a duty to suspend the Work, and the DV GHAD’s failure to suspend the Work will not constitute a defense to Contractor’s failure to comply with the requirements of the Contract Documents.

13.2 Suspension for Convenience. The DV GHAD reserves the right to suspend, delay, or interrupt the performance of the Work in whole or in part, for a period of time determined to be appropriate for the DV GHAD’s convenience. Upon notice by the DV GHAD pursuant to this provision, Contractor must immediately suspend, delay, or interrupt the Work and secure the Project Site as directed by the DV GHAD except for taking measures to protect completed or in-progress Work as directed in the suspension notice. The Contract Price and the Contract Time will be equitably adjusted by Change Order pursuant to the terms of Articles 5 and 6 to reflect the cost and delay impact occasioned by such suspension for convenience, except to the extent that any such impacts were caused by Contractor’s failure to comply with the Contract Documents or the terms of suspension notice. However, the time for completing the Work will only be extended if the suspension causes or will cause delay in completion of a Work Order. If Contractor disputes the terms of a Change Order issued for such equitable adjustment due to suspension, its sole recourse is to comply with the Claim procedures in Article 12.

13.3 Termination for Default. The DV GHAD may declare that Contractor is in default of the Contract for a material breach of or inability to fully, promptly, or satisfactorily perform its obligations under the Contract.

(A) Default. Events giving rise to a declaration of default include Contractor’s refusal or failure to supply sufficient skilled workers, proper materials, or equipment to perform the Work within the Contract Time; Contractor’s refusal or failure to make prompt payment to its employees, Subcontractors, or suppliers or to correct defective Work or damage; Contractor’s failure to comply with Laws, or orders of any public agency with jurisdiction over the Project; evidence of Contractor’s bankruptcy, insolvency, or lack of financial capacity to complete the Work as required within the Contract Time; suspension, revocation, or expiration and nonrenewal of Contractor’s license or DIR registration; dissolution, liquidation, reorganization, or other major change in Contractor’s organization, ownership, structure, or existence as a business entity; unauthorized assignment of Contractor’s rights or duties under the Contract; or any material breach of the Contract requirements.

(B) Notice of Default and Opportunity to Cure. Upon the DV GHAD’s declaration that Contractor is in default due to a material breach of the Contract Documents, if the DV GHAD determines that the default is curable, the DV GHAD will afford Contractor the opportunity to cure the default within ten days of the DV GHAD’s notice of default, or within a period of time reasonably necessary for such cure, including a shorter period of time if applicable.

(C) Termination. If Contractor fails to cure the default or fails to expediently take steps reasonably calculated to cure the default within the time period specified in the notice of default, the DV GHAD may issue written notice to Contractor and its performance bond surety of the DV GHAD’s termination of the Contract for default.

(D) Waiver. Time being of the essence in the performance of the Work, if Contractor’s surety fails to arrange for completion of the Work in accordance with the Performance Bond within seven calendar days from the date of the notice of termination pursuant to paragraph (C), The DV GHAD may immediately make arrangements for the completion of the Work through use of its own forces, by hiring a replacement contractor, or by any other means that the DV GHAD determines advisable under the circumstances. Contractor and its surety will be jointly and severally liable for any additional cost incurred by the DV GHAD
to complete the Work following termination, where “additional cost” means all cost in excess of the cost the DV GHAD would have incurred if Contactor had timely completed Work without the default and termination. In addition, the DV GHAD will have the right to immediate possession and use of any materials, supplies, and equipment procured for the Work and located at the Project Site or any Worksite on the DV GHAD property for the purposes of completing the remaining Work.

(E) **Compensation.** Within 30 days of receipt of updated as-builts, all warranties, manuals, instructions, or other required documents for Work installed to date, and delivery to the DV GHAD of all equipment and materials for the Work for which Contactor has already been compensated, Contactor will be compensated for the Work satisfactorily performed in compliance with the Contract Documents up to the effective date of the termination pursuant to the terms of Article 8, Payment, subject to the DV GHAD’s rights to withhold or deduct sums from payment otherwise due pursuant to Section 8.3, and excluding any costs Contactor incurs as a result of the termination, including any cancellation or restocking charges or fees due to third parties. If Contactor disputes the amount of compensation determined by the DV GHAD, its sole recourse is to comply with the Claim Procedures in Article 12, by submitting a Claim no later than 30 days following notice from the DV GHAD of the total compensation to be paid by the DV GHAD.

(F) **Wrongful Termination.** If Contactor disputes the termination, its sole recourse is to comply with the Claim procedures in Article 12. If a court of competent jurisdiction or an arbitrator later determines that the termination for default was wrongful, the termination will be deemed to be a termination for convenience, and Contactor’s damages will be strictly limited to the compensation provided for termination for convenience under Section 13.4, below. Contactor waives any claim for any other damages for wrongful termination including special or consequential damages, lost opportunity costs, or lost profits, and any award of damages is subject to Section 12.8, Burden of Proof and Limitations.

13.4 **Termination for Convenience.** The DV GHAD reserves the right to terminate all or part of the Contract for convenience upon written notice to Contactor.

(A) **Compensation to Contactor.** In the event of the DV GHAD’s termination for convenience, Contactor waives any claim for damages, including for loss of anticipated profits from the Project. The following will constitute full and fair compensation to Contactor, and Contactor will not be entitled to any additional claim or compensation:

(1) **Completed Work.** The value of its Work satisfactorily performed as of the date notice of termination is received, based on Contractor’s schedule of values and unpaid costs for items delivered to the Project Site that were fabricated for incorporation in the Work;

(2) **Demobilization.** Demobilization costs specified in the schedule of values, or if demobilizations cost were not provided in a schedule of values pursuant to Section 8.1, then based on actual, reasonable, and fully documented demobilization costs; and

(3) **Termination Markup.** Five percent of the total value of the Work performed as of the date of notice of termination, including reasonable, actual, and documented costs to comply with the direction in the notice of termination for convenience, and demobilization costs, which is deemed to cover all overhead and profit to date.

(B) **Disputes.** If Contactor disputes the amount of compensation determined by the DV GHAD pursuant to paragraph (A), above, its sole recourse is to comply with the Claim procedures in Article 12, by submitting a Claim no later than 30 days following notice from the DV GHAD of total compensation to be paid by the DV GHAD.
13.5 Actions Upon Termination for Default or Convenience. The following provisions apply to any termination under this Article, whether for default or convenience, and whether in whole or in part.

(A) **General.** Upon termination the DV GHAD may immediately enter upon and take possession of the Work and all tools, equipment, appliances, materials, and supplies procured or fabricated for the Work. Contractor will transfer title to and deliver all completed Work and all Work in progress to the DV GHAD.

(B) **Submittals.** Unless otherwise specified in the notice of termination, Contractor must immediately submit to the DV GHAD all designs, drawings, as-built drawings, Project records, contracts with vendors and Subcontractors, manufacturer warranties, manuals, and other such submittals or Work-related documents required under the terms of the Contract Documents, including incomplete documents or drafts.

(C) **Close Out Requirements.** Except as otherwise specified in the notice of termination, Contractor must comply with all of the following:

1. Immediately stop the Work, except for any Work that must be completed pursuant to the notice of termination and comply with the DV GHAD’s instructions for cessation of labor and securing the Project Site(s) and any other Worksite(s).

2. Comply with the DV GHAD’s instructions to protect the completed Work and materials, using best efforts to minimize further costs.

3. Contractor must not place further orders or enter into new subcontracts for materials, equipment, services or facilities, except as may be necessary to complete any portion of the Work that is not terminated.

4. As directed in the notice, Contractor must assign to the DV GHAD or cancel existing subcontracts that relate to performance of the terminated Work, subject to any prior rights, if any, of the surety for Contractor’s performance bond, and settle all outstanding liabilities and claims, subject to the DV GHAD’s approval.

5. As directed in the notice, Contractor must use its best efforts to sell any materials, supplies, or equipment intended solely for the terminated Work in a manner and at market rate prices acceptable to the DV GHAD.

(D) **Payment Upon Termination.** Upon completion of all termination obligations, as specified herein and in the notice of termination, Contractor will submit its request for Final Payment, including any amounts due following termination pursuant to this Article 13. Payment will be made in accordance to the provisions of Article 8, based on the portion of the Work satisfactorily completed, including the close out requirements, and consistent with the previously submitted schedule of values and unit pricing, including demobilization costs. Adjustments to Final Payment may include deductions for the cost of materials, supplies, or equipment retained by Contractor; payments received for sale of any such materials, supplies, or equipment, less re-stocking fees charged; and as otherwise specified in Section 8.3, Adjustment of Payment Application.

(E) **Continuing Obligations.** Regardless of any Contract termination, Contractor’s obligations for portions of the Work already performed will continue and the provisions of the Contract Documents will remain in effect as to any claim, indemnity obligation, warranties, guarantees, submittals of as-built drawings, instructions, or manuals, record maintenance, or other such rights and obligations arising prior to the termination date.
Article 14 - Miscellaneous Provisions

14.1 Assignment of Unfair Business Practice Claims. Under Public Contract Code § 7103.5, Contractor and its Subcontractors agree to assign to the DV GHAD 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. § 15) or under the Cartwright Act (Chapter 2 (commencing with § 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, services, or materials pursuant to the Contract or any subcontract. This assignment will be effective at the time the DV GHAD tenders Final Payment to Contractor, without further acknowledgement by the parties.

14.2 Provisions Deemed Inserted. Every provision of law required to be inserted in the Contract Documents is deemed to be inserted, and the Contract Documents will be construed and enforced as though such provision has been included. If it is discovered that through mistake or otherwise that any required provision was not inserted, or not correctly inserted, the Contract Documents will be deemed amended accordingly.

14.3 Waiver. The DV GHAD’s waiver of a breach, failure of any condition, or any right or remedy contained in or granted by the provisions of the Contract Documents will not be effective unless it is in writing and signed by the DV GHAD. The DV GHAD’s waiver of any breach, failure, right, or remedy will not be deemed a waiver of any other breach, failure, right, or remedy, whether or not similar, nor will any waiver constitute a continuing waiver unless specified in writing by the DV GHAD.

14.4 Titles, Headings, and Groupings. The titles and headings used and the groupings of provisions in the Contract Documents are for convenience only and may not be used in the construction or interpretation of the Contract Documents or relied upon for any other purpose.

14.5 Statutory and Regulatory References. With respect to any amendments to any statutes or regulations referenced in these Contract Documents, the reference is deemed to be the version in effect on the date that that proposals were due.

14.6 Survival. The provisions that survive termination or expiration of this Contract include Contract Section 12, Notice, and subsections 13.1, 13.2, 13.3, 13.4, 13.5, and 13.6, of Section 13, General Provisions; and the following provisions in these General Conditions: Section 2.2(J), Contractor's Records, Section 2.3(C), Termination, Section 3.7, Ownership, Section 4.2, Indemnity, Article 12, Dispute Resolution, and Section 11.2, Warranty.

END OF GENERAL CONDITIONS
Special Conditions

1. **Character.** Contractor, its employees, and any Subcontractors must conduct themselves in accordance with the City of San Ramon Sexual Harassment and Equal Opportunity Policy while on the DV GHAD property and engaged directly or indirectly in the DV GHAD business. This policy prohibits comments, slurs, jokes, innuendoes, pranks, physical harassment, unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature. Copies of the policy are available for review at the office of Engineering Services at 2401 Crow Canyon Road, San Ramon, CA. Violators of this policy will be discharged from the Project Site immediately upon written direction of the Engineer, and will not be re-employed on the Project.

2. **Grading and Erosion Controls.** Contractor must comply with Ordinance No. 64, “Ordinance of the City of San Ramon Establishing Grading and Erosion Control Regulations and Procedures.” See also, relevant requirements in Article 7 of the General Conditions.

3. **Permits.** Contractor must obtain the following permits for the Work, in addition to any other permits required for the Project, and the requirements of General Conditions Section 7.1, Permits, Fees, Business License, and Taxes:

   3.1 **Encroachment Permit.** Contractor must obtain from the City’s Engineering Department a “No Fee” encroachment permit application if the work is to be done within public Right-of-Way.

   3.2 **Oversized Load Permit.** Contractor must obtain any required state or local permit to operate or move a vehicle or combination of vehicles or special mobile equipment of a size or weight of vehicle or load exceeding the maximum specified in Division 15 of the California Vehicle Code. Any individual, firm, partnership, corporation, or other legal relationship operating or moving a vehicle exceeding the maximum size or weight specified in the Vehicle Code must apply for all such permits and pay all costs associated with insurance of such permits.

   3.3 **OSHA.** Such permits and inspections as may be required in accordance with the safety and health requirements of the California Division of Industrial Safety.

4. **Pollution Prevention.** Contractor must comply with the requirements of the Contra Costa Clean Water Program with respect to the Pollution Prevention Program. The major elements of this program include materials storage and spill cleanup; vehicle and equipment maintenance and cleaning; earthwork and contaminated soils; dewatering operations; sawcutting; paving/asphalt work; concrete, grout and mortar storage and waste disposal; and painting. See also, relevant requirements in Article 7 of the General Conditions.

5. **Graffiti.** Contractor must maintain any Worksite free of graffiti until the DV GHAD accepts the Work. All graffiti must be removed immediately. Any graffiti in place longer than 24 hours is subject to removal by the DV GHAD at Contractor’s expense, plus a 35% markup, and will be deducted from payment due or to become due to Contractor. See also, General Conditions Section 2.2(B), Responsibility for the Work and Risk of Loss.

6. **Project Appearance.** Any debris, surplus material, loose gravel, mud and silt not cleaned up after 24 hours following deposit on the Project Site will be subject to removal by the DV GHAD at Contractor’s expense, plus 35% markup, and will be deducted from payment due or to become due to Contractor. See also, relevant requirements in Article 7 of the General Conditions.
7. **Markup for Defective or Unauthorized Work.** Any costs incurred by the DV GHAD to remedy, remove, or replace defective or unauthorized work will include 20% markup, and will be deducted from any payment due or to become due to Contractor. See also, General Conditions Section 2.2(I), Correction of Defects.

8. **Noise Control.** The noise level from Contractor’s operations between the hours of 7:00 P.M. and 7:30 A.M. must not exceed 86 dBA at a distance of 50 feet. See also, General Conditions Section 7.20, Noise Control.

9. **Traffic.** See also, General Conditions Section 7.3, Noninterference and Site Management.
   
   9.1 **Public Traffic.** Unless otherwise provided in the Contract Documents, one 11-foot lane in each direction for public traffic must be permitted to pass through the Work with as little inconvenience and delay as possible.

   9.2 **Existing Systems.** Existing traffic signal and highway lighting systems must be kept in operation for the benefit of the traveling public during the Work, and other forces will continue routine maintenance of existing systems unless otherwise provided by the Engineer.

   9.3 **Covered Signs.** Contractor may be required to cover certain signs which regulate or direct public traffic to roadways that are not open to traffic. The Engineer will determine which signs are to be covered.

   9.4 **Excavation and Embankments.** Roadway excavation and the construction embankments must be conducted in such manner as to provide reasonably smooth and even surface satisfactory for use by public traffic at all times; sufficient fill at culverts and bridges to permit traffic to cross must be placed in advance of other grading operations and if ordered by the Engineer, roadway cuts must be excavated in lifts and embankments constructed part width at a time, construction being alternated from one side to the other and traffic routed over the side opposite the one under construction. Culvert installation or culvert construction must be conducted on but one-half the width of the traveled way at a time and that portion of the traveled way being used by public traffic must be kept open and unobstructed until the opposite side of the traveled way is ready for use by traffic. That portion of travel way left open to traffic must not be less than 11 feet.

   9.5 **Public Use.** When Work is complete, Contractor must open it to use by the public if ordered or authorized by the Engineer. Contractor will not be allowed any compensation due to any delay, damage, or inconvenience caused by such public use. Contractor will not be relieved of any other responsibility under the Contract nor will he be relieved of cleanup and finishing operations.

   9.6 **Movement of Equipment.** At locations where traffic is being routed through construction under one-way controls and when ordered by the Engineer, the movement of Contractor’s equipment from one portion of the Work to another will not be governed in accordance with such one-way controls.

   9.7 **Signage for Public Use.** In order to expedite the passage of public traffic through or around the Work when ordered or authorized by the Engineer, Contractor must install signs, lights, flares, barricades, and other facilities for the sole convenience and direction of public traffic. Contractor must also furnish competent flagmen whose sole duties will consist of directing the movement of public traffic through or around the Work, when ordered by the Engineer.
9.8 **Traffic Controls.** Contractor must provide the necessary traffic controls such as, but not limited to, barricades, signs, flagmen, lights, and other warning and safety devices as required by the latest manual approved by the California Department of Transportation for traffic control through the Project Site.

9.9 **Failure to Furnish Protective Measures.** If Contractor appears to be neglectful or negligent in furnishing warning and protective measures, the Engineer may direct attention to the existence of a hazard and the necessary warning and protective measures must be furnished and installed by Contractor at his expense. Should the Engineer point out the inadequacy of warning and protective measures, such action on the part of the Engineer will not relieve Contractor from responsibility for public safety or abrogate Contractor’s obligation to furnish or pay for these devices.

9.10 **Traffic Control Plan.** When required by the Engineer, Contractor must provide a traffic control plan for review and approval by the Engineer a minimum of 5 working days prior to construction.

END OF SPECIAL CONDITIONS
Technical Specifications

1. Routine Maintenance

1.1 Animal Burrow Abatement. Filling animal burrows or entrances with soil, cement, bentonite or similar materials as directed.

1.2 V-ditch Crack Repair. Sealing cracks or minor breaks in v-ditches with approved sealant, grout or concrete.

1.3 V-ditch Cleaning. Maintain concrete V-ditches free of debris, dirt and obstructions. Maintain weeds at a maximum height of four inches within a twelve-inch wide buffer zone on both sides of the V-ditch.

1.4 Weed Abatement. Remove weeds in isolated open space areas between or near homes using weed wackers, mowers or other means as deemed appropriate by the contractor.

2. Non-Routine Maintenance

2.1 Erosion Control
Install permanent or bio-degradable erosion control mats per manufacturer’s specifications. Install bio-stabilization devices along creeks. Apply native grass mix hydrosed.

2.2 Minor Landslide Repair. Excavate and remove slide materials to competent ground, install drainage blankets and subdrains, place engineered fill and apply erosion control materials, or install other engineered systems as required and as directed by the DV GHAD. Benches to be typically 5 feet wide. Compaction typically to 90 percent relative compaction per ASTM D1557.

2.3 Subdrain Maintenance. Clean out PVC subdrains as directed, replace damaged outfalls or cleanouts.

2.4 V-ditch Replacement. Saw cut and remove damaged sections of concrete v-ditches. Install new concrete v-ditches to match existing.

3. Emergency Response

Respond to requests for service within 24 hours for the following items:

3.1 Winterization of Landslides. Install temporary measure to winterized landslides including placing plastic tarps over slide areas, anchoring tarps in place using sandbags, tires, rope, and wood blocks, as necessary, excavating ditches, or utilizing other approved means, to divert water from landslide scarps.

3.2 Mud and Debris Removal. Remove mud, soil and debris from ditches, other drainage facilities, streets, sidewalks or other areas as directed.

3.3 Redirection of Runoff. Install temporary flexible pipe, or other devices to redirect water flow from damaged v-ditches or other drainage features.

3.4 Installation of Barricades, Debris Catchment Devices, or other Engineered Controls. Install barricades, k-rails, temporary fences and other traffic control or safety measures around landslide impacted areas. Install k-rails or other devices to catch or reduce the spread of landslide debris.