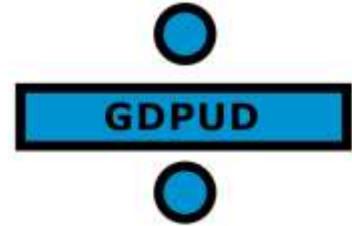


**REPORT TO THE BOARD OF DIRECTORS
BOARD MEETING OF DECEMBER 13, 2022
AGENDA ITEM NO. 9.F**



AGENDA SECTION: NEW BUSINESS

SUBJECT: REVIEW OF REQUEST FOR BID FOR ON CALL PAVING REHABILITATION

PREPARED BY: Adam Brown, Operations Manager

APPROVED BY: Nicholas Schneider, General Manager

BACKGROUND

The District operates and maintains approximately 200-miles of treated water distribution water mains. Water mains are generally located within Caltrans, El Dorado County and private road paved rights-of-way.

DISCUSSION

In 2021, the District repaired a total of 26 line breaks that impact the finished surface completion. District crews finish each location to match the surrounding conditions; however, the District lacks the specific equipment and material for a permeant repair. In order to address this deficiency a Request for Bid (RFB) has been prepared to contract a professional paving contractor. Bid schedule is shown below.

Bid Schedule

Bid Release Date	December 15, 2022
Pre-Bid Meeting	January 12, 2023
Bid Due Date	January 26, 2023

A RFB has been drafted to be advertised through Ebidboard for approximately 30-days and qualified bidders will be notified of project opportunity. The RFP is included as Attachment A.

FISCAL IMPACT

It is anticipated on call paving contractor expenditures will total approximately \$75,000 for 2022/2023 fiscal year. The 2023/2024 Capital Improvement Plan (CIP) will account for this expenditure. Cost for 2022/2023 expenditures is proposed to be funded by CIP water line replacement project.

CEQA ASSESSMENT

This is not a CEQA Project.

RECOMMENDED ACTION

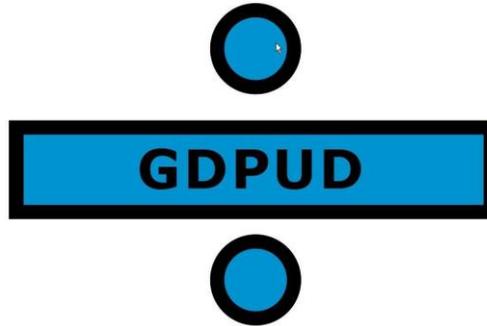
Staff recommends that the Board endorses the announcement of the RFP.

ATTACHMENTS

1. Request for Bid | On Call Paving Rehabilitation

ATTACHMENT 1

REQUEST FOR BID | ON CALL PAVING REHABILITATION



Georgetown Divide Public Utility District

REQUEST FOR BIDS

On-Call Paving Rehabilitation

Bid Release Date:
December XX, 2022

Bids Due Date:
February 25, 2022

Bids shall be submitted by mail or delivered to:

Georgetown Divide Public Utility District
Attn: Adam Brown
6425 Main Street
P.O. 4240
Georgetown, CA 95634

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ATTACHMENT 1 – SAMPLE AGREEMENT FOR CONTRACT SERVICES

*****ITEMS IN BOLD ABOVE MUST BE SUBMITTED WITH THE BID PROPOSAL****

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NOTICE TO CONTRACTORS

REQUEST FOR BIDS

On Call Paving Rehabilitation

NOTICE IS HEREBY GIVEN that the Georgetown Divide Public Utility District ("District" or GDPUD) will be accepting bids to for pavement rehabilitation associated with water line repair at locations through out the District's service area.

Bids are due no later than **January 12, 2023 at 2:00 PM** (Local Time) and may be mailed to the District Office or hand delivered at 6425 Main Street, Georgetown, CA 95634. If a Bid is sent by mail or other delivery system, the sealed envelope containing the Bid shall be enclosed in a separate envelope plainly marked on the outside with the notation "BID ENCLOSED." When using the mail or other delivery system, the Bidder is totally responsible for the mail or other delivery system delivering the Bid at the place and prior to the time indicated in the Advertisement for Bid.

This is a formal bid; therefore, bids will be opened and read aloud publicly immediately following the bidding deadline.

General Work Description:

Finish asphalt roadway surfaces that were impacted by water main breaks. Locations vary throughout the Georgetown Divide area within El Dorado County, State of California (Caltrans) and select private/homeowner associations right-of ways. Finish work can vary from small patches and trenches to larger undermined roadways.

A mandatory Pre-Bid conference will be held on **January 26, 2023, at 12:00 PM** (Local Time) at the District's main office in Georgetown, CA to view typical repair locations.

Bids are required for the entire work described herein. Prospective bidders shall be licensed in the State of California and shall be skilled in the general class or type of work called for under the Contract. Each Bidder shall possess a "Class A" Contractors License, issued by the State of California, at the time of award.

The Contract Documents, including the Project Specifications, may be examined and acquired online at the District website, www.gd-pud.org/#Bids_&_Proposals

Potential bidders who want to receive changes, additions, and deletions to the Bid Documents, as well as a copy of all the questions and responses by the District, should submit an email address to the District by emailing Adam Brown at abrown@gd-pud.org. Those who submit an email address will receive a confirmation of receipt from the District. If an email address is submitted and a confirmation is not received, please call Adam Brown, Operations Manager, at (530) 333-4356, ext.110.

Each bid must be submitted on the prescribed forms. A bid security shall be provided with each bid. Bid security shall be in the amount of ten percent (10%) of the bid amount. The bid security

shall be cash, a certified check or cashier's check drawn to the order of the Georgetown Divide Public Utility District or a Bidder's Bond executed by a surety satisfactory to the Georgetown Divide Public Utility District on the form provided in the Proposal section of the Contract Documents. Bidders are solely responsible for all costs associated with the preparation of their bids.

This work is subject to the provisions of the California Labor Code, pursuant to Section 1773, the general prevailing wage rates in the County in which the work is to be done have been determined by the Director of the California Department of Industrial Relations. These wages are set forth in the General Prevailing Wage Rates for this project, available from the California Department of Industrial Relations' Internet website at <http://www.dir.ca.gov>. Bids may be held by the Georgetown Divide Public Utility District for a period not to exceed sixty (60) calendar days from the date of opening bids for the purpose of reviewing the bids and investigating the qualifications of bidders prior to awarding the contract. Georgetown Divide Public Utility District reserves the right to reject any or all bids or to waive any informalities in the bidding.

Questions concerning the project should be directed to Adam Brown, Operations Manager, by calling (530) 333-4356, or by sending an email to abrown@gd-pud.org.

DATED: December XX, 2022

Georgetown Divide Public Utility District

BY: 

Adam Brown, Operations Manager

GENERAL DESCRIPTION OF WORK

The Contractor shall provide all labor, materials, equipment, and incidentals required to provide finish roadway repairs after a water main break. The District averages 5 to 10 water main breaks per month which are typically finished with a cold patch asphalt. It is anticipated on a quarterly basis the selected contractor will mobilizes and permanently finish each location. Finish work should be completed to specific County or State standards.

SPECIAL NOTICE

This project includes, but is not limited to, the following special requirements:

- Bidder inquiries shall be directed to Adam Brown, Operations Manager, for the Georgetown Divide Public Utility District.
- Potential bidders are encouraged to review the insurance and bonding requirements included in the bid documents, including the General Provisions, with their insurance agent/broker prior to submitting a bid.
- The District would prefer a three year contract period.

QUALIFICATION OF BIDDERS

It is the intention of the District to award a contract only to the bidder who furnishes satisfactory evidence that they have the required qualifications and ability and that they have sufficient resources to complete the work satisfactorily, and within the time identified in the Contract Documents.

To demonstrate Bidder's Qualifications to perform the work, within five days of Owner's request, Bidder shall submit written evidence such as financial data, previous experience, present comments, and such other data as may be called for by the District.

The District may make such investigations as it deems necessary to determine the qualifications and ability of the bidder to perform the work, and the Bidder shall furnish to District all the information and data for this purpose as the District may request. The District reserves the right to reject any Bid if evidence submitted by, or investigation of such Bidder fails to satisfy the District that such Bidder is properly qualified to carry out the obligations of the contract and to complete the work contemplated herein. Conditional Bids will not be accepted.

Prospective Bidders shall be licensed Contractors in the State of California and shall be skilled and regularly engaged in the general class or type of work called for under the Contract. Each Bidder shall have a current "Class A" Contractors License as issued by the State of California.

INTERPRETATIONS AND ADDENDA

All questions regarding the meaning or intent of the Bidding Documents are to be submitted to Adam Brown, Operations Manager, in writing via email. Interpretations or clarifications considered necessary by the Project Manager, in response to such questions, will be issued by Addenda emailed or delivered to all parties recorded by District as having received the Bidding Documents. Addenda may be issued to clarify, correct, or change the Bidding Documents as deemed advisable by the District. Questions received less than five days prior to the date for opening of Bids may not be answered. Only questions answered by Addenda will be binding. Oral or other interpretations of clarifications will be without legal effect.

AWARD OF CONTRACT

The District may award, after review and investigation, the contract to the lowest responsive and responsible bidder of the Base Bid. Alternative Bids may or may not be awarded with the contract.

WAGE RATES

Pursuant to Section 1770 to 1780 inclusive, of the California Labor Code, the successful bidder shall pay not less than the prevailing rate of per diem wages as determined by the Director of the California Department of Industrial Relations. The successful bidder shall post a copy of such determination at each job site. All subcontractors employed by the contractor shall pay not less than the specified prevailing wage rates to all workers employed in the execution of the Contract.

No contractor or subcontractor may be listed on a bid proposal for a public works project unless registered with the State Department of Industrial Relations pursuant to Labor Code Section 1725.5 [with limited exceptions from this requirement for bid purposes only under Labor Code Section 1771.1(a)].

No contractor or subcontractor may be awarded a contract for public work on a public works project unless registered with the Department of Industrial Relations pursuant to Labor Code Section 1725.5.

This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations. All contractors and subcontractors must furnish electronic certified payroll records directly to the Labor Commissioner (aka Division of Labor Standards Enforcement) and must make certified copies of payroll records available for inspection by the District, a requesting employee, or the Division of Labor Standards Enforcement of the Department of Industrial Relations.

BID PROPOSAL

On Call Paving Rehabilitation

NAME OF BIDDER:

STREET ADDRESS:

CITY, STATE, ZIP:

PHONE NO. _____ **FAX NO.**

CONTRACTOR LICENSE TYPE & NO.:

The work for which this proposal is submitted is for construction in conformance with the Special Provisions (including the payment of not less than the prevailing wage rates), the Specifications, the project plans, if any, described below, including any addenda thereto, the contract annexed hereto, and also in conformance with the Georgetown Divide Public Utility District specifications.

On Call Paving Rehabilitation

Bids are to be submitted for a typical entire work. The amount of the bid for comparison will be the total of all items in the Base Bid.

The Bidder shall set forth, for each unit basis item of work, a unit price and a total for the item, and for each lump sum item a total for the item, all in clearly legible figures in the respective spaces provided for that purpose. In the case of unit basis items, the amount set forth under the "Item Total" column shall be the product of the unit price bid and the estimated quantity for the item.

In the case of a discrepancy between the unit price and the total set forth for a unit basis item, the unit price shall prevail, except as provided in (a) or (b), as follows:

- (a) If the amount set forth as a unit price is unreadable or otherwise unclear, or is omitted, or is the same as the amount as the entry in the item total column, then the amount set forth in the item total column for the item shall prevail and shall be divided by the estimated quantity for the item and the price thus obtained shall be the unit price;
- (b) (Decimal Errors) If the product of the entered unit price and the estimated quantity is exactly off by a factor of ten, one hundred, etc. or one-tenth, one-hundredth, etc. from the entered total, the discrepancy will be resolved by mutual resolution between the two parties.

If both the unit price and the item total are unreadable or otherwise unclear, or are omitted, the bid may be deemed irregular. Likewise, if the item total for a lump sum item is unreadable or otherwise unclear, or is omitted, the bid may be deemed irregular unless the project being bid has only a single item and a clear, readable total bid is provided.

Symbols such as commas and dollar signs will be ignored and have no mathematical significance in establishing any unit price or item total or lump sums. Written unit prices, item totals and lump sums will be interpreted according to the number of digits and, if applicable, decimal placement. Cents symbols also have no significance in establishing any unit price or item total since all figures are assumed to be expressed in dollars and or decimal fractions of a dollar. Bids on lump sum items shall be item totals only; if any unit price for a lump sum item is included in a bid and it differs from the item total, the item total shall prevail.

The foregoing provisions for the resolution of specific irregularities cannot be so comprehensive as to cover every omission, inconsistency, error or other irregularity which may occur in a bid. Any situation not specifically provided for will be determined in the discretion of the Georgetown Divide Public Utility District, and that discretion will be exercised in the manner deemed by the Georgetown Divide Public Utility District to best protect the public interest in the prompt and economical completion of the work. The decision of the Georgetown Divide Public Utility District respecting the amount of a bid, or the existence or treatment of an irregularity in a bid, shall be final.

If this proposal shall be accepted and the undersigned shall fail to enter into the contract and furnish the bond(s) in the sums required by the State Contract Act, with surety satisfactory to the Georgetown Divide Public Utility District, and the insurance certificates within ten (10) days, not including Saturdays, Sundays, and legal holidays, after the Bidder has received notice from the Georgetown Divide Public Utility District that the contract has been awarded, the Georgetown Divide Public Utility District may, at its option, determine that the Bidder has abandoned the contract, and thereupon this proposal and the acceptance thereof shall be null and void and the forfeiture of the security accompanying this proposal shall operate and the same shall be the property of the Georgetown Divide Public Utility District.

When submitting its bid, the Bidder shall include security in the form of cash; cashier's check made payable to the District; a certified check made payable to the District or a bidder's bond executed by an admitted surety insurer, made payable to the District. The amount of security shall be 10 percent of the amount bid. Should the Bidder be awarded the contract, but fail to execute the contract, its security shall be forfeited to the District.

The Bidder has familiarized itself with the nature and extents of the Contract Documents, the Work, the site, the locality where the Work is to be performed, the legal requirements (federal, state and local laws, ordinances, rules, and regulations), and the conditions affecting cost, progress or performance of the Work, and has made such independent investigations as Bidder deems necessary.

The undersigned, as bidder, declares that the only persons or parties interested in this proposal as principals are those named herein; that this proposal is made without collusion with any other person, firm, or corporation; that he has carefully examined the plans therein referred to; and the contractor proposes, and agrees if this proposal is accepted, that they will contract with the Georgetown Divide Public Utility District, in the form of the copy of the contract annexed hereto,

to provide all necessary machinery, tools, apparatus and other means of construction, and to do all the work and furnish all the materials specified in the contract, in the manner and time therein prescribed, and according to the requirements of the District as therein set forth, and that the contractor will take in full payment therefor the following prices, to wit:

BID SCHEDULE

On Call Paving Rehabilitation

BASE BID

Item No.	Description	Unit	Estimated Quantity	Bid Unit Price	Bid Price
1	Mobilization, Demobilization, Insurance & Bonds	LS	1		
2	Hot Mix Asphalt, Type A - 2"	TON	50		
3	Roadway Excavation	CY	25		
4	Hot Mix Asphalt, Type A - 4" Digout	TON	50		
5	Class 2 Aggregate Base	CY	25		
6	Cold Plane/Grind Overlay Asphalt – 2"	SQYD	100		

Total Bid Base Price _____

Note: The contract will be awarded based on the first year rate. The base year unit prices shall be adjusted by a percentage equal to the change in the Producer Price Index calculated by the BLS PPI which is published most immediately preceding the commencement of the applicable Additional Term, which shall be compared with the PPI with the same index code published most immediately preceding when the base price was set. Notwithstanding the foregoing, in no event shall BIDDER'S unit prices be increased by an amount exceeding five percent of the unit price in effect during the immediately preceding term. Any adjustment to the BIDDER'S compensation rates shall be reflected in a written amendment.

BID ITEMS DESCRIPTION

As discussed above project areas are yet to be determined, however bid schedule cost are unit cost. Quantity will be determined after contractor selection process and by amount of water main repair locations.

Bid Item 1: Mobilization/Demobilization:

The lump sum amount for typical Mobilization/Demobilization for each repair period shall include: the obtaining of insurance and bonds; moving of all equipment; submittals required to begin work, submittal and approval of initial project schedule; installing construction signs; temporary buildings and field office trailer(s); establishment of temporary site access and staging area; installation of temporary construction fencing; and all other construction as required for the proper performance and completion of work.

Demobilization shall include: site cleaning and restoration of surfaces within the job site.

Contractor may apply for payment of mobilization on a percent complete basis as the items covered in Mobilization are being completed, as described in the Mobilization Specification.

Contractor may apply for payment of Demobilization after the overall project substantial completion is achieved and the project begins to demobilize.

The lump sum price shall be full compensation for the preparation and installation or submittal of these materials, and for all labor, equipment, tools and incidentals to complete this item.

Bid Item 2: Hot Mix Asphalt, Type A - 2":

The per ton amount for Hot Mix Asphalt (Type A) shall include all work and materials necessary for producing, providing, and placing asphalt as specified in the State Standard Construction Specifications, and as directed by the District. Material testing and quality assurance is included in this item.

The per ton amount shall be full compensation for all labor, equipment, tools, and incidentals to complete this item.

Bid Item 3: Roadway Excavation:

The cubic yard amount for Roadway Excavation shall include all work and materials necessary for the removal and off haul of District patch work, aggregate base (AB) (if necessary), and native material to allow construction.

The per cubic yard amount shall be full compensation for all labor, equipment, tools, and incidentals to complete this item.

Bid Item 4: Hot Mix Asphalt, Type A - 4" Digout:

The per ton amount for Hot Mix Asphalt (Type A) shall include all work and materials necessary for producing, providing, and placing asphalt for Digout, as specified in the

State Standard Construction Specifications, and as directed by the District. Material testing and quality assurance is included in this item.

The per ton amount shall be full compensation for all labor, equipment, tools, and incidentals to complete this item.

Bid Item 5: Class 2 Aggregate Base:

The per cubic yard amount shall include all work and materials necessary to place Class 2 Aggregate Base as required, as specified in the State Standard Construction Specifications, and as directed by the District. Material testing and quality assurance is included in this item.

The per cubic yard amount shall be full compensation for all labor, equipment, tools, and incidentals to complete this item.

Bid Item 6: Cold Plane Asphalt Concrete - 2":

The per square yard amount shall include all work and materials necessary in pavement planning, pavement conforms, removing quarter crowns, complete in place, including disposal or transport of planed material and all other essentials required to complete this item as detailed in the Specifications and Plans and require providing a completed project with transition to match existing grades.

The per square yard amount shall be full compensation for all labor, equipment, tools, and incidentals to complete this item.

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Experience Qualifications

Number of years Bidder has been in the contracting business, under the present business name: _____ Years

Experience in work, of a nature similar to that covered in the bid extends, over a period of _____ years.

Has the Bidder ever failed to satisfactorily complete a contract awarded to it. Yes _____
No _____

If yes, please explain:

List of Previous Contracts Completed by Contractor

	DATE	NAME OF PROJECT	CONTRACT AMOUNT	OWNER	PHONE #
1.					
2.					
3.					
4.					
5.					

Please attach separate sheet, if needed.

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ADDENDUM ACKNOWLEDGEMENT

Bidder acknowledges receipt of the following addenda, which are attached to the proposal:

Addendum No.	Date:

ADDENDA

This proposal is submitted with respect to the changes to the contract included in the Addendum Acknowledgement above.

To all the foregoing, and including all Bid Schedule(s), List of Subcontractor's, Worker's Compensation Certificate, and Non-Collusion Affidavit, said Bidder further agrees to complete the Work required under the Contract Documents within the Contract Time stipulated in said Contract Documents and to accept full payment therefore the Contract Price based on Lump Sum(s) and/or Unit Bid Price(s) named in the aforementioned Bid Schedule(s).

By my signature on this proposal I certify, under penalty of perjury under laws of the State of California and the United States of America, that the above is true and correct.

Date: _____

Bidder: _____

By: _____
(Signature)

Title: _____

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WORKERS' COMPENSATION CERTIFICATE

Owner and Description of Contract:

Georgetown Divide Public Utility District

On Call Paving Rehabilitation

Labor Code Section 3700: *Every employer, except the State and all political subdivisions or institutions thereof, shall secure the payment of compensation in one or more of the following ways:*

- (a) *By being insured against liability to pay compensation in one or more insurer duly authorized to write compensation insurance in this State.*
- (b) *By securing from the Director of Industrial Relations a certificate of consent to self-insure, which may be given upon furnishing proof satisfactory to the Director of Industrial Relations of ability to self-insure and to pay any compensation that may become due to his employees.*

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

Dated: _____, 2022

(Contractor)

By: _____
(Signature)

(Official Title)

(SEAL)

(Labor Code Section 1861 provides that the above certificate must be signed and filed by the Contractor with the Owner prior to performing any work.)

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NON-COLLUSION AFFIDAVIT

This Affidavit to be fully executed.

The undersigned declares:

I am the _____ of _____, the party making the foregoing bid.

The bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation. The bid is genuine and not collusive or sham. The bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham bid. The bidder has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham bid, or to refrain from bidding. The bidder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the bid price of the bidder or any other bidder, or to fix any overhead, profit, or cost element of the bid price, or of that of any other bidder. All statements contained in the bid are true. The bidder has not, directly or indirectly, submitted his or her bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, to any corporation, partnership, company association, organization, bid depository, or to any member or agent thereof to effectuate a collusive or sham bid, and has not paid, and will not pay, any person or entity for such purpose.

Any person executing this declaration on behalf of a bidder that is a corporation, partnership, joint venture, limited liability company, limited liability partnership, or any other entity, hereby represents that he or she has full power to execute, and does execute, this declaration on behalf of the bidder.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration is executed on _____[date], at _____[city], _____[state]."

Signature: _____
President, Secretary, Manager, Owner, or Representative

(Attach Notary Acknowledgement)

Print Name and Title below:

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SIGNATURE SHEET

SIGNATURE NOTICE

If bidder or other person of legal interest is a corporation; state legal name of corporation, also names of the president, secretary, treasurer, and manager authorized to sign contracts; if a co-partnership, state true name of firm, also names of all individual copartners composing firm authorized to sign contracts; if Bidder or other interested person is an individual, state first and last names in full.

Provide the names of all persons of legal interest in the foregoing proposal as principals below:

Licensed in conformance with an act providing for the registration of contractors,

Contractor's License No.: _____ Classification(s): _____

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FAITHFUL PERFORMANCE BOND

(CONSTRUCTION)

KNOW ALL PERSONS BY THESE PRESENTS, that the Georgetown Divide Public Utility District (hereinafter designated as "The District"), a Special Utility District located in the County of El Dorado, State of California, by Resolution No. _____, has awarded a contract to and has entered into an agreement with _____, hereinafter designated as "Principal" whereby Principal agrees to complete the improvements more particularly described in all documents forming the complete contract entitled **On Call Paving Rehabilitation** which said agreement is hereby referred to and made a part hereof; and

WHEREAS, said Principal is required under the terms of said agreement to furnish a bond for the faithful performance of said agreement.

NOW, THEREFORE, we, the Principal and _____ as Surety, which is a corporation duly authorized and admitted to transact business and issue surety bonds in the State of California, are held and firmly bound unto the District, in the penal sum of \$ _____, lawful money of the United States, **being not less than one hundred percent (100%) of the estimated contract cost of the work**, for the payment of which sum will and truly to be made, we bind ourselves, our heirs, successors, executors and administrators, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH that if the above bonded Principal, his/her/its heirs, executors, administrators, successors or assigns, or its subcontractors, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions and agreements, required, on his/her/their part, to be kept and performed at the time and in the manner therein specified, in all respects according to their true intent and meaning, and shall indemnify, defend and hold harmless the District, its officers, agents and employees, as therein stipulated, then this obligation shall become null and void; otherwise it shall be and remain in full force and effect.

AS A PART OF THE OBLIGATION secured hereby and in addition to the face amount specified therefor, there shall be included costs and reasonable expenses and fees, including reasonable attorney's fees, incurred by the District in successfully enforcing such obligation, all to be taxed as costs and included in any judgment rendered.

The surety hereby stipulated and agrees that no change, extension of time, alteration or addition to the terms of the agreement or to the work to be performed thereunder of the specifications accompanying the same shall in anyway effect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the agreement or to the work or to the specifications.

IN WITNESS WHEREOF, the above bounded parties have executed this instrument under their seals this _____ day of _____, 20____, the name and corporate seal of each corporate party being hereto affixed and these presents duly signed by its undersigned representative, pursuant to authority of its governing body.

NOTE: To be signed by Principal and Surety and acknowledgement and notarial seal for both

attached.

(SEAL)

PRINCIPAL

By: _____

Title: _____

SURETY

By: _____

Title: _____

The above bond accepted and approved this ____ day of _____, 2022.

Adam Brown, Operations Manager
Georgetown Divide Public Utility District

LABOR AND MATERIALS BOND

(CONSTRUCTION)

KNOW ALL PERSONS BY THESE PRESENTS, that the Georgetown Divide Public Utility District, a Special Utility District located in the County of El Dorado, State of California, by Resolution No. _____, has awarded a contract to and has entered into an agreement with _____, hereinafter designated as "Principal" whereby Principal agrees to complete the improvements more particularly described in all documents forming the complete contract entitled **On Call Paving Rehabilitation** which said agreement is hereby referred to and made a part hereof; and;

WHEREAS, said Principal is required to furnish a bond in connection and with said contract, provided that if said Principal, or any of his/her/its contractors, shall fail to pay for any materials, provisions, provender or other supplies or teams used in, upon, for or about the performance of the work contracted to be done, or for any work or labor done thereon of any kind, the Surety of this bond will pay the same to the extent hereinafter set forth.

NOW, THEREFORE, we the Principal and _____, as Surety, which is a corporation duly authorized and admitted to transact business and issue surety bonds in the State of California, are held and firmly bound unto the District in the penal sum of \$_____, lawful money of the United States, **being not less than ten percent (10%) of the estimated contract cost of the work**, for the payment of which sum will and truly to be made, we bind ourselves, our heirs, executors, administrators and successors, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH that if the above bonded Principal, his/her/its heirs, executors, administrators, successors or assigns, or its subcontractors, shall fail to pay any of the persons named in Section 9100 of the Civil Code, or to pay for any materials, provisions, provender, or other supplies or teams used in, upon, for or about the performance of the work contracted to be done, or for any work or labor thereon of any kind or for amounts due under the Unemployment Insurance Code with respect to such work or labor, then said Surety will pay the same in, or to an amount not exceeding, the amount hereinabove set forth, and also will pay in case suit is brought upon this bond a reasonable attorney's fee in such suit, which fee shall be fixed by the Court.

AS FURTHER TERMS OF THIS BOND, IT IS UNDERSTOOD AS FOLLOWS:

1. This bond and all its provisions shall inure to the benefit of all persons named in Section 9100 of the Civil Code so as to give a right of action to such persons or their assigns in any suit brought upon this bond.
2. This bond is given to comply with the provisions of Title, Part 6, Division 4, of the Civil Code. The liability of the Principal and Surety hereunder is governed by the provisions of said Chapter, all acts amendatory thereof, and all other statutes referred to therein. And the said Surety, for value received, hereby stipulates and agrees that no change, extension of time,

alteration or addition to the terms of the contract or to the work to be performed thereunder or the

specifications accompanying the same shall in any way affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of this contract, to the work, or to the specifications.

IN WITNESS WHEREOF, the above bounded parties have executed this instrument under their seals this ___ day of _____, 20___, the name and corporate seal of each corporate party being hereto affixed and these presents duly signed by its undersigned representative, pursuant to authority of its governing body.

NOTE: To be signed by Principal and Surety and acknowledgement, and notarial seal attached.

(SEAL)

PRINCIPAL

By: _____

Title: _____

SURETY

By: _____

Title: _____

The above bond accepted and approved this ___ day of _____, 2022.

Adam Brown, Operations Manager
Georgetown Divide Public Utility District

GUARANTEE

FOR

Georgetown Divide Public Utility District

On Call Paving Rehabilitation

DATE OF ACCEPTANCE: _____

We hereby guarantee that the work we have installed for the District has been done in accordance with the approved Plans if any, Special Provisions and Specifications as well as all applicable State and local regulations and that the work as installed will fulfill the requirements of the guarantee. We agree to repair or replace any or all of our work, together with any other adjacent damages resulting from our work, that may prove to be defective in its workmanship or material within a period of **ONE (1) YEAR** from the date of acceptance of the above-named work by the District without any expense whatsoever to the District, ordinary wear and tear and unusual abuse or neglect excepted.

Within **fifteen (15) days** after being notified in writing by the District of any defects in the work, we agree to commence and pursue with due diligence all work necessary to fulfill the terms of this guarantee, and to complete the work within a reasonable period of time (not to exceed thirty **(30) days** after commencement of the repair work); and in the event of our failure to so comply, we collectively and separately, do hereby authorize said District to proceed to have such work done at our expense and we will honor and pay the cost and charges therefor upon demand.

DATED: _____

CONTRACTOR

BY: _____

Title: _____

(To be signed and notarized before acceptance of project).

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INSURANCE

1. The Contractor shall procure and maintain for the duration of the Contract the following insurance against claims for injuries to persons or damages to property which may arise from, or in connection with, the performance of the work hereunder by the Contractor, its agents, representatives, employees or subcontractors.
2. Minimum Scope of Insurance. Coverage shall be at least as broad as:
 - a. Commercial general liability coverage (Insurance Services Office Commercial General Liability coverage occurrence Form CG 0001), including liability coverage for premises and operations, explosion and collapse hazard, underground hazard, products/completed operations hazard, contractual liability, use of independent contractors, and broad form property damage with completed operations.
 - b. Automobile liability coverage (Insurance Services Office Form Number CA 0001 covering Automobile Liability, Code 1 (any auto)).
3. For any claims related to this project, the Contractor's insurance coverage shall be primary insurance as respects the District and its officers, officials, employees, agents and volunteers. Any insurance or self-insurance maintained by the District and its officers, officials, employees, agents or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.
4. Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to the District and its officers, officials, employees, agents or volunteers.
5. The Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
6. Each insurance policy required by this section shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, or reduced in coverage or in limits except after 30 days' prior written notice by U. S. mail has been given to the District.
7. Course of construction policies shall contain, or be endorsed to contain, the following provisions: (a) District shall be named as loss payee; and (b) The insurer shall waive all rights of subrogation against the District.
8. Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A-VII or equivalent, unless otherwise approved by District.
9. Verification of Coverage. Prior to commencing work, Contractor shall provide to District the following proof of insurance: (a) certificate(s) of insurance on ACORD Form 25-S (or insurer's equivalent) evidencing the required insurance coverages; and (b) endorsement(s) on ISO Form CG 2010 (or insurer's equivalent), signed by a person authorized to bind coverage on behalf of the insurer(s) and certifying the additional

insured coverages, or equivalent additional insured blanket endorsement. The District reserves the right to require complete copies of all required insurance policies and/or endorsements affecting required insurance coverage at any time.

10. Subcontractors. The Contractor shall include all actions and activities of its subcontractors as insureds under its policies, or shall require each subcontractor to provide insurance coverage consistent with the foregoing and to furnish separate endorsements or certificates to the District. All coverages for subcontractors shall be subject to all of the requirements stated in this section.
11. Any products/completed operations insurance coverage shall be maintained after completion of the project for the full guarantee period.
 - a. c. Workers' compensation insurance as required by the State of California and employer's liability insurance.
 - b. d. Course of construction (also known as builder's risk) insurance form providing coverage for all risks of physical loss, damage or destruction to the work, to insure against such losses until final-acceptance of the work by the District.

MINIMUM LIMITS OF INSURANCE

The Contractor shall maintain limits no less than:

1. General Liability: \$2,000,000 per occurrence for bodily injury, personal injury and property damage. If commercial general liability insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project location or the general aggregate limit shall be twice the required occurrence limit.
2. Automobile Liability: \$1,000,000 per accident for bodily injury and property damage.
3. Employer's Liability: \$1,000,000 per accident for bodily injury or disease.
4. Course of Construction: Completed value of the project.
5. Pollution and/or Asbestos Pollution Liability and/or Errors and Omissions insurance. Coverage: \$1,000,000 each occurrence, \$2,000,000 policy aggregate.

The above insurance limits can be met through provision of umbrella or excess policy insurance coverage consistent with the provisions of this Section.

DEDUCTIBLES AND SELF-INSURED RETENTIONS.

Any deductibles or self-insured retentions must be declared to and approved by the District. At the option of the District, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the District, its officers, officials, employees and volunteers; or the Contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

ADDITIONAL INSURED

The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

1. The District and its officers, officials, employees, agents and volunteers are to be covered as additional insureds as respects: liability arising out of activities performed by or on behalf of the Contractor, products and completed operations of the Contractor; premises owned, occupied or used by the Contractor; or automobiles owned, leased, hired or borrowed by the Contractor. The coverage shall contain no special limitations on the scope of protection afforded to the District, and their officers, officials, employees, agents or volunteers. The additional insured coverage or endorsement shall comply with California Insurance Code section 11580.04.
2. The requirements as to the types, limits, and the District's approval of insurance coverage to be maintained by the Contractor are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by the Contractor under the Contract.
3. In addition to any other remedy the District may have, if the Contractor or any of the subcontractors fails to maintain the insurance coverage as required in this section 5.50, the District may obtain such insurance coverage as is not being maintained, in form and amount substantially the same as required herein, and the District may deduct the cost of such insurance from any amounts due or which may become due the Contractor under this Contract.

INDEMNITY AND LITIGATION COST

1. Contractor shall protect, defend, indemnify and hold harmless the District and it's Inspector, and their respective officers, directors, agents, employees, volunteers, representatives, boards, and consultants from and against all penalties and fines imposed by law and all loss, claim, cause of action, demand, suit, judgment, cost, damage, expense, and liability (including but not limited to court or arbitration costs and reasonable attorneys' and expert witness fees) resulting from injury to or death of persons, including without limitation employees of the District, Inspector and Contractor, or damage to or loss of property, caused by, arising out of or in any way connected with the Contractor's or its subcontractors' or suppliers' performance, operations or activities under this Contract, except to the extent the sole negligence, active negligence or willful misconduct of an indemnified party proximately causes the loss, claim, demand, cost, suit, judgment, penalty, fine, cause of action, damage, expense, or liability. Upon the request of an indemnified party hereunder, Contractor shall defend any suit asserting a claim covered by this indemnity and shall pay any cost that may be incurred by an indemnified party in enforcing this indemnity. In all cases, the indemnified party shall have the right to approve counsel selected by Contractor in the defense of any legal action or with respect to any claim, which approval shall not be unreasonably withheld. In addition, the indemnified party shall have the right to participate in and be represented by counsel of its own choice and at its own expense in any legal action or with respect to any claim.
2. The District may withhold from payment due Contractor hereunder such amounts as, in the District's opinion, are sufficient to provide security against all loss, damage, expense,

penalty, fine, cost, claim, demand, suit, cause of action, judgment, or liability covered by the foregoing indemnity provision.

3. In any and all claims against the District or the Inspector and his consultants, and each of their officers, directors, employees and agents by any employee of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, the indemnification obligation under this section shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Contractor, any subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable under Worker's Compensation statutes, disability benefit statutes or other employee benefit statutes.
4. Neither termination of this Contract nor completion of the acts to be performed under this Contract shall release Contractor from its obligations to indemnify, so long as the event upon which the claim is predicated shall have occurred prior to the effective date of any such termination or completion and arose out of or was in any way connected with performance or operations under this Contract by Contractor, its employees, agents, suppliers or subcontractors, or the employee, agent or subcontractor of anyone of them.
5. Submission of insurance certificates or submission of other proof of compliance with the insurance requirements in this Contract does not relieve Contractor from liability under this indemnification and hold harmless clause. The obligations of this indemnity section shall apply whet or not such insurance policies shall have been determined to be applicable to any of such damages or claims for damages.
6. In accordance with California Public Contract Code section 9201(b), if District receives any written third-party claim relating to work performed under this Contract, then District agrees to promptly notify Contractor about the third-party claim.

PROTECTION OF WORK

1. The Contractor shall be responsible for the care of all work until its completion and final acceptance; and it shall, at its own expense, replace damaged or lost material and repair damaged parts of the work or the same may be done at its expense by the District and the Contractor and its sureties shall be liable therefor. The Contractor shall make its own provisions for properly storing and protecting all material and equipment against theft, injury, or damage from any and all causes. Damaged material and equipment shall not be used in the work. The Contractor shall take all risks from floods and casualties except as provided by law, and shall make no charge for the restoration of such portions of the work as may be destroyed or damaged by flood or other casualties or because of danger from flood or other casualties or for delays from such causes. The Contractor may, however, be allowed a reasonable extension of time on account of such delays, subject to the conditions hereinbefore specified.
2. The Contractor shall effectively secure and protect adjacent property and structures, livestock, crops and other vegetation. If applicable, the Contractor shall open fences on or crossing the right-of-way and install temporary gates of sound construction thereon so as to prevent the escape of livestock. Adjacent fence posts shall be adequately braced to prevent

the sagging or slackening of the wire. Before such fences are opened, the Contractor shall notify the owner or tenant of the property and, when practicable, the opening of the fence shall be in accordance with the wishes of said owner or tenant. The Contractor shall be responsible that no loss or inconvenience shall accrue to the owner or tenant by virtue of its fences having been opened or the gate not having been either shut or attended at all times. If special types of fences are encountered, the Contractor shall install temporary gates made of similar materials and of suitable quality to serve the purposes of the original fences. In all cases when the Contractor removes fences to obtain work room, it shall provide and install temporary fencing as required, and on completion of construction shall restore the original fence to the satisfaction of the District. All costs of providing, maintaining and restoring gates and fencing shall be borne by the Contractor. The Contractor shall provide and maintain all passageways, guard fences, lights and other facilities for protection required by public authority or local conditions.

3. The Contractor shall use extreme care during construction to prevent damage from dust to crops and adjacent property. The Contractor, at its own expense, shall provide adequate dust control for the right-of-way and take other preventative measures as directed by the Inspector.
4. The Contractor shall be responsible for all damage to any property resulting from trespass by the Contractor or its employees in the course of their employment, or subcontractors or their employees in the course of their employment, or anyone directly or indirectly employed by any of them, whet such trespass was committed with or without the consent or knowledge of the Contractor.
5. The Contractor shall see that the worksite is kept drained and free of all ground water and any other water which may impede the progress or execution of the Contract work.
6. The Contractor shall be responsible for any damage caused by drainage or water runoff from construction areas and from construction plant areas.
7. In an emergency affecting the safety of life, or of the work, or of adjoining property, the Contractor, without special instruction or authorization from the Inspector, is hereby permitted to act at its discretion to prevent such threatened loss or injury, and it shall so act without appeal if so instructed or authorized. Should the Inspector deem an emergency condition to exist, the Contractor shall immediately do those things and take those steps ordered by the Inspector. The decision of the Inspector in this respect shall be final and conclusive. Any claims for compensation made by the Contractor on account of emergency work shall be determined as specified under section 5.3.
8. Except as provided by California Government Code section 4215, the Contractor shall be responsible for the removal, relocation and protection of all public and private utilities, including irrigation facilities in the nature of utilities, located on the site of the construction project if and to the' extent that the same are identified in the Contract Documents; and the Contractor shall not be entitled to any extension of time or claim for damages for extra compensation in connection therewith. If and to the extent that such utilities or facilities are not identified in the Contract Documents, as between the Contractor and the District, the District will be responsible for the cost of their removal, relocation or protection, as the case may be, but the Contractor shall perform any such work in conformance with applicable

provisions of section 5.3, if so directed by the Inspector and in such situation the Contractor shall not be responsible for delay in completion of the project caused by the failure of the District or the owner of the utility to provide for such removal or relocation. If the Contractor, while performing the Contract, discovers utility or irrigation facilities not identified by the District in the Contract Documents, it shall immediately notify the Inspector in writing.

9. When the work to be performed under the Contract crosses or otherwise interferes with existing streams, watercourses, canals, farm ditches, pipelines, drainage channels, or water supplies, the Contractor shall provide for such watercourse or pipelines and shall perform such construction during the progress of the work so that no damage will result to either public or private interests; and the Contractor shall be liable for all damage that may result from failure to so provide during the progress of the work.

ACCIDENTS

1. The Contractor shall provide and maintain, in accordance with California Labor Code section 6708 and Cal-OSHA requirements, adequate emergency first-aid treatment for its employees and anyone else who may be injured in connection with the work.
2. The Contractor shall promptly report in writing to the District all accidents of any nature arising out of, or in connection with, the performance of the work, on or adjacent to the site, which caused death, personal injury, or property damage, giving full details and statements of witnesses. In addition, if death, serious injury, or serious damage occurs, the Contractor shall report the accident immediately by telephone or messenger to the District and the Inspector.
3. If any claim is made by anyone against the Contractor or any subcontractor on account of any accident, the Contractor shall promptly report the facts in writing to the District, giving full details of the claim.

NO PERSONAL LIABILITY

Neither the District, the Inspector, nor any of their officers, directors, agents, or employees shall be personally responsible for any liability arising under the Contract, except such obligations as are specifically set forth herein.

MEASUREMENTS OF QUANTITIES

Where the Contract provides for payment on a lump sum price basis, no measurement of quantity will be made. Where the Contract provides for payment on a unit price basis, the quantities of work performed will be computed by the District on the basis of measurements taken by the District, and these measurements shall be final and conclusive. All quantities of work computed under the Contract shall be based upon measurements by the District according to United States Measurements and Weights. Methods of measurement are specified herein and in the Specifications.

The Plans identify project limits of; tree removal, removal and replacement of existing pavement, grading and grind & HMA overlay The Bid Schedule identifies estimated quantities of materials required for the work listed above. The District reserves the right to reduce the work

limits, to match the estimated quantities as identified within the Bid Schedule, without any additional compensation to the Contractor.

SCOPE OF PAYMENT

1. The Contractor shall accept the compensation provided in the Contract as full payment for furnishing all labor, materials, tools, equipment, and incidentals necessary to the completed work and for performing all work contemplated and embraced under the Contract; also for loss or damage arising from the nature of the work, or from the action of the elements, or from any unforeseen difficulties which may be encountered during the prosecution of the work until the acceptance by the District and for all risks of every description connected with the prosecution of the work; also for all expenses incurred in consequence of the suspension or discontinuance of the work as provided in the Contract; and for completing the work according to the Specifications and Plans. Neither the payment of any estimate nor of any retained percentage shall relieve the Contractor of any obligation to make good any defective work or material.
2. No compensation will be made in any case for loss of anticipated profits. Increased or decreased work involving supplemental agreements will be paid for as provided in such agreements.
3. Within two weeks of receiving the Notice to Proceed, the Contractor shall submit a Schedule of Values totaling the Bid Amount of the project. The Schedule of Values shall contain sufficient information to be used by the District in evaluating acceptability of progress payment requests and work progress from the Contractor. The District and Inspector shall review the Schedule of Values and the Contractor shall revise until a schedule which is acceptable to the District is received.

PROGRESS ESTIMATE

For each calendar month of Contract work, the Contractor will prepare a progress estimate of all work performed under the Contract. Within the first ten (10) days of each succeeding calendar month, the Contractor will prepare in writing and certify to the District, an estimate which in his opinion is a fair approximation of the work done under the Contract based on the Schedule of Values provided by the Contractor, including any amounts due the Contractor for extra work and change orders. In arriving at the value of the work done, the Contractor will give consideration to the value of labor and materials which have been incorporated into the permanent work by the Contractor during the preceding month. Consideration will not be given to preparatory work done or for materials or equipment on hand.

Within ten (10) days of receipt of the progress estimate, the Inspector will either approve or return to the contractor with a request for revisions. Once a satisfactory progress estimate is submitted the Inspector will certify the approved progress estimate and submit to the District to process the progress payment.

In order to assist the Inspector, the Contractor shall furnish the Inspector with copies of invoices for all such items delivered to the job site and incorporated into the work.

PROGRESS PAYMENTS

1. The District will pay the Contractor ninety (95%) percent of the amount of each properly submitted and undisputed progress payment request. Five percent (5%) of the amount of each payment request shall be retained by the District until final completion and acceptance of all work under the Contract; provided, however, that if the District, at any time after fifty (50%) percent of the work has been completed, finds that satisfactory progress is being made, the District may pay any or all of the remaining progress payments in full.
2. In accordance with California Public Contract Code section 20104.50, a written payment request from the Contractor shall be reviewed by the District as soon as practicable in order to determine whether it is proper. If it is determined not to be a proper payment request suitable for payment, then the District shall return it to the Contractor with a written explanation of the deficiencies as soon as practicable, but not later than 7 days after receipt of the payment request. If the payment request is determined to be properly submitted and is undisputed, the District will certify the payment as provided above and the District shall make the payment to the Contractor within 30 days after receipt of the payment request. If a properly submitted and undisputed payment request is not paid within this 30-day period, then the District shall pay interest on the overdue amount to the Contractor at the legal rate set forth at California Code of Civil Procedure section 685.010. This section shall not apply if District funds are not available for payment of the payment request or if payment is delayed due to an audit inquiry by the financial officer of the District.
3. When, in the judgment of the District, the work is not proceeding in accordance with the provisions of the Contract, or when in his judgment, the total amount of the work done since the last estimate amounts to less than \$1,000, no pay estimate will be prepared and no progress payment will be made.
4. No progress estimate or payment shall be considered to be an approval or acceptance of any work, materials or equipment. Estimated amounts and values of work done and materials and equipment incorporated into the work will be conformed to actual amounts and values as they become available in subsequent progress estimates, progress payments and the final estimate and payment. All estimates and payments will be subject to correction in subsequent progress estimates and payments and the final estimate and payment.
5. It is mutually agreed between the parties to the Contract that no payments made under the Contract, including progress payments and the final payment, shall be evidence of the performance of the Contract, either wholly or in part, and no payment shall be construed to be an acceptance of any defective or incomplete work or improper materials.
6. District reserves the right to make payments jointly to the order of the Contractor and to any of its subcontractors or suppliers that might have a right to file a stop notice with the District. The District shall have no obligation to payor to ensure the payment of money to a subcontractor or supplier, except as may otherwise be required by law.

LIQUIDATED DAMAGES

It is agreed that CONTRACTOR'S failure to complete the work within the time allowed will result in damages being sustained by the DISTRICT. Such damages are, and will continue to be, impracticable and extremely difficult to determine. For each consecutive calendar day in excess of the time specified, as adjusted in accordance with standard specifications, for completion of

the work the CONTRACTOR shall pay to the DISTRICT, or have withheld from moneys due it, the sum of \$1000 per day. Progress payments made after the scheduled completion date shall not constitute a waiver of liquidated damages

FINAL ACCEPTANCE AND DATE OF COMPLETION

Whenever the Contractor shall deem all work under this Contract to have been completed in accordance therewith, it shall so notify the District in writing, and the District shall promptly ascertain whether the work has been satisfactorily completed and, if not, shall advise the Contractor in detail and in writing of any additional work required. When all the provisions of the Contract have been fully complied with to the satisfaction of the District, he shall proceed with all reasonable diligence to determine accurately the total value of all work performed by the Contractor at the prices set forth in the Contract or fixed by Change Orders, and the total value of all extra work, all in accordance with the Contract. The District will then certify to said final estimate and to the completion of the work, and will file copies thereof with the District and the Contractor. The date of completion shall be the date upon which the District makes its formal written acceptance of the work.

FINAL PAYMENT

Within 10 days after the date of completion, the District will file in the office of the County Recorder, a Notice of Completion of the work herein agreed to be done by the Contractor. On the expiration of 60 days after the recordation of such Notice of Completion, the difference between said final estimate and all payments theretofore made to the Contractor shall be due and payable to the Contractor, subject to any requirements concerning the furnishing of a maintenance bond, and excepting only such sum or sums as may be withheld or deducted in accordance with the provisions of this Contract or as required by law. All prior certifications upon which partial payments may have been made, being merely estimates, shall be subject to correction in the final certificate. In accordance with California Public Contract Code section 7107(c), in the event of a dispute between the District and the Contractor, the District may withhold from the final payment an amount not to exceed 150% of the disputed amount.

FINAL RELEASE

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

Right to Withhold Payments

In addition to all other rights and remedies of the District hereunder and by virtue of law, the District may withhold or nullify the whole or any part of any progress payment or up to 150% of the disputed amount from the final payment (see California Public Contract Code section 7107c) to such extent as may reasonably be necessary to protect the District from loss on account of:

- 1) Defective work not remedied, irrespective of when any such work be found to be defective;
- 2) Claims or liens filed or reasonable evidence indicating probable filing of claims or liens including, but not limited to, claims under California Labor Code sections 1775, 1776, or 1777.7;
- 3) Failure of the Contractor to make payments properly for labor, materials, equipment, or other facilities, or to subcontractors and/or suppliers;
- 4) A reasonable doubt that the work can be completed for the balance then unearned;
- 5) A reasonable doubt that the Contractor will complete the work within the agreed time limits;
- 6) Costs to the District resulting from failure of the Contractor to complete the work within the proper time; or
- 7) Damage to work or property.

Whenever the District shall, in accordance herewith, withhold any monies otherwise due the Contractor, written notice of the amount withheld and the reasons therefor will be given the Contractor. After the Contractor, has corrected the enumerated deficiencies, the District will promptly pay to the Contractor the amount so withheld. When monies are withheld to protect the District against claims or liens of mechanics, suppliers, materialmen, subcontractors, etc., the District may at its discretion permit the Contractor to deliver a surety bond in terms and amount satisfactory to the District, indemnifying the District against any loss or expense, and upon acceptance thereof by the District, the District shall release to the Contractor monies so withheld.

WAIVER OF INTEREST

The District shall have no obligation to pay and the Contractor hereby waives the right to recover interest with regard to monies that the District is required to withhold by reason of judgment, order, statute or judicial process, or may withhold pursuant to the provisions of this Contract.

SATISFACTION OF CLAIMS AND LIENS

Neither the final payment nor any part of the retained percentage shall become due until the Contractor, if required, shall deliver to the District, a complete release of all liens and claims arising out of this Contract, or receipts in full in lieu thereof and, if required in either case, an affidavit that so far as it has knowledge or information the releases and receipts include all the labor and material for which a lien or claim could be filed; but the Contractor may, if any subcontractor refuses to furnish a release or receipt in full, furnish a bond satisfactory to the District, to indemnify the District against any lien or claim. If any lien or claim remains unsatisfied after all payments are made, the Contractor shall refund to the District all monies that the latter may be compelled to pay in discharging such a lien, or claim, including all costs and reasonable attorney's fees.

ASSIGNMENT

In accordance with California Public Contract Code section 7103.5, the Contractor hereby offers and agrees to assign to the District 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. section 15) or under the Cartwright Act (Chapter 2 (commencing with section 16700) of part 2 of division 7 of the Business and Professions Code), arising from purchases of goods, services, or materials pursuant to the Contract Documents. This assignment shall be made and become effective at the time the District tenders final payment to the Contractor, without further acknowledgment by the parties.

AVAILABILITY AND AUDIT OF INFORMATION

1. The District's duly authorized representatives shall have, during the term of the Contract and for two years thereafter, the right to inspect, copy and audit all of the Contractor's and its subcontractors' accounts and records of all description, including but not limited to source documents and computer files, and to interview personnel, pertaining to the Contract to verify or review the quantity, quality, work program and progress of the work, reimbursable costs, amounts claimed by the Contractor, estimates of cost for fixed rates including those applicable to proposed changes, and for any other reasonable purposes.
2. The Contractor's and its subcontractors' accounts shall be kept in accordance with generally accepted accounting principles in the particular industry and shall be kept in such a manner and in sufficient detail to clearly disclose the nature and amounts of the different items of service and cost pertaining to the Contract and the basis for charges or allocations to the Contract. The Contractor and its subcontractors shall preserve all such accounts and records for a period of two years after the term of the Contract.
3. The Contractor shall include the necessary provisions in its subcontracts to ensure that its subcontractors comply with this provision.
4. The parties acknowledge that this Contract, and performance and payments under this Contract, are subject to examination and audit by the State Auditor General for three years following final payment under this Contract pursuant to California Government Code section 8546.7.

HAZARDOUS MATERIALS

The California Health and Safety Code requires businesses to provide warnings prior to exposing individuals to materials listed by the Governor as chemicals "known to cause cancer or reproductive toxicity." The District may use chemicals on the Governor's list at many of its facilities. In addition, many of these chemicals are present at non-District-owned facilities and locations. Accordingly, in performing the work or services contemplated under this Contract, Contractor, its employees, agents, and subcontractors may be exposed to chemicals on the Governor's list. Contractor is responsible for notifying its employees, agents, and Subcontractors that work performed hereunder may result in exposures to chemicals on the Governor's list.

WAIVER

The waiver at any time by any party of its rights with respect to a default or other matter arising in connection with this Contract shall not be deemed a waiver with respect to any subsequent default or matter.

REMEDIES NOT EXCLUSIVE

The remedies provided in this Contract are cumulative and not exclusive, and are in addition to any other remedies that may be provided by law or equity. The exercise by either party of any remedy under this Contract shall be without prejudice to the enforcement of any other remedy.

SEVERABILITY

The invalidity, illegality or unenforceability of any provision of the Contract Documents shall not render the other provisions unenforceable, invalid or illegal.

GOVERNING LAW AND VENUE

Except as otherwise required by law, this Contract shall be interpreted, governed by, and construed under the laws of the State of California. The County of El Dorado shall be venue for any litigation concerning the enforcement or construction of this Contract.

NOTICES

Any notice, demand, invoice or other communication required or permitted to be given under this Contract shall be in writing and either served personally or sent by prepaid, first class U.S. Mail and addressed as follows: for the District, either to the General Manager or the District at the addresses set forth in the Invitation to Bid; for the Contractor, at the address set forth in its Bid. Any party may change its address by notifying the other party in writing of the change of address.

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GEORGETOWN DIVIDE PUBLIC UTILITY DISTRICT

On-Call Paving Rehabilitation

SPECIFICATIONS

SECTION 1 – TECHNICAL

All Work shall be performed in accordance with these Technical Specifications. Components of the Work not addressed by these Technical Specifications shall be performed in accordance with the State Standard Specifications.

1. MOBILIZATION/DEMOILIZATION

Mobilization shall conform to the provisions in Section 11, "Mobilization," of the State Standard Specifications and these Technical Specifications. Mobilization shall include, but shall not be limited to, satisfactory completion of the following tasks:

- Preparing and providing submittals of all documents (schedule, materials submittals, health and safety plan, etc.) required as conditions of issuing a Notice to Proceed
- Pre-Construction Conference

Measurement and Payment

Measurement and payment for Mobilization shall conform to the provisions in Section 9-1.16D of the State Standard Specifications.

Payments for mobilization shall be made as follows:

1. A. When the monthly partial payment estimate of the amount earned, not including the amount earned for mobilization, is 5 percent or more of the original Contract amount, 50 percent of the Contract item price for mobilization or 5 percent of the original Contract amount, whichever is the lesser, will be included in the estimate for payment.
2. B. When the monthly partial payment estimate of the amount earned, not including the amount earned for mobilization, is 10 percent or more of the original Contract amount, the total amount earned for mobilization shall be 75 percent of the Contract item price for mobilization or 7.5 percent of the original Contract amount, whichever is the lesser, and that amount will be included in the estimate for payment.
3. C. When the monthly partial payment estimate of the amount earned, not including the amount earned for mobilization, is 20 percent or more of the original Contract amount, the total amount earned for mobilization shall be 95 percent of the Contract item price for mobilization or 9.5 percent of the original Contract amount, whichever is the lesser, and that amount will be included in the estimate for payment.
4. D. When the monthly partial payment estimate of the amount earned, not including the amount earned for mobilization, is 50 percent or more of the original Contract amount, the total amount earned for mobilization shall be 100 percent of the Contract item price for mobilization or 10 percent of the original Contract amount, whichever is the lesser, and that amount will be included in the estimate for payment.

The Contract LUMP SUM price paid for MOBILIZATION/DEMOILIZATION shall include full

compensation for furnishing all labor, materials, tools, equipment, administrative costs, incidentals, and for conforming to the requirements of this section and therefore no additional compensation shall be allowed.

2. COLD PLANE ASPHALT CONCRETE

Cold plane asphalt concrete pavements, as shown on the plans, shall be in conformance with the provisions of Section 39-3.04, "Cold Planing Asphalt Concrete Pavement," of the State Standard Specifications.

Measurement and Payment

Cold planing asphalt concrete for pavement planing of continuous widths of asphalt concrete pavement will be measured by the square foot. The quantity to be paid for will be the actual area of pavement cold planed, irrespective of the number of passes required to obtain the specified

The contract price paid per SQUARE YARD for COLD PLANE ASPHALT CONCRETE PAVEMENT includes full compensation for furnishing all labor, materials, tools, equipment, and incidentals, and for doing all the Work involved in cold planing asphalt concrete surfacing and disposing of planed material, including constructing, maintaining, removing temporary HMA tapers if applicable, as specified in the State Standard Specifications and these Technical Specifications as shown on the plans, and as directed by the Engineer.

3. EARTHWORK

Earthwork shall conform to Section 19, "Earthwork", of the State Standard Specifications and these Technical Specifications.

Roadway Excavation

Roadway Excavation shall consist of performing all operations necessary to excavate all materials, regardless of character and subsurface conditions, from the roadway prism or adjacent thereto; to excavate all materials, of whatever nature, necessary for the construction of foundations for structures and other facilities; to excavate trenches for culverts and other facilities; to excavate drainage and irrigation ditches; to excavate drainage channels; to excavate selected material from the roadway and borrow material for use as specified; to construct embankments, including the placing of selected material in connection therewith as specified; to place backfill for structures, culverts, and other facilities; to backfill trenches and depressions resulting from the removal of obstructions; to backfill holes, pits and other depressions within the roadway area; to apply water; to remove and replace unsuitable material; to excavate and grade road approaches, driveways, and connections; to construct protection dikes; to remove unstable material outside the roadway prism, slide material which has come into the roadway prism, and material which has slipped from embankments; to prepare basement material for the placing of other material thereon; all as shown on the plans and as specified in these specifications and the special provisions, and as directed by the Engineer; and furnishing all labor, materials, tools, equipment, and incidentals, and for doing all the Work that may be required to construct and maintain the roadway facilities.

Quantities of all types of existing subbase, base, surfacing or pavement removed will be included in the quantities of the roadway excavation, and therefore no additional payment shall be made.

Dust Control for earthwork operations shall conform to Section 10-5, "Dust Control," of the State Standard Construction Specifications.

Any Work beyond the limits shown on the plans or approved by the Engineer shall be at the Contractor's expense. The material resulting from the additional Work shall become the property of the Contractor and shall be removed from the Project site at the Contractor's expense.

All excavated material not used within the Project shall become the property of the Contractor and shall be removed from the Project site and the Right-of-Way at the Contractor's expense.

Contractor shall exercise caution when excavating over existing utilities as identified in the field by the Utility Marking Service (USA). Existing utilities not marked for removal shall be protected in place. The Contractor shall utilize proper equipment when performing earthwork operations adjacent to existing utilities in order to prevent any damage to the utilities. This may require the use of smaller equipment and/ or hand digging and compaction to complete the Work shown on the plans.

This Work shall also include the removal of objectionable material. Objectionable material shall include, but not be limited to, pruned branches and roots, vegetation, brush, grass, weeds, debris, and other related materials.

Excavated material shall be used as fill material, if suitable, to meet the grades shown on plans. All excavated material not used as fill shall be removed from the Project limits.

Removed items and materials shall be removed from within the Project limits and Right-of-Way and shall be transported and properly disposed of off-site. All costs, charges and fees for hauling and disposal shall be the responsibility of the Contractor. Disposal of surplus material shall conform to the provisions in Section 19-2.03B, "Surplus Material" of the State Standard Construction Specifications and these Technical Specifications.

Measurement and Payment

The following earthwork operations will be measured and paid for as roadway excavation for the quantities of material involved and no additional compensation will be allowed therefore:

Excavating the roadway prism including slope rounding, public and private road approaches, connections, and driveways; excavating unsuitable material when shown on the plans or specified in the special provisions; excavating surplus material; excavating borrow material; excavating selected material and topsoil from within the limits of the Project and removing those materials from stockpiles when stockpiling is ordered, excavating material required to construct ditches or channel.

Measurement

Quantities of roadway excavation will be computed by means of average areas and distances between these areas, except as provided in the following paragraph.

Where due to changed conditions or the nature of a particular operation or for any other reason, it is impossible or impractical to measure quantities of roadway excavation by means of average areas, the Engineer will compute the quantities of material excavated by a method which in the Engineer's opinion is best suited to obtain an accurate determination.

When quantities of roadway excavation are computed by means of average end areas and center line distances, a correction for curvature will not be applied to quantities within the roadway prism. In computing the quantity of material outside the original roadway prism, where the roadway center line is used as a base, correction will be made for curvature if the center line radius is 1,000 feet or less.

Excavation in excess of the planned or authorized cross section will not be paid for, except as provided in Section 19 2.03F, "Slides and Slipouts." The Contractor shall backfill and compact as directed by the Engineer unauthorized excavated areas to the original ground elevation or authorized section at the Contractor's expense.

Payment

Quantities of ROADWAY EXCAVATION, measured as specified in these Technical Specifications, will be paid for at the Contract price per CUBIC YARD. That price shall include excavating, sloping, rounding tops and ends of excavations, loading, hauling, depositing, testing, spreading and compacting the material complete in place, and preparing subgrade at the grading plane as specified in Section 19-1.03C, "Grade Tolerance," of the State Standard Specifications.

Quantities of ROADWAY EXCAVATION - DIGOUT, measured as specified in these Technical Specifications, will be paid for at the Contract price per CUBIC YARD. That price shall include excavating, sloping, rounding tops and ends of excavations, loading, hauling, depositing, testing, spreading and compacting the material complete in place, and preparing subgrade at the grading plane as specified in Section 19-1.03C, "Grade Tolerance," of the State Standard Specifications.

The above prices and payment shall include full compensation for furnishing all labor, materials, tools, equipment, and incidentals, and for doing all the Work involved in performing roadway excavation Work completely as shown on the plans, as specified in the Standard Construction Specifications, these Technical Specifications, and as directed by the Engineer and therefore no additional payment shall be made.

4. HOT MIX ASPHALT

The Work in this section shall include all labor, materials, and equipment required to complete all asphalt paving Work as specified in these specifications. Work for Hot Mix Asphalt (Type A) shall conform to Section 39 "Asphalt Concrete" of the **2018 Edition** of the State Standard Specifications, these Technical Specifications and as directed by the Engineer.

Materials

All conventional hot mix asphalt shall be Type A, 3/4" max medium gradation.

All asphalt shall have mix design binder grade of PG 64-16.

Submittals

A Job Mix Formula (JMF) shall be required from the supplier of the asphalt concrete and delivered to the Engineer not less than fourteen (14) Calendar Days prior to any scheduled asphalt concrete Work. Mix designs submitted for review shall have been performed within one (1) year from Notice to Proceed. Certificates of Compliance shall be furnished to the Engineer

with each lot of material delivered to the Work and the lot so certified shall be clearly identified in the certificate.

The Contractor shall submit to the Engineer a written construction plan for the Project. This plan shall include; sweeping and cleaning equipment, paving equipment and speed, breakdown and finish roller type, roller speed and number of passes required, amplitude and period of roller vibration (if used), and truck haul route, number of trucks and rate of material delivery. No paving shall be allowed until the written construction plan is submitted.

Finish Grade

1. The completed surface shall be thoroughly compacted, smooth, and true to grade and cross section, free from ruts, humps, depressions, segregation, raveling or irregularities. When a straight edge 10 feet long is laid on the finished surface and parallel with the center line of the highway, the surface shall not vary more than 0.01 feet from the lower edge of the straight edge. When tested transversely to traffic, the surface shall incline continuously in the direction of the drainage so that no depressions, which shall not drain, remain in the surface after rolling. Any ridges, indentations or other objectionable marks left in the surface of the asphalt concrete by equipment shall be eliminated by rolling or other means. The use of any equipment that leaves ridges, indentations or other objectionable marks in the asphalt concrete shall be discontinued and other acceptable equipment shall be furnished by the Contractor.
2. Finishing roadway shall conform to Section 22, "Finishing Roadway" of the State Standard Specifications. The entire roadway and Right-of-Way shall be left in a neat and presentable condition to the satisfaction of the Engineer.
3. If the finished surface of the asphalt concrete does not meet the specified surface tolerances, or the above conditions it shall be corrected by either 1) removal and replacement, or (2) placing an overlay of asphalt concrete. The method shall be selected by the Engineer after meeting with the Contractor. Corrective Work that would result in various patches shall not be accepted. The corrective Work shall be at the Contractor's expense.

Measurement and Payment

The Contract unit price paid per TON of HOT MIX ASPHALT (TYPE A) shall include full compensation for furnishing all labor, materials, tools, equipment, incidentals, and for doing all Work involved in excavation, disposal of material, saw cutting if necessary, placement of asphalt concrete, complete in place, as shown on the plans and as directed by the Engineer, and therefore no additional payment shall be made.

The Contract unit price paid per TON of HOT MIX ASPHALT (TYPE A) – OVERLAY shall include full compensation for furnishing all labor, materials, tools, equipment, incidentals, and for doing all Work involved in excavation, disposal of material, saw cutting if necessary, placement of asphalt concrete, complete in place, as shown on the plans and as directed by the Engineer, and therefore no additional payment shall be made.

Full compensation for tack coat is included in the payment for the various asphalt pavements, and no additional payment shall be made.

Quantities of material wasted or disposed of in a manner not called for under the Contract, or rejected loads of material, including material rejected after it has been placed by reason of the failure of the Contractor to conform to the specifications of the Contract, or materials placed outside the lines indicated from the transporting vehicle, or material remaining on hand after completion of the Work, shall not be paid for and such quantities shall be deducted from the final total quantities. No compensation shall be allowed for hauling rejected material.

5. CLASS 2 AGGREGATE BASE

Aggregate base must comply with Section 26, "Aggregate Bases," of the State Standard Specifications and these Technical Specifications.

Aggregate base must be Class 2.

Measurement and Payment

The quantity of aggregate base will be paid for by the cubic yard from the dimensions shown on the Plans. The payment quantity does not include the volume of aggregate base used to fill low areas of the subgrade.

The contract unit price paid per CUBIC YARD for CLASS 2 AGGREGATE BASE includes full compensation for furnishing all labor, materials, tools, equipment, and incidentals, and for doing all the Work involved in installing aggregate base, complete in place, as shown on the plans, as specified in the State Standard Specifications and these Technical Specifications, and as directed by the Engineer.

The contract unit price paid per CUBIC YARD for CLASS 2 AGGREGATE BASE - DIGOUT includes full compensation for furnishing all labor, materials, tools, equipment, and incidentals, and for doing all the Work involved in installing aggregate base, complete in place, as shown on the plans, as specified in the State Standard Specifications and these Technical Specifications, and as directed by the Engineer.

SECTION 2 - Submittals

Prior to the start of work, the Contractor shall provide a separate submittal for each item identified below.

- a. Pollution Control Plan (PCP)
- b. Health and Safety Plan, including Covid-19 Safety Requirements
- c. Fire Safety Plan.
- d. Work Schedule

Submittals should be submitted with a transmittal form provided by the Contractor. All transmittal forms shall be sequentially numbered (X-1, X-2 etc). Submittals shall identify Project date, contractor, subcontractor, drawing and detail number and specification section number, as appropriate.

If a submittal is returned to the Contractor marked "NO EXCEPTIONS NOTED", formal revision and resubmission of said submittal will not be required. If a submittal is returned to the Contractor marked "MAKE CORRECTIONS NOTED", formal revision and resubmission of said submittal will not be required. If a submittal is returned to the Contractor marked "AMEND-RESUBMIT", the Contractor shall revise said submittal and shall resubmit the required number of copies of said revised submittal to the Engineer. If a submittal is returned to the Contractor marked "REJECTED-RESUBMIT", the Contractor shall revise said submittal and shall resubmit the required number of copies of said revised submittal to the Engineer.

SECTION 3 - Quality Assurance

- a. The Contractor shall certify in writing that foremen and workers on-site are experienced and knowledgeable in all elements of the work identified within this project.

SECTION 4 - Delivery, Storage, and Handling

The Contractor shall deliver materials as follows:

The Contractor shall deliver all materials as recommended by the manufacturer.

The storage of materials shall be as follows:

The Contractor be responsible for finding a suitable site.

SECTION 5 – Safety

The Contractor shall comply with all Federal, State, and Local applicable safety regulations and requirements.

SECTION 6 – Warranty

The District will prepare a schedule for remedial work completion, to be no more than thirty (30) calendar days after the submittal of the inspection report to the Contractor. Upon failure of the Contractor to commence remedial work within ten calendar days after the starting date established by the District, the District may at its option, retain another Contractor to perform the remedial work. The Contractor shall be liable for actual cost of all such remedial work plus a 20 percent District administrative cost.

SECTION 7– Quality Control

1. All work shall be performed in a neat and orderly fashion and to the satisfaction of the District.
2. Then contractor is required to provide Quality control in the form of materials testing and certifications, to the satisfaction of the District.

SECTION 8 - Environmental Conditions

1. Attention is directed to the Water Pollution Control Plan (WPCP) requirement, together with the General Notes on Sheet 2 of the Plans.
2. The Contractor shall take measures as necessary to prevent dust migration from the work area to adjacent properties.
3. The Contractor shall take such measures as are necessary to prevent erosion of soil within the work areas from entering adjacent properties.

SECTION 9 - Clean-Up

1. During the construction of the project improvements the Contractor shall keep the work areas neat and orderly. As a minimum, where work is being performed, shall be cleaned at the end of each working day. If the District determines that added cleanup is necessary, the Contractor shall comply with the District's directive at no additional cost to the District. Adequate cleanup will be a condition for recommendation of progress payments. The Contractor shall provide on-site containers for the collection of waste materials, debris and rubbish. Wastes shall not be buried or burned on the site or disposed of in any streams or waterways. Final cleanup shall be performed by the Contractor once work on a section of the ditch is complete. All clean-up shall be to the satisfaction of the District.

Upon completion of the work, the Contractor shall make a detailed inspection of all work.

SECTION 10 - Measurement and Payment

1. Payment shall be made at the bid prices and shall be considered as full compensation for furnishing all labor, materials, tools, supplies, and services as required for proper completion of the work described in the following bid items, complete in place, and to the satisfaction of the Engineer.

Items of work or other services which the Contractor is required to supply, such as final clean-up or other incidental items, and which are not listed as separate bid items shall be included in the related bid items and shall be considered as paid in those items, whether or not specifically identified in the following descriptions. Also considered to be included in such costs are any costs associated with the repair of damage which may occur to existing improvements as a result of the Contractor's operations.

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Attachment 1

GEORGETOWN DIVIDE PUBLIC UTILITY DISTRICT
PROJECT: _____
PROJECT NO. ____ - ____

AGREEMENT FOR CONSTRUCTION SERVICES

THIS CONSTRUCTION SERVICES AGREEMENT ("Agreement") is made and entered into this ____ day of _____, 20__, by and between the Georgetown Divide Public Utility District, a public utility district of the State of California ("District") and _____, a _____, ("Contractor") (each individually a "Party" and collectively the "Parties"). There are no other parties to this Agreement.

RECITALS

A. The District's Board of Directors (the "Board") caused plans and specifications for the construction work herein described ("Project"), and did approve and adopt said plans and specifications ("Plans"), which are attached hereto as **Exhibit A**.

B. The District did publish a notice and invitation to submit sealed bids for the performance of the Project ("Invitation to Bid"), which is attached hereto as **Exhibit B**, on _____, 20XX, at the time and in the manner required by law and District policy.

C. The District also provided instructions for submitting bids on the Project ("Instructions for Bidders"), which is attached hereto as **Exhibit C**.

D. The Contractor, in response to such Invitation to Bid, submitted to the District within the time specified in the Invitation to Bid and in the manner provided therein, a sealed Bid to perform the Project as specified in said plans and specifications, which the Board publicly opened and canvassed in the manner provided by law with other Bids submitted for the Project.

E. Contractor's bid included a bid schedule ("Bid Schedule"), which is attached hereto as **Exhibit D**, and which sets forth details about Contractor's completion of the Project, including extended costs for Project materials.

F. Contractor provided the required bid guarantee and executed bid guarantee form, which is attached hereto as **Exhibit E**, at the same time the Contractor submitted its bid.

G. Contractor's bid included a list of subcontractors designated to perform specified portions of the Project ("Designation of Subcontractors"), which is attached hereto as **Exhibit F**.

H. Within five (5) business days of the last day to submit bids for the Project, Contractor

submitted certifications of qualification for Contractor and its Subcontractors on the Project, which are collectively attached hereto as **Exhibit G**.

I. Contractor was the lowest responsible bidder for the performance of the Project, and the Board, as a result of the canvass of said bids, determined and declared the Contractor as the lowest responsible bidder for the Project and award a contract therefore.

J. Contractor represents to District that it is a duly qualified firm experienced in the construction of water facilities.

K. In the judgment of the Board, it is necessary and desirable to employ the services of Contractor to perform construction work on the Project.

L. Pursuant to Contractor's Bid, Contractor will complete the Project in accordance with the District's Plans and all other Contract Documents (defined below).

M. Contractor's timeframe for completing the Project is set forth in the Time Allowed for Completion and Liquidated Damages, which is attached hereto as **Exhibit H** ("Completion Schedule").

N. As a condition of awarding the Project to Contractor, Contractor must furnish payment and performance bonds ("Bonds") on forms which are substantially similar to those which are attached hereto as **Exhibit I**.

O. District desires to retain Contractor to perform the Project in accordance with the District's General Conditions ("General Conditions"), attached hereto as **Exhibit J**, the District's general performance standards ("Performance Standards"), attached hereto as **Exhibit K**, and the terms and conditions set forth in this Agreement.

P. Unless otherwise provided in this Agreement, abbreviations and capitalized terms shall have the meanings ascribed to them in the attached **Exhibit L**.

Q. Collectively, the Agreement along with Exhibits A through L comprise the contract documents ("Contract Documents")

NOW, THEREFORE, in consideration of the promises and covenants set forth below, the Parties agree as follows:

AGREEMENT

Section 1. Recitals. The recitals set forth above (“Recitals”) are true and correct and are hereby incorporated into and made part of this Agreement by this reference. In the event of any inconsistency between the Recitals and Section 1 through 23 of this Agreement, Sections 1 through 23 shall prevail.

Section 2. Term. This Agreement shall commence on the Effective Date and terminate one (1) year after District files a Notice of Completion with the County Recorder acknowledging completion of the Project (“Term”), unless the Parties mutually agree in writing to terminate the Agreement earlier or extend the Term pursuant to this Agreement.

Section 3. Effective Date. This Agreement shall only become effective once all of the Parties have executed the Agreement (the “Effective Date”). Contractor, however, shall not commence the performance of the Services until it has been given notice by District (“Notice to Proceed”).

Section 4. Work.

(a) *Services.* Subject to the terms and conditions set forth in this Agreement and the Contract Documents, Contractor shall perform the services necessary to complete the Project (“Services”) within the required timeframe and in accordance with the standards and specifications established in the Contract Documents. Contractor shall not receive additional compensation for the performance of any work unless it is included in the Contract Documents, or the Parties agree otherwise in writing.

(b) *Modification of Services.* Only the District’s General Manager may authorize extra or changed work. Failure of Contractor to secure such a written authorization for extra or changed work shall constitute a waiver of any and all right to adjustment in the Agreement price or Agreement time due to such unauthorized work and thereafter Contractor shall be entitled to no compensation whatsoever for the performance of such work. Contractor further waives any and all right or remedy by way of restitution or quantum meruit for any and all extra work performed without such express and prior written authorization of the General Manager.

Section 5. Time of Performance. Contractor warrants that it will commence performance of the Services within fifteen (15) calendar days of the Notice to Proceed, and shall conform to the Completion Schedule. The time of performance is a material term of this Agreement relied on by District in entering into this Agreement. It is agreed by the Parties that time is of the essence and that if the Project is not completed as set forth in Exhibit H Completion Schedule, damage will be sustained by the District, and it may be impracticable to determine the actual amount of damage resulting from the delay. It is, therefore, agreed that Contractor shall pay to District as damages, the

{CW079162.1}

Project: _____

Project No. _____ - _____

One Thousand Dollars (\$1,000.00) for each and every day the Project is delayed. The Parties expressly agree that this liquidated damage clause is reasonable under the circumstances existing at the time the Agreement is made. The District shall have the right to deduct the amount of liquidated damages owed pursuant to this section from any money due or to become due to Contractor.

Notwithstanding the above, the Parties expressly agree that the liquidated damages specified above do not include the District's legal, engineering, inspection, superintendence and other similar expenses. Accordingly, the District shall have the right to charge Contractor and to deduct from the any amount due or to become due to Contract, the actual cost to the District for legal, engineering, inspection, superintendence, loss of revenue due to water delivery interruptions, and other expenses, which are directly chargeable to the Agreement and which accrue during a period of delay, except that the cost of final inspection and preparation of the final estimate shall not be included in the charges.

Section 6. Payment. District shall pay Contractor for all Services which are to be performed by Contractor, and Contractor agrees to accept the compensation provided in Exhibit D, Bid Schedule, which is summarized as follows:

Total compensation for completion of Project: \$ _____ total.
[Additional work to be completed at \$___ [per Square Foot]]

Section 7. Representations of Contractor. District relies upon the following representations by Contractor in entering into this Agreement:

(a) *Standard of Care.* District has relied upon the professional ability and training of Contractor as a material inducement to enter into this Agreement. Contractor hereby warrants that it is qualified to perform the Services provided in the Contract Documents and that all of its work will be performed in accordance with the performance standards provided in Contract Documents, using generally accepted construction practices and standards, in compliance with all applicable federal, state and local laws.

(b) *Independent Contractor.* In performing the services hereinafter specified, Contractor shall act as an independent contractor and shall have control of the work and the manner in which it is performed. Contractor is not to be considered an agent or employee of District, and is not entitled to participate in any pension plan, insurance, bonus, or similar benefits District provides its employees. In the event District exercises its right to terminate this Agreement, Contractor expressly agrees that it shall have no recourse or right of appeal under rules, regulations, ordinances, or laws applicable to employees. Nothing contained herein shall be construed as creating an employment, agency or partnership relationship between District and Contractor.

(c) *Taxes.* Contractor agrees to file federal and state tax returns and pay all applicable taxes on amounts paid pursuant to this Agreement and shall be solely liable and responsible to pay such taxes and other obligations, including, but not limited to, state and federal income and FICA taxes. Contractor agrees to indemnify and hold District harmless from any liability which it may incur to the United States or to the State of California as a consequence of Contractor's failure to pay, when due, all such taxes and obligations. In case District is audited for compliance regarding any withholding or other applicable taxes, Contractor agrees to furnish District with proof of payment of taxes on these earnings.

(d) *Authority.* Contractor represents that it possesses the necessary licenses, permits, or approvals required to perform the Services or will obtain such licenses, permits, or approvals prior to the time such licenses, permits, or approvals are required. Contractor shall also ensure that all subcontractors are similarly licensed and qualified. Contractor represents and warrants to District that Contractor shall, at Contractor's sole cost and expense, keep in effect or obtain at all times during the Term of this Agreement, any licenses, permits, and approvals which are legally required for Contractor to practice Contractor's profession at the time the Services are rendered.

(e) *Warranty.* Contractor warrants that the work performed shall be free of defects for a period of one (1) year from Project completion. If any installation fails as the result of the workmanship of Contractor, Contractor shall repair or replace the defective installation at no cost to District. Warranty work shall be performed within three (3) business days of notice by District that such work is required.

(f) *Records Maintenance.* Contractor shall keep and maintain full and complete documentation and accounting records concerning all services performed that are compensable under this Agreement and shall make such documents and records available to District for inspection at any reasonable time. Contractor shall maintain such records for a period of not less than five (5) years following completion of work hereunder.

(g) *No Conflict of Interest.* Contractor represents that no conflict of interest will be created under state or federal law by entering into or in carrying out this Agreement. Contractor further promises that in the performance of this Agreement, no person having such interest will be knowingly employed. If requested to do so by District, Contractor shall complete and file, and shall cause any person doing work under this Agreement to complete and file, a "Statement of Economic Interest" with the El Dorado County Clerk disclosing their financial interests.

(h) *Nondiscrimination.* Contractor shall not discriminate against any employee, applicant for employment, or volunteer because of race, color, creed, religion, national origin, sex, age, or physical or mental handicap. Contractor shall take affirmative action to insure that applicants are employed and that employees are treated during employment without regard to their race, color,

creed, religion, sex, age, or physical or mental handicap. Such protections shall include but not be limited to the following: employment, promotion, demotion or transfer; recruitment or advertising; layoff or termination; rates of pay or other forms of compensation; or selection for training, including apprenticeship. Contractor agrees to post, in conspicuous places, available to employees and applicants for employment, notices that Contractor shall provide an atmosphere free of sexual harassment for employees, clients, volunteers and the general public.

Contractor shall comply with all applicable federal, state, and local laws, rules, and regulations in regard to nondiscrimination in employment because of race, creed, color, sex, age, marital status, physical or mental disability or national origin. In addition, all agreements with sub-contractors will include language as required by the Office of Federal Contract Compliance Programs that requires sub-contractors to maintain equal employment opportunity policies, and, as necessary, affirmative action policies.

Contractor shall, in all solicitations or advertisements for employees placed by or on behalf of Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, creed, religion, sex, national origin, ancestry, age, or physical or mental handicap.

(i) *Prevailing Wage.* Contractor agrees to pay all craftsmen and laborers working on this Project at least the minimum prevailing wage required by the Department of Industrial Relations of the State of California. Contractor understands and agrees that it is Contractor's responsibility to determine the minimum prevailing wage and to report compliance as required under California law. Contractor shall post a copy of the current prevailing wage rate of per diem wages as determined by the Director of the Department of Industrial Relations at the job site.

Section 8. Conformity with Law and Safety. Contractor shall observe and comply with all applicable laws, ordinances, codes and regulations of governmental agencies, including federal, state, municipal and local governing bodies having jurisdiction over any or all of the scope of Services, including all provisions of the Occupational Safety and Health Act of 1979 as amended, all California Occupational Safety and Health Regulations, the California Building Code, the American with Disabilities Act, any copyright, patent or trademark law and all other applicable federal, state, municipal and local safety regulations, appropriate trade association safety standards, and appropriate equipment manufacturer instructions. All Services performed by Contractor must be in accordance with these laws, ordinances, codes and regulations. Contractor's failure to comply with any laws, ordinances, codes or regulations applicable to the performance of the Services hereunder shall constitute a breach of contract. In cases where standards conflict, the standard providing the highest degree of protection shall prevail.

If a death, serious personal injury or substantial property damage occurs in connection with the performance of this Agreement, Contractor shall immediately notify the District's risk manager by telephone. If any accident occurs in connection with this Agreement, Contractor shall promptly submit a written report to District, in such form as the District may require. This report shall include the following information: (a) name and address of the injured or deceased persons; (b) name and address of Contractor's subcontractor, if any; (c) name and address of Contractor's liability insurance carrier; and (d) a detailed description of the accident, including whether any of District's equipment, tools or materials were involved.

If a release of a hazardous material, substance, or waste occurs in connection with the performance of this Agreement, Contractor shall immediately notify District. Contractor shall not store hazardous materials or hazardous waste within the District limits without a proper permit from District.

Section 9. Assurance of Performance. If, at any time, District believes Contractor may not be adequately performing its obligations under this Agreement or may fail to complete the Services as required by this Agreement, District may submit a written request to Contractor for written assurances of performance and a plan to correct observed deficiencies in Contractor's performance. Failure to provide written assurances subsequent to such written request, constitutes grounds to declare a breach under this Agreement.

Section 10. Excusable Delays. Contractor shall not be in breach of this Agreement in the event that performance of Services is temporarily interrupted or discontinued due to a "Force Majeure" event which is defined as: riots, wars, sabotage, civil disturbances, insurrections, explosion, natural disasters such as floods, earthquakes, landslides, fires, strikes, lockouts and other labor disturbances or other catastrophic events, which are beyond the reasonable control of Contractor. Force Majeure does not include: (a) Contractor's financial inability to perform; (b) Contractor's failure to obtain any necessary permits or licenses from other governmental agencies; or (c) Contractor's failure to obtain the right to use the facilities of any public utility where such failure is due solely to the acts or omissions of the Contractor.

Section 11. Assignment Prohibited. No Party to this Agreement may assign any right or obligation pursuant to this Agreement. Any attempt or purported assignment of any right or obligation pursuant to this Agreement shall be void and of no effect. Contractor hereunder offers and agrees to assign to District, and agrees to require its subcontractors to offer and agree to assign the District, all rights, title, and interest in and to all causes of actions it may have under Section 4 of the Clayton Act (15 U.S.C. § 15) or under the Cartwright Act (Bus. and Prof. Code § 16700 *et seq.*), arising from purchases of goods, services or materials pursuant to this contract or any subcontracts entered into hereunder. This assignment shall be made and become effective at the time District tenders final payment to Contractor, without further acknowledgement of the Parties.

Section 12. Ownership and Disclosure of Work Product. District shall be the owner of and shall be entitled to immediate possession of accurate reproducible copies of any design computations, plans, specifications, copies of correspondence, maps, or other pertinent data and information gathered or computed by Contractor (“Work Product”) in the performance of and prior to termination of this Agreement by District or upon completion of the work pursuant to this Agreement. Contractor may retain copies of the above-described documents but agrees not to disclose or discuss any information gathered, discovered, or generated in any way through this Agreement without the express written permission of District, during the term of this Agreement and for a period of one hundred eighty (180) days following expiration of the term of the Agreement.

When this Agreement is terminated, Contractor agrees to return to District all documents, drawings, photographs and other written or graphic material, however produced, that it received from District, its contractors or agents, in connection with the performance of its Services under this Agreement. All materials shall be returned in the same condition as received.

Section 13. District’s Termination without Cause. At any time, District may terminate the Agreement with or without cause by providing Contractor with five (5) business days’ written notice of such termination.

Section 14. District’s Termination in the Event of Contractor’s Default. If a Contractor should fail to perform any of its obligations hereunder, within the time and in the manner herein provided, or otherwise violate any of the terms of this Agreement or the Contract Documents, the District may give notice to the Contractor and allow Contractor five (5) business days to correct such deficiency. The District, in its sole and absolute discretion, may grant Contractor additional time to cure the deficiency. If the Contractor does not correct such deficiency within the allotted time, the District may immediately terminate this Agreement by giving written notice of such termination, stating the reason for such termination.

(a) Contractor shall deliver copies of all Work Product prepared by it pursuant to this Agreement.

(b) If District terminates this Agreement before District issues the Notice to Proceed to Contractor or before Contractor commences any Services hereunder, whichever last occurs, District shall not be obligated to make any payment to Contractor. If District terminates this Agreement after District has issued the Notice to Proceed to Contractor and after Contractor has commenced performance under this Agreement, District shall pay Contractor the reasonable value of the Services rendered by Contractor pursuant to this Agreement prior to termination of this Agreement. District shall not in any manner be liable for Contractor's actual or projected lost profits had Contractor completed the Services. Contractor shall furnish to District such financial information, as in the

judgment of the District Manager, is necessary to determine the reasonable value of the Services rendered by Contractor prior to termination.

(c) Except as provided in this Agreement, in no event shall District be liable for costs incurred by or on behalf of Contractor after the date of the notice of termination.

Section 15. Liability for Breach. Neither Party waives the right to recover damages against the other for breach of this Agreement including any amount necessary to compensate District for all detriment proximately caused by Contractor's failure to perform its obligations hereunder or which in the ordinary course of things would be likely to result therefrom. District reserves the right to offset such damages against any payments owed to Contractor. District shall not in any manner be liable for Contractor's actual or projected lost profits had Contractor completed the Services required by this Agreement. In the event of Termination by either Party, copies of all finished or unfinished Work Product shall become the property of District. Notwithstanding the above, in no event shall District be liable, regardless of whether any claim is based on contract or tort, for any special, consequential, indirect or incidental damages, including, but not limited to, lost profits or revenue, arising out of or in connection with this Agreement or the Services performed in connection with this Agreement.

Section 16. Worker's Compensation Certification. Contractor is aware of the provisions of Labor Code section 3700 requiring every employee to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of the Labor Code. Contractor will comply with such provisions before commencing the performance of the work of this Agreement.

Section 17. Performance and Payment Bonds. Contractor shall, before commencing Services under this Agreement, file a performance bond and a payment bond (pursuant to Civil Code, Division 3, Part 4, Title 15, Chapter 7) with the District, each payable to the District. These bonds shall be issued by a surety company authorized to do business in the State of California, and shall be maintained during the entire Term of the Agreement at the sole and absolute expense of Contractor. Each bond shall be for the amount of one hundred percent (100%) of the total compensation under this Agreement. Any alterations made to the Contract Documents or the specifications to the Project shall not operate to release any surety from liability on any bond required herein and surety hereby consents such alterations in any surety on said bonds hereby waives the provisions of California Civil Code sections 2819 and 2845.

Section 18. Insurance Coverage: During the Term, the Contractor shall maintain in full force and effect policies of insurance set forth herein, which shall be placed with insurers with a current A M Best's rating of no less than A VII, and will provide the District with written proof of said insurance.

Contractor shall maintain coverage as follows and will provide the District with written proof of said insurance. Contractor shall maintain coverage as follows:

(a) *General Liability.* Contractor shall carry commercial general liability insurance in an amount no less than Two Million Dollars (\$2,000,000.00) combined single limit for each occurrence, covering bodily injury and property damage. If commercial general liability insurance or another form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this Project or the general aggregate shall be Four Million Dollars (\$4,000,000.00). Said commercial general liability insurance policy shall either be endorsed with the following specific language or contain equivalent language in the policy:

“The Georgetown Divide Public Utility District, its officers and employees are named as additional insured for all liability arising out of the operations by or on behalf of the named insured in the performance of this Agreement.”

“The inclusion of more than one insured shall not operate to impair the rights of one insured against another insured, and the coverage afforded shall apply as though separate policies had been issued to each insured, but the inclusion of more than one insured shall not operate to increase the limits of the company’s liability.”

“The insurance provided herein is primary coverage to the Georgetown Divide Public Utility District with respect to any insurance or self-insurance programs maintained by District.”

“This policy shall not be canceled or materially changed without first giving thirty (30) days prior written notice to the Georgetown Divide Public Utility District, Attention: General Manager.”

(b) *Builder’s Risk Insurance.* Contractor shall carry builder’s risk insurance with limits of liability equal to one hundred percent (100%) of the replacement cost of the Project. Said policy shall be endorsed with the following specific language:

“This policy shall not be canceled or materially changed without first giving thirty (30) days prior written notice to Georgetown Divide Public Utility District, Attention: General Manager.”

(c) *Worker's Compensation Insurance and Employer's Liability.* Contractor shall carry workers’ compensation insurance as required by the State of California under the Labor Code. Said policy shall be endorsed with the following specific language:

“This policy shall not be canceled or materially changed without first giving thirty (30) days prior written notice to Georgetown Divide Public Utility District, Attention: General Manager.”

(d) *Automobile Liability Insurance.* Contractor shall carry Automobile liability insurance covering bodily injury and property damage in an amount no less than One Million Dollars (\$1,000,000) combined single limit for each occurrence. Said insurance shall include coverage for owned, hired, and non-owned vehicles. Said policy shall be endorsed with the following language:

“This policy shall not be canceled or materially changed without first giving thirty (30) days prior written notice to the Georgetown Divide Public Utility District, Attention: General Manager.”

(e) *Environmental Liability Insurance.* Contractor shall carry environmental liability insurance which includes coverage for sudden and accidental pollution arising out of handling hazardous materials or hazardous wastes, non-hazardous materials or non-hazardous wastes, that, when released to the environment, violate regulatory standards of federal, state, or local government.

(f) *Documentation.* The following documentation shall be submitted to District:

(i) Properly executed Certificates of Insurance clearly evidencing all coverages, limits and endorsements required above (“Certificates”). Said Certificates shall be submitted prior to the execution of this Agreement.

(ii) Signed copies of the specified endorsements for each policy. Said endorsement copies shall be submitted prior to the execution of this Agreement.

(iii) Upon District’s written request, certified copies of insurance policies. Said policy copies shall be submitted within thirty (30) days of District’s request.

(iv) Coverages shall contain no special limitations on the scope of protection afforded to the District, and shall contain standard separation of insured provisions.

(g) *Policy Obligations.* Contractor’s indemnity and other obligations shall not be limited by the foregoing insurance requirements.

(h) *Material Breach.* If Contractor, for any reason, fails to maintain insurance coverage that is required pursuant to this Agreement, such failure shall be deemed a material breach of this Agreement. District, at its sole option, may terminate this Agreement and obtain damages from Contractor resulting from said breach. Alternatively, District may purchase such required insurance

coverage, and without further notice to Contractor, District may deduct from sums due to Contractor any premium costs advanced by District for such insurance. These remedies shall be in addition to any other remedies available to District.

Section 19. Indemnification. To the fullest extent permitted by law (including, without limitation, California Civil Code Sections 2782 and 2782.8), Contractor shall defend, indemnify hold harmless and release District, and District’s elected and appointed councils, commissions, directors, officers, employees, agents, and representatives (“District’s Agents”) from and against any and all actions, claims, loss, cost, damage, injury (including, without limitation, disability, injury or death of an employee of Contractor or its subcontractors), expense and liability of every kind, nature and description that arise out of, pertain to or relate to acts or omissions of Contractor, or any direct or indirect subcontractor, employee, contractor, representative or agent of Contractor, or anyone that Contractor controls (collectively “Liabilities”). Such obligations to defend, hold harmless and indemnify District and District’s Agents shall not apply to the extent that such Liabilities are caused in whole by the sole negligence, active negligence, or willful misconduct of District or District’s Agents, but shall apply to all other Liabilities. With respect to third party claims against the Contractor, the Contractor waives any and all rights of any type of express or implied indemnity against District and District’s Agents. This indemnification obligation is not limited in any way by any limitation on the amount or type of damages or compensation payable to or for Contractor or its agents under workers’ compensation acts, disability benefits acts or other employee benefit acts.

District may withhold from its payments to Contractor such amount as, in the District’s opinion, are necessary and sufficient to provide security against the loss, damage, expense, penalty, fine, cost, claim, demand, suit, cause of action, judgment, or liability covered by the foregoing indemnity provision. District’s withholding of payments under this provision will in no way relieve Contractor from performing all obligations under this Agreement.

Neither termination of this Agreement nor completion of the acts to be performed under this Agreement shall release Contractor from its obligations to indemnify the District and District’s Agents.

Submission of insurance Certificates or other proof of compliance with the insurance requirements in this Agreement does not relieve Contractor from liability under this indemnification clause. The obligations of this indemnity shall apply whether or not such insurance policies shall have been determined to be applicable to any of such damages or claims for damages.

Section 20. Notices. Any notice or communication required hereunder between District and Contractor must be in writing, and may be given either personally, by registered or certified mail (return receipt requested), or by Federal Express, UPS or other similar couriers providing overnight delivery. If personally delivered, a notice or communication shall be deemed to have been given

Exhibit H:	Completion Schedule
Exhibit I:	Payment and Performance Bonds
Exhibit J:	General Conditions
Exhibit K:	Performance Standards
Exhibit L:	Abbreviations and Definitions

Section 22. Contract Documents. The Contract Documents are complementary, and what is called for by one shall be as binding as if called for by all. The intent of the Contract Documents is to include all work necessary for the completion of the Agreement. The Contractor shall perform all Services in conformance with the Contract Documents, unless otherwise directed in writing by the District pursuant to section 4(b).

Section 23. General Provisions.

(a) *Modification.* No alteration, amendment, modification, or termination of this Agreement shall be valid unless made in writing and executed by all of the Parties to this Agreement.

(b) *Waiver.* No covenant, term, or condition or the breach thereof shall be deemed waived, except by written consent of the Party against whom the waiver is claimed, and any waiver of the breach of any covenant, term, or condition shall not be deemed to be a waiver of any preceding or succeeding breach of the same or any other covenant, term, or condition.

(c) *Authority.* All Parties to this Agreement warrant and represent that they have the power and authority to enter into this Agreement and the names, titles, and capacities herein stated on behalf of any entities, persons, states, or firms represented or purported to be represented by such entities, persons, states or firms and that all former requirements necessary or required by the state or federal law in order to enter into the Agreement have been fully complied with.

(d) *Drafting and Ambiguities.* Each Party acknowledges that it has reviewed this Agreement with its own legal counsel, and based upon the advice of that counsel, freely entered into this Agreement. Each Party has participated fully in the review and revision of this Agreement. Any rule of construction that ambiguities are to be resolved against the drafting party does not apply in interpreting this Agreement.

(e) *Governing Law.* This Agreement shall be governed by and construed in accordance with the laws of the state of California.

(f) *Venue.* Venue for all legal proceedings shall be in the Superior Court of California for the County of El Dorado.

(g) *Severability.* If this Agreement in its entirety is determined by a court to be invalid or unenforceable, this Agreement shall automatically terminate as of the date of final entry of judgment. If any provision of this Agreement shall be determined by a court to be invalid and unenforceable, or if any provision of this Agreement is rendered invalid or unenforceable according to the terms of any federal or state statute, which becomes effective after the Effective Date of this Agreement, the remaining provisions shall continue in full force and effect and shall be construed to give effect to the intent of this Agreement.

(h) *Counterparts.* This Agreement may be executed simultaneously and in several counterparts, each of which shall be deemed an original, but which together shall constitute one and the same instrument.

(i) *Audit.* District shall have access at all reasonable times to all reports, contract records, contract documents, contract files, and personnel necessary to audit and verify Contractor's charges to District under this Agreement.

(j) *Entire Agreement.* This Agreement, together with its specific references, attachments and exhibits, constitutes the entire agreement of the Parties with respect to the subject matters hereof, and supersedes any and all prior negotiations, understanding and agreements with respect hereto, whether oral or written.

(k) *Supersedes Prior Agreement.* It is the intention of the Parties hereto that this Agreement shall supersede any prior agreements, discussions, commitments, or representations whether, written, electronic or oral, between the Parties with respect to the subject matter of this Agreement.

(l) *Mandatory and Permissive.* "Shall" and "will" and "agrees" are mandatory. "May" and "can" are permissive.

(m) *Headings.* Headings used in this Agreement are for reference purposes only and shall not be considered in construing this Agreement.

(n) *Attorney's Fees and Costs.* If any action at law or in equity, including action for declaratory relief, is brought to enforce or interpret provisions of this Agreement, the prevailing Party shall be entitled to reasonable attorney's fees and costs, which may be set by the court in the same action or in a separate action brought for that purpose, in addition to any other relief to which such Party may be entitled.

(o) *Necessary Acts and Further Assurances.* The Parties shall at their own cost and expense execute and deliver such further documents and instruments and shall take such other

actions as may be reasonably required or appropriate to evidence or carry out the intent and purposes of this Agreement.

(p) *Time is of the Essence.* Time is of the essence in this Agreement for each covenant and term of a condition herein.

[SIGNATURES ON FOLLOWING PAGE.]

IN WITNESS WHEREOF, this Agreement has been entered into by and between District and Contractor as of the Effective Date.

DISTRICT:

Georgetown Divide Public Utility District, a public utility district of the State of California

By: _____
Adam Coyan, General Manager

Date: _____

Approved as to Form:

By: _____
Barbara A. Brenner, General Counsel

CONTRACTOR:

_____, a _____

By: _____
_____, _____

Date: _____

EXHIBIT A: PLANS AND SPECIFICATIONS

EXHIBIT B: INVITATION TO BID

EXHIBIT C: INSTRUCTION TO BIDDERS

EXHIBIT D: BID SCHEDULE

EXHIBIT E: BID GUARANTEE

EXHIBIT F: DESIGNATION OF SUBCONTRACTORS

EXHIBIT G: CERTIFICATIONS OF QUALIFICATIONS

EXHIBIT H: COMPLETION SCHEDULE

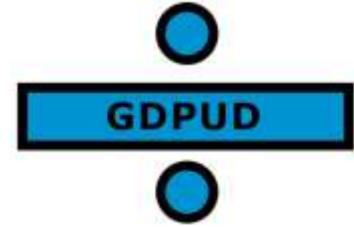
EXHIBIT I: PAYMENT AND PERFORMANCE BONDS

EXHIBIT J: GENERAL CONDITIONS

EXHIBIT K: PERFORMANCE STANDARDS

EXHIBIT L: ABBREVIATIONS AND DEFINITIONS

**REPORT TO THE BOARD OF DIRECTORS
BOARD MEETING OF December 13, 2022
Agenda Item No. 9G**



AGENDA SECTION: NEW BUSINESS

SUBJECT: CONSIDER ADOPTION OF EQUIPMENT SURPLUS LIST

PREPARED BY: Adam Brown, Operations Manager

APPROVED BY: Nicholas Schneider, General Manager

BACKGROUND

The District has extensive equipment and vehicles that are utilized to maintain, repair and upgrade District assets. Vehicles and equipment that have exceeded their useful life are inventoried for disposal or re-sell.

DISCUSSION

At this time a total of four items that have exceeded their useful life are proposed for re-sell. The subject items are identified as follows:

1. Range Runner
2. Caterpillar D36
3. Takeuchi TB135
4. Kohler 100KW Walton Lake Backup Generator/Fuel Tank

District staff will continue to inventory equipment that has exceed their useful life to be presented to Board of Directors (BOD) for surplus.

FISCAL IMPACT

The District does not expect a significant fiscal impact. Any proceeds will be deposited to sale of surplus equipment account, 100-0000-42200.

CEQA ASSESSMENT

This is not a CEQA Project.

RECOMMENDED ACTION

Staff recommends the Board of Directors declare the aforementioned items surplus and direct staff to dispose. It is proposed these items be auctioned through Gov Deals, Inc.

**RESOLUTION NO. 2022-XX
OF THE GEORGETOWN DIVIDE PUBLIC UTILITY DISTRICT
APPROVING THE EQUIPMENT SURPLUS LIST**

WHEREAS, the Georgetown Divide Public Utility District has extensive equipment and vehicles that are utilized to maintain, repair, and upgrade District assets; and

WHEREAS, vehicles and equipment that have exceeded their useful life are inventoried for disposal or resale; and

WHEREAS, the following items have been identified as exceeding their useful life to be classified as surplus:

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS THAT THE EQUIPMENT SURPLUS LIST IS HEREBY APPROVED.

PASSED AND ADOPTED by the Board of Directors of the Georgetown Divide Public Utilities District at a meeting of said Board held on the 13th day of December, 2022, by the following vote:

AYES:

NOES:

ABSENT/ABSTAIN:

_____, President
Board of Directors
GEORGETOWN DIVIDE PUBLIC UTILITY DISTRICT

ATTEST:

Nicholas Schneider, Clerk and ex officio
Secretary, Board of Directors
GEORGETOWN DIVIDE PUBLIC UTILITY DISTRICT

CERTIFICATION

I hereby certify that the foregoing is a full, true, and correct copy of Resolution 2022-XX duly and regularly adopted by the Board of Directors of the Georgetown Divide Public Utility District, County of El Dorado, State of California, on the 13th day of December, 2022.

Nicholas Schneider, Clerk and ex officio
Secretary, Board of Directors
GEORGETOWN DIVIDE PUBLIC UTILITY DISTRICT