

CEMETERY OPERATIONS EQUIPMENT MAINTENANCE AND REPAIR SERVICES

1. INTRODUCTION/SERVICES

- A. Contractor shall provide services, as specified herein, to the California Department of Veterans Affairs (CalVet). Contractor shall provide services at California Central Coast Veterans Cemetery (CCCVC), located at 2900 Parker Flats Road, Seaside, CA 93955. Contractor shall provide all labor, materials, staff, transportation, license, permits, and every other item of expense necessary, unless otherwise stated, to provide operating equipment maintenance and repair services. Services shall be provided at the CCCVC, upon request and in compliance with the terms of this Agreement.
- B. All work shall be coordinated and approved by the Contract Manager or designated representative. Services shall be performed during standard business hours, 8 a.m. to 5 p.m., Monday through Friday, unless otherwise specified. No work is to be performed on State holidays or on an overtime basis unless prior approval is received in writing from the Contract Manager, prior to this work taking place. Any services performed outside the scope of this Agreement or not approved by the Contract Manager or designated representative will be at the sole risk and expense of the Contractor.
- C. Contractor must be able to perform the tasks associated with providing services under the scope of their license. Contractor will provide services in accordance with federal and state laws and regulations, and CalVet and CCCVC policies.
- D. The Contractor is not authorized to deliver or commence performance of services as described in the Agreement until written approval has been obtained from the CalVet Contract Manager and the Contractor has received an executed contract from CalVet. Any delivery or performance of service commenced prior to the Contractor obtaining all written approvals shall be considered voluntary on the part of the Contractor.

2. EQUIPMENT

- A. The following equipment is included in this Agreement:

<u>Type of Equipment</u>	<u>Brand and Model Number</u>
Excavator	Kubota Model KX040-4r3
Gator #1	John Deere Model HPX
Gator #2	John Deere Model 865E
Tractor	John Deere Model 2025R

- B. Upon agreement and reasonable notification to the contractor, CalVet reserves the right to add additional equipment or delete obsolete equipment. Additional equipment will be serviced at the unit rates specified herein. Contractor will be notified in writing by the Contract Manager of equipment that has been added and/or removed from the list.

3. MINIMUM QUALIFICATIONS

- A. All services performed under this Agreement shall be performed by qualified service technicians in the employ or under the direction of the Contractor.
- B. Contractor shall provide a minimum of two (2) service technicians experienced in servicing the listed equipment or factory trained on the equipment specified in this Agreement. Contractor shall provide the State with proof of the required training for each service technician providing services under this

Agreement. Acceptable proof may be a resume showing experience, training, and factory school completion.

4. CONTRACTOR'S RESPONSIBILITIES

The Contractor shall provide the following services:

A. REGULAR SEMIANNUAL MAINTENANCE SERVICES

1. The Contractor shall perform the first semiannual maintenance services within the first month the contract is awarded. All subsequent maintenance service dates will be every six months, thereafter. The Contractor shall perform these services during regular cemetery hours, preferably on Wednesdays.
2. Perform all major and minor maintenance services on the above-listed equipment, in accordance with manufacturer recommendations, including, but not limited to: replace air filters, replace fuel filters, change oil and replace oil filters, perform tune-ups, perform brake inspections and replacements, and all other necessary major and minor repairs to ensure equipment is fully operational. Perform all required maintenance and repairs utilizing OEM replacement parts or equivalent meeting or exceeding manufacturer specifications.
3. Repairs and maintenance shall be in accordance with the manufacturer's specifications and recommended intervals.
4. Haul and dispose of waste oil from the premises in accordance with all State, Federal, and local laws.
5. Report all findings to the Supervising Groundskeeper II or authorized designee before making major repairs.
6. Any parts requiring replacement will be replaced in accordance with the Parts Replacement section specified herein.
7. The Contractor shall maintain a complete service history for each piece of equipment covered under this Agreement. The service history shall include, at a minimum:
 - Date of service
 - Equipment make, model, and identification number
 - Hour meter or mileage, if applicable
 - Preventive maintenance performed
 - Repairs completed
 - Parts replaced
 - Technician performing the work
 - Labor hours
 - Recommendations for future maintenance or repairs

Updated service records shall be submitted electronically to the Contract Manager or designated representative within three (3) business days after each service visit.

8. Major Repair

For purposes of this Agreement, a "Major Repair" is any repair that:

- Requires replacement of a major engine, transmission, hydraulic, electrical, steering, braking, or drive train component;
- Requires estimated labor exceeding four (4) hours;
- Requires replacement parts with an estimated cost exceeding \$500; or
- Will place the equipment out of service for more than one (1) business day.

The Contractor shall submit a written estimate describing the required repair, estimated labor hours, replacement parts, and total estimated cost. No Major Repair shall begin without prior written approval from the Contract Manager or designated representative.

B. EMERGENCY and NON-EMERGENCY SERVICE

1. Upon notification by the Contract Manager or designated representative, the Contractor shall respond to emergency service requests by having a qualified service technician arrive on-site within two (2) hours of notification to diagnose the equipment and begin repairs, unless otherwise authorized in writing by the Contract Manager. If repairs cannot be completed during the initial service visit, the Contractor shall provide the Contract Manager with a written explanation of the cause of the delay, the parts required, if applicable, and the estimated date for completion.
2. For non-emergency repair requests, the Contractor shall have a qualified service technician arrive on-site within twenty-four (24) hours of notification by the Contract Manager or designated representative to diagnose the equipment and perform the necessary repairs. If the repair cannot be completed during the initial visit due to the need for replacement parts or other circumstances beyond the Contractor's control, the Contractor shall provide the Contract Manager with a written status update identifying the reason for the delay and the anticipated completion date.
3. Emergency repair services authorized by the State shall be compensated at the Contractor's emergency hourly labor rate identified in Exhibit B-1, Rate Sheet, for actual hours worked on-site. Replacement parts shall be reimbursed in accordance with Section 6, Parts Replacement, of this Agreement. No additional travel, mileage, mobilization, administrative, or miscellaneous charges shall be paid unless specifically authorized in writing by the Contract Manager.
4. All emergency and non-emergency repair services shall be documented on the Contractor's service report. At a minimum, the report shall include the date and time the service request was received, arrival time on-site, equipment serviced, diagnosis, repairs performed, parts replaced, technician's name, labor hours, and the date and time the equipment was returned to service. The service report shall be submitted to the Contract Manager or designated representative within three (3) business days following completion of the service.

5. LICENSES, PERMITS, AND CERTIFICATION REQUIREMENTS

Contractor shall ensure all licenses, permits, and certification requirements are verified and current throughout the term of this Agreement.

6. PARTS REPLACEMENT

- A. The Contractor shall furnish all replacement parts necessary to maintain and repair the equipment covered under this Agreement. Replacement parts shall be new and shall meet or exceed the Original Equipment Manufacturer (OEM) specifications. The use of rebuilt, remanufactured, used, or aftermarket parts that do not

meet or exceed OEM specifications is prohibited unless specifically approved in writing by the Contract Manager.

- B. The Contractor shall maintain an adequate inventory of commonly used replacement parts or can obtain required parts within a commercially reasonable timeframe to minimize equipment downtime. Consumable items, including but not limited to fuel, lubricants, grease, cleaning supplies, and similar operating supplies, are excluded unless specifically identified elsewhere in this Agreement.
- C. The Contractor shall furnish all replacement parts with a total cost of up to **\$500 per repair, non-cumulative**, at no additional cost to the State. This amount includes all parts required to complete a single repair and restore the equipment to the manufacturer's operating specifications. Labor associated with these repairs shall be compensated in accordance with Exhibit B-1, Rate Sheet.
- D. When the total replacement parts cost for a single repair is expected to exceed **\$500**, the Contractor shall submit a written estimate to the Contract Manager or designated representative for review and approval before ordering or installing the parts. The estimate shall include, at a minimum:
 - 1. Equipment make, model, and identification number.
 - 2. Description of the equipment deficiency.
 - 3. Description and quantity of each replacement part.
 - 4. Manufacturer and part number, when available.
 - 5. Estimated labor hours.
 - 6. Estimated parts cost.
 - 7. Estimated total repair cost.
 - 8. Estimated completion date.

No work that exceeds the \$500 parts threshold shall begin without prior written approval from the Contract Manager.

- E. Upon written approval, replacement parts exceeding the \$500 threshold shall be reimbursed under the Parts allocation identified in Exhibit B-1, Rate Sheet. Reimbursement shall be limited to the Contractor's actual cost for the replacement parts. The Contractor shall submit copies of supplier invoices or other documentation acceptable to the State to substantiate the actual cost of the replacement parts. Shipping charges and applicable sales tax may be reimbursed when supported by documentation and included on the supplier's invoice. No additional markups, administrative fees, handling charges, or miscellaneous fees shall be reimbursed unless specifically authorized in the Agreement.
- F. All replacement parts installed under this Agreement shall be covered by the manufacturer's standard warranty. The Contractor shall assign all applicable warranties to the State and provide warranty documentation upon request. Any defective replacement part that fails during the manufacturer's warranty period shall be repaired or replaced at no additional cost to the State unless the failure resulted from misuse, abuse, or circumstances beyond the Contractor's control.
- G. All parts removed from State equipment shall remain the property of the California Central Coast Veterans Cemetery (CCCVC). The Contractor shall return all replaced parts to the Contract Manager or designated representative upon completion of the repair unless written authorization is provided permitting the Contractor to retain the part for a manufacturer's core exchange. When a core exchange is authorized, the Contractor shall reflect the applicable core credit on the invoice submitted to the State.
- H. The State shall not reimburse the Contractor for any replacement parts ordered, purchased, or installed without the prior written approval required under this section. The Contractor assumes all financial responsibility for unauthorized work or unauthorized parts purchases.

- I. The Contractor shall be responsible, at no additional cost to the State, for replacing any replacement part that fails due to improper installation, defective workmanship, or the Contractor's negligence.

7. WORK AREA

- A. While working on equipment, Contractor agrees to perform services with as little disruption to the State's operations as possible.

- B. Equipment Removal from State Property

Repairs shall be performed on-site whenever practical. Equipment shall not be removed from California Central Coast Veterans Cemetery without prior written approval from the Contract Manager or designated representative.

When off-site repair is approved, the Contractor shall be responsible for all transportation, loading, unloading, security, and protection of the equipment while in the Contractor's possession. The Contractor shall notify the Contract Manager before returning the equipment to the Cemetery.

- C. Repair Location

The Contractor shall perform maintenance and repair services at the California Central Coast Veterans Cemetery whenever the work can reasonably be completed on-site.

If specialized equipment, tooling, or shop facilities are required, the Contractor may request written authorization from the Contract Manager to transport the equipment to the Contractor's repair facility.

The Contractor shall be responsible for all transportation costs associated with approved off-site repairs. No additional transportation, pickup, delivery, mileage, or mobilization charges shall be billed unless specifically authorized in writing by the Contract Manager.

8. WORKMANSHIP

All work provided by the Contractor shall conform to the latest requirements for Federal, State, City and County regulations. This includes but is not limited to Titles 17, 19, and 22 of the California Code of Regulations. Contractor is responsible for compliance with all applicable laws, codes, rules and regulations on connection with work performed under this Agreement. Any services performed by the Contractor will be inspected by the State after completion. The State is solely responsible for determining the acceptability of the work performed and the operability of the equipment.

9. INDEPENDENT CONTRACTORS' STATUS

- A. The Contractor/Providers shall be considered "Independent Contractors" in relation to CalVet and the State. Therefore, the Contractor/Providers shall not be considered employee(s) of CalVet and shall not be entitled to any employee benefits from CalVet or the State, including, but not limited to, the following:

1. Premium Pay, Overtime Pay, or Holiday Pay
2. Medical Insurance
3. Vacation or Sick Leave
4. Workers' Compensation

5. Other employee benefits

10. CONTACT INFORMATION

- A. The project representatives during the term of this agreement will be:

1. **CalVet Representative/Contract Manager:**
California Central Coast Veterans Cemetery (CCCVC)
Attn:
2900 Parker Flats Road
Seaside, CA 93955
Phone:
Email:
2. **Contractor Representative:**
TBD

- B. Contract Representatives, addresses, and phone/fax numbers may be changed by issuing a 20-day prior written notification and shall not require a formal amendment of this Agreement. The notifying party shall provide complete contact information for the replacement Contract Representative including name, title, mailing address, phone/fax numbers, and email address. All other changes require a formal written amendment to this agreement.

11. AMENDMENT OPTION

CalVet may execute amendments to extend term of agreement and/or add funding if statute supporting the original award also supports the amendment. The amendment is at the sole discretion of the State and the rates noted in Exhibit B-1 would remain in effect for the term of the contract including the amendment. No amendment or variation of the terms of the Agreement shall be valid unless made in writing and agreed upon by both parties and approved by DGS (if applicable).

1. STANDARD BUDGET DETAIL AND PAYMENT PROVISIONS

A. Invoicing and Payment

1. For services satisfactorily rendered, and upon receipt and approval of the invoices, the State agrees to compensate the Contractor for services rendered in accordance with the rates in Exhibit B-1.
2. Invoices shall include the Agreement Number and shall be submitted in not more frequently than monthly in arrears to:

<u>Original Invoice</u>	<u>Approval Copy</u>
Department of Veterans Affairs CalVet Accounting Office 1227 "O" Street Room 402 Sacramento, CA 95814 APInvoices@calvet.ca.gov	Veterans Home of California – CCCVC Attn: TBD 2900 Parker Flats Road Seaside, CA 93955

B. Budget Contingency Clause

1. It is mutually agreed that if the Budget Act of the current year and/or any subsequent years covered under this Agreement does not appropriate sufficient funds for the program, this Agreement shall be of no further form and effect. In this event, the State shall have no liability to pay any funds whatsoever to Contractor or to furnish any other considerations under this Agreement and Contractor shall not be obligated to perform any provisions of this Agreement.
2. If funding for any fiscal year is reduced or deleted by the Budget Act for purposes of this program, the State shall have the option to either cancel this Agreement with no liability occurring to the State, or offer an Agreement amendment to Contractor to reflect the reduced amount.

C. Prompt Payment Clause

Payment will be made in accordance with, and within the time specified in, Government Code, Chapter 4.5, commencing with Section 927.

2. SPECIAL BUDGET DETAIL AND PAYMENT PROVISIONS

Submissions of Invoices/Claims

- A. All invoices/claims must be completed thoroughly and legibly, with all applicable fields completed. Invoices/claims that are submitted to the appropriate location but have been altered, or are inaccurate, or do not provide all necessary information will not be accepted and will be returned to the Contractor for correction.
- B. Any changes to this provision relating to the invoice/claim submittal process, including but not limited to an address, form, or process change, shall be an administrative change managed through the appropriate designated CalVet office **and shall not require a contract amendment.**
- C. Contractor shall submit monthly invoices to the CalVet Contract Manager for approval and processing. Invoices/claims submitted shall include the following information in order to be considered complete and acceptable for processing, or the invoice/claim will be returned:
 - 1) Contractor's Company name exactly as it appears on the Payee Data Record (STD.204)
 - 2) Contractor's Company address, phone number and e-mail
 - 3) Date of invoice/claim
 - 4) Invoice/claim number

- 5) CalVet location where services were performed
- 6) Contract/Agreement Number
- 7) Date(s) of Service
- 8) Total dollar amount being billed
- 9) First and Last name of Contractor or Provider performing services, if applicable
- 10) Contractor's or Provider's Classification, whichever is applicable
- 11) Contractor's final invoice must be clearly marked as "Final Invoice"
- 12) When applicable, Contractors shall include the following information on the invoice/claim submitted for hourly reimbursement:
 - a) Hourly Rate
 - b) Time in and time out
 - c) Total hours worked
 - d) Any other information or documentation reasonably required to verify and substantiate the provision of services and the charges for such services.

3. CONTRACTOR OVERPAYMENTS

- A. If the State determines that an overpayment has been made to the Contractor, the State will seek recovery immediately upon discovery of the overpayment by: (a) calling the Contractor's accounting office to request a refund of the overpayment amount, or (b) offsetting subsequent Contractor payments by the amount of the overpayment if Contractor repayment or credit is not received within thirty (30) days from the date of notice.
- B. If Contractor discovers it has received an overpayment, Contractor must notify the State and refund the overpayment immediately.

4. DVBE Withhold

- A. For contracts with DVBE subcontractors pursuant to Mil. & Vet. Code Section 999.7, ten thousand dollars (\$10,000) will be withheld from the final payment, or the full final payment if less than ten thousand dollars (\$10,000), until the prime contractor complies with the certification requirements of subdivision (d) of Mil. & Vet. Code Section 999.5. Prime contractor shall be given 30 days' notice to cure the defect. If, after 30 calendar days from the date of notice, the prime contractor refuses to comply with the certification requirements, CalVet shall permanently deduct ten thousand dollars (\$10,000) from the final payment, or the full payment if less than ten thousand dollars (\$10,000).
- B. CalVet shall maintain all records of the information provided by the prime contractor pursuant to Section 999.5 and shall establish appropriate review procedures for those records to ensure the accuracy and completeness of the award amounts and paid amounts reported. The records shall be maintained in a manner that facilitates access and review by external auditors. Records collected pursuant to this section shall be retained for a minimum of six years after collection. (Mil. & Vet. Code Section 999.55)

RATE SHEET

The Contractor must be able to provide the services listed below. Subcontractors may be used to comply with this requirement. Subcontractor Agreements may be used to comply with this requirement. Subcontractor(s) information must be identified on Bidder Declaration (GSPD-05-105). If additional Subcontractors are added during the term of the Agreement, an updated GSPD-05-105 must be submitted.

The rates listed below are in effect for the term of the Agreement, including any extension of the term through an amendment.

Description of Service		Rate Per Service
A.	Regular Semiannual Maintenance on all equipment (Monday - Friday 8:00 am to 4:30 pm)	
B.	Non- Emergency Repair Services	
C.	Emergency Repair Services	

Description of Service		Maximum Amount
D.	Parts	\$ 10,500.00

1. **General Terms and Conditions**

A. General Terms and Conditions (GTCs)

The (GTCs) are hereby incorporated by reference and made part of this agreement as if attached. hereto. These documents may also be viewed at the California Department of General Services website: <https://www.dgs.ca.gov/-/media/Divisions/OLS/Resources/GTC-Updates/GTC-225-February-2025.pdf>

1. EXCISE TAX

The State of California is exempt from Federal Excise Taxes, and no payment will be made for any taxes levied on employees' wages. The State will pay for any applicable State of California or local sales or use taxes on the services rendered or equipment or parts supplied pursuant to this Contract. California may pay any applicable sales or use tax imposed by another state.

2. STATUTORY AND REGULATORY PROVISIONS

- A. This Contract shall be governed and construed in accordance with all applicable statutory and regulatory provisions including, but not limited to:
- 1) Title XVIII of the Federal Social Security Act
 - 2) Title XIX of the Federal Social Security Act
 - 3) Chapters 7 and 8 (commencing with Section 14000), Part 3, Division 9, Welfare and Institutions Code
 - 4) Division 3, Title 22, California Code of Regulations (CCR)
 - 5) Health and Safety Code Section 1340 et seq.
 - 6) All applicable Federal provisions which regulate the administration of health care programs and budget revisions, as contained in the Code of Federal Regulations (CFR), Title 42, and Title 45, Part 74, Title 42 United States Code, Sections 1395 et seq. and 1396 et seq.
 - 7) Sub-chapter 13 (commencing with Section 6800), Chapter 4, Part 1, Title 17, CCR; and
 - 8) All other applicable laws and regulations.
- B. Any provision of this Contract in conflict with the applicable laws and regulations is hereby amended to conform to the provisions of those laws and regulations. Such amendment of the Contract shall be effective on the effective date of the statutes or regulations necessitating it, and shall be binding on the parties even though the amendment may not have been reduced to writing and formally agreed upon and executed by the parties. If, due to amendment in laws of regulations, Contractor is unable or unwilling to comply with the provisions of the amendment(s), State or Contractor may terminate this Contract in accordance with the Termination provision of this Contract.

3. EXAMINATION AND AUDIT

- A. Contractor shall allow the State and its related entities, the Comptroller General of the United States, Department of Justice (DOJ), and the Bureau of Medi-Cal Fraud, or their duly authorized representatives, to inspect or otherwise evaluate the quality, appropriateness, and timeliness of services performed under this Contract, and to inspect, evaluate, and audit any and all books, records, and facilities maintained by the Contractor and Subcontractors pertaining to services under this Contract at any time during normal business hours.
- B. Contractor shall be subject to the examination and audit of the State Auditor for a period of three (3) years after final payment under this Contract in accordance with *Government Code, Section 85467.7*. The examination and audit shall be confined to those matters directly connected with the performance of the contract, including, but not limited to, the costs of administering the Contract.
- C. Books and records include, but are not limited to, all physical records originated or prepared pursuant to the performance under this Contract, including working papers, reports, financial records, and books of account, Medical Records, prescriptions files, Subcontracts, and any other documentation pertaining to medical and non-medical services for residents of the Home. Upon request, at any time during the term of this Contract, the Contractor shall furnish any record or copy.

4. **RESOLUTION OF DISPUTES**

- A. The Contractor may dispute and appeal a decision or action by the State arising out of the Interpretation or administration of this Contract. A written dispute notice shall be submitted to the Contract Manager within thirty (30) calendar days from the date the Contractor receives notice of the decision or action in dispute.

The Contractor's dispute notice shall state the following, based on the most accurate information available to the Contractor:

- 1) That it is a dispute pursuant to this Section.
 - 2) The date, nature, and circumstances of the conduct, which is the subject of dispute.
 - 3) The names, telephone numbers, function, and activity of each contractor, subcontractor, State official, or employee involved in or knowledgeable about the conduct.
 - 4) The identification of any documents and the substance of any oral communications involved in the conduct. Copies of all identified documents shall be attached.
 - 5) The reason why the Contractor is disputing the conduct.
 - 6) The cost impact to the Contractor directly attributable to the alleged conduct, if any.
 - 7) The Contractor's desired remedy.
- B. The State and the Contractor agree to try to resolve all contractual issues by negotiation and mutual agreement at the Contract Manager level. The parties recognize that the implementation of this policy depends on open-mindedness, and the need for both sides to present adequate supporting information on matters in question. The Contract Manager, in a written decision stating the factual basis for the decision, will decide any disputes concerning performance of this Contract. Before issuance of the Contract Manager's decision, informal discussions between the parties by the individuals who have not participated substantially in the matter in dispute will be considered by the parties in efforts to reach mutual agreement.
- C. The Contract Manager will render a decision or request additional substantiating documentation from the Contractor within thirty (30) days of receipt of the Contractor's appeal. A copy of the decision will be provided to the Contractor. The decision shall be final and conclusive unless, within thirty (30) days from the date of the decision, the Contractor files a written appeal addressed to the Undersecretary, California Department of Veterans Affairs.
- D. The Undersecretary's decision shall be final and conclusive unless the decision is arbitrary, capricious, grossly erroneous or if any determination of fact is unsupported by substantiating evidence. The Undersecretary's decision will be in writing and may encompass facts, interpretations of the Contract, and determination or application of law. The Contractor may, prior to the Undersecretary's decision, present oral or documentary evidence, and arguments in support of the Contractor's appeal. The decision will either:
- 1) Find in favor of the Contractor, in which case the Undersecretary may:
 - a) Countermand the earlier conduct which caused the Contractor to file a dispute; or
 - b) Reaffirm the conduct and, if there is a cost impact sufficient to constitute a change in obligations pursuant to the payment provisions, direct the State to comply with that Section.
 - 2) Deny the Contractor's dispute and, where necessary, direct the manner of future performance; or

- 3) Request additional substantiating documentation in the event the information in the Contractor's dispute or appeal is inadequate to permit a decision to be made under paragraphs (1) or (2) above, advise the Contractor as to what additional information is required, and establish how that information will be furnished. The Contractor shall have thirty (30) days to respond to the Undersecretary's request for further information. Upon receipt of this additional requested information, the Undersecretary will have thirty (30) days to respond with a decision. Failure to supply additional information required by the Undersecretary within the time period specified above shall constitute waiver by the Contractor of all claims.
- E. Attorney's fees and costs for any dispute or subsequent trial shall be borne by the respective parties. Both parties waive trial by jury, and any trial in superior or municipal court shall be by a judge alone. Any litigation arising out of this Contract shall be conducted in a California Court pursuant to California law.
- F. Contractor shall continue with the responsibilities under this Contract during any dispute.

5. AGENCY LIABILITY (Applies only to Federally Funded Contracts)

The Contractor warrants by execution of this Contract, that no person or selling agency has been employed or retained to solicit or secure this Contract upon Contract or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, the State shall, in addition to other remedies provided by law, have the right to annul this Contract without liability, paying only for the value of the work actually performed, or otherwise recover the full amount of such commission, percentage, brokerage, or contingent fee.

6. POTENTIAL SUBCONTRACTORS

For all Agreements, with the exception of Interagency Agreements and other governmental entities/auxiliaries exempt from bidding, nothing contained in this Contract or otherwise shall create any contractual relation between the State and any subcontractors, and no subcontract shall relieve the Contractor of Contractor's responsibilities and obligations hereunder. The Contractor agrees to be as fully responsible to the State for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by any of them, as it is for the acts and omissions of persons directly employed by the Contractor.

The Contractor's obligation to pay its subcontractors is an independent obligation from the State's obligation to make payments to the Contractor. As a result, the State shall have no obligation to pay or enforce the payment of any moneys to any subcontractor.

7. REPORTING SMALL BUSINESS (SB)/MICRO BUSINESS (MB) AND /OR DISABLED VETERANS BUSINESS ENTERPRISE (DVBE) UTILIZATION

- A. If SB/MB and/or DVBE Subcontractor participation is a requirement on this Agreement, the Contractor must report the actual amount paid to certified Subcontractors. The Contractor must comply with Government Code Section 14841 and Military and Veterans Code Section 999.5(d) by reporting the actual utilization of certified Subcontractor(s) during the performance of this Agreement. The Contractor shall prepare and submit the report to the Contract Manager within 60 days from receipt of final payment.
- B. Withhold: Pursuant to Mil. & Vet. Code Section 999.7, ten thousand dollars (\$10,000) will be withheld from the final payment, or the full final payment if less than ten thousand dollars (\$10,000), until the prime contractor complies with the certification requirements of subdivision (d) of Mil. & Vet. Code Section 999.5. Prime contractor shall be given 30 days' notice to cure the defect. If, after 30 calendar days from the date of notice, the prime contractor refuses to comply with the certification requirements, CalVet shall permanently deduct ten thousand dollars (\$10,000) from the final payment, or the full payment if less than ten thousand dollars (\$10,000).

8. SUBSTITUTION OF DVBEs

- A. If applicable, DVBE subcontractors shall be used per the California Code of Regulations (CCR), Title 2 § 1896.70 unless a substitution is approved in writing by the Department of General Services (DGS), Office of Small Business & Disabled Veteran Business Enterprise (OSDS). A DVBE subcontractor shall be replaced by another DVBE to perform the work originally stated. The substitution shall maintain, at minimum, the level of participation goal stated in the bid.
- 1) The Contractor shall simultaneously notify the DVBE and the CalVet Contract Manager of the intended substitution. The written notice shall contain the reasons for the substitution and be sent by certified mail. The Contractor shall submit the following to the CalVet Contract Manager:
 - i. A copy of the written notice issued to the DVBE with proof of delivery. In the absence of proof of delivery, provide the certified mail receipts.
 - ii. A copy of the DVBE's consent or opposition to the substitution. In the absence of the consent or opposition, provide the returned and unopened certified mail.
 - iii. The name and supplier number of the business being substituted and the name and supplier number of the proposed replacement. If a DVBE cannot be identified as a replacement, the Contractor shall document the absence of DVBEs. This documentation shall include but is not limited to:
 1. Contact CalVet' SB/DVBE Coordinator regarding the absence of DVBEs to perform the specific work.
 2. Search results from the DGS website for DVBEs to perform the specific work.
 3. Communication with a DVBE Community Organization nearest the worksite regarding the absence of DVBEs, if applicable.
 4. Documented communication with DVBEs describing the work to be performed, its percentage of the overall contract, the corresponding dollar amount, and their responses to the request.
 - 2) The DVBE shall have up to five (5) business days from the postmark date to consent or oppose the substitution. A copy of the DVBE's reply shall be sent simultaneously by certified mail to the Contractor and the CalVet Contract Manager.
 - 3) When written oppositions to a substitution are filed, CalVet shall grant the DVBE a hearing. The hearing notice shall be issued within five (5) business days from receipt of the opposition. If CalVet grants the substitution, continue to G, below.
 - 4) The CalVet Contract Manager shall submit the substitution request to the DGS, OSDS:
 - i. The request must meet the criteria as specified above or § 4107 of the Public Contract Code for Public Works.
 - ii. The substitution request shall be accompanied by the hearing decision, when applicable.
 - 5) The OSDS will respond to substitution requests within three (3) business days. The OSDS shall consent to the substitution of another DVBE in any of the following situations:
 - i. When the DVBE becomes bankrupt, insolvent or goes out of business.
 - ii. When the DVBE does not perform as listed in the Bidder Declaration.
 - iii. When the DVBE does not meet the bond requirements of the contractor.
 - iv. When the DVBE's name is incorrect due to an inadvertent clerical error. In the case of public works contracts, compliance with § 4107.5 of the Public Contract Code is required.
 - v. When the DVBE is not licensed as required by any State of California regulatory agency.
 - vi. When CalVet, or its duly authorized officer, determines that the DVBE:
 1. Did not perform in accordance with the plans and specifications; or,
 2. Has delayed or disrupted the progress of the work.
 - 6) The DVBE substitution process shall not be used as an excuse for noncompliance with any provision of law. This includes, but is not limited to, the Subletting and Subcontracting Fair Practices Act (§ 4100 et seq., Public Contract Code) or any Agreement requirements relating to substitution of subcontractors.

- 7) Contractors who proceed with work pending a substitution decision may be subject to contract termination, recovery of damages under rights, remedies and penalties. This is outlined in § 999.9 of the Military and Veterans Code, § 10115.10 of the Public Contract Code or § 4110 of the Public Contract Code (applies to public works only). Failure to adhere to the DVBE participation in the performance of the Agreement may be cause for Agreement termination and recovery of damages under the rights and remedies due CalVet.
- 8) Any DVBE firm acting/working under subcontract must be responsible for providing materials, supplies, equipment or services and must carry out its responsibility by actually performing, managing, or supervising the work involved that is normal for its business services and functions.
- 9) The Contractor shall maintain records of all subcontracts entered into with DVBE Subcontractors including records of materials purchased from DVBE suppliers. Such records shall show the name and address of each DVBE Subcontractor or supplier and the total dollar amount paid to each one. Upon completion of the Agreement, a summary of these records shall be prepared and certified correct by the Contractor or his authorized representative and the summary shall be furnished to the CalVet Contract Manager.

9. SMALL BUSINESS OR DISABLED VETERAN BUSINESS ENTERPRISE CERTIFICATION

- A. Contractor shall maintain its status as a Department of General Services (DGS) certified Small Business (SB)/Microbusiness (MB) or Disabled Veteran Business Enterprise (DVBE), as applicable, throughout the term of this Agreement.
- B. Subcontractor must also maintain its certification with the DGS Office of Small Business & Disabled Veteran Business Enterprise Services as a SB/MB or DVBE, as applicable, for the duration of this Agreement.

10. INSURANCE REQUIREMENTS

- A. Upon contract award, contractor must furnish to the State an original certificate(s) of insurance stating that the contractor has the following types of coverage, if applicable:
 - 1) Commercial General Liability: Combined Single Limit (CSL) for no less than \$1,000,000 per occurrence for bodily injury and property damage. The policy must include coverage for liabilities arising out of premises, operations, independent contractors, products/completed operations, personal & advertising injury, and liability assumed under an insured contract. This insurance shall apply separately to each insured against whom claim is made or suit is brought subject to the contractor's limit of liability.
 - 2) Professional Liability: (Applies to any contract in which the work is of a professional nature such as, but not limited to, physicians, architects, engineers, accountants, or consultants) Covering any damages caused by an error, omission, or any negligent acts. Limits of not less than \$1,000,000 per claim and \$3,000,000 aggregate.
 - 3) Automobile Liability (Applies to any contract in which the contractor will likely use a vehicle to complete the project or drive a vehicle onto State property): Limits of not less than \$1,000,000 per accident. Such insurance shall cover liability arising out of an automobile including owned, hired, and non-owned autos.
 - a) MCS90 endorsement on the Automobile policy **(required whenever contractor will be transporting Hazardous materials i.e. Pest Control and Waste contracts.)**
 - 4) Pollution Liability/Environmental Impairment Liability (Applies only to Pollution Contracts – i.e. Pest Control and Waste Contracts): In addition, the certificate evidencing general liability must include evidence of one of the following if applicable to the service:
 - a) Pesticide/Herbicide Endorsement, OR

- b) An endorsement deleting the general liability pollution exclusion, OR
 - c) A separate environmental/pollution liability policy with limits not less than \$1,000,000 covering bodily injury and property damage from pollution and related clean up costs incurred arising out of the work or services to be performed under this contract.
- 5) Workers' Compensation (Mandatory for all Contractors who have at least one employee): Contractor shall maintain workers' compensation and employer's liability coverage for all its employees who will be engaged in the performance of the contract, including special coverage extensions where applicable. Contractor shall furnish a certificate for Workers' Compensation issued by an insurance carrier licensed to write Workers' Compensation insurance in the State of California, including the name of the carrier and the date of expiration of insurance, or a Certificate of Consent to Self-Insure issued by the Department of Industrial Relations.
- 6) Fidelity Bond/Crime Insurance: (Applies only to contracts handling State money or securities – i.e. Armored Car Service Contracts) Contractor shall maintain Employee Dishonesty and, when applicable, Inside/Outside Money & Securities coverages for state-owned property in the care, custody and control of the Contractor. Coverage limits shall not be less than the amount scheduled in the contract. The policy shall include as Contractor. Coverage limits shall not be less than the amount scheduled in the contract. The policy shall include as loss payee the California Department of Veterans Affairs
- 7) The certificate(s) of insurance shall be on an ACORD form, or equivalent, and must show "occurrence" coverage. The certificates of insurance must also contain all of the following provisions:
- a) Name and address of the insurance company, policy number, and beginning and ending dates of the policy.
 - b) Statement that the insurer will not cancel the insured's coverage without 30 days prior written notice to the State.
 - c) Statement that the State of California, its officers, agents, employees, and servants are included as additional insured on the policy, but only insofar as the operations under this contract. The additional insured endorsement must accompany the certificate of insurance. This does not pertain to professional liability.
- 8) Contractor agrees that any insurance herein provided shall be in full force and effect at all times during the term of the contract. In the event said insurance coverage expires at any time during the term of this contract, Contractor agrees to provide, at least ten (10) days prior to said expiration date, a new certificate of insurance evidencing insurance coverage as provided for herein for not less than the remainder of the term of the contract, or for a period of not less than one (1) year. In the event contractor fails to keep in effect at all times insurance coverage herein provided, State may, in addition to any other remedies it may have, terminate the contract upon the occurrence of such event, subject to the provisions of the contract.
- 9) Contractor shall notify the State within five (5) days if any insurance coverage identified in the contract is altered in any way.

11. RIGHT TO TERMINATE

- A. The State reserves the right to terminate this Contract subject to thirty (30) days written notice to the Contractor. Contractor may submit a written request to terminate this Contract only if the State should substantially fail to perform its responsibilities as provided herein. However, the Contract can be immediately terminated for cause. The term "for cause" shall mean that the Contractor fails to meet the terms, conditions, and/or responsibilities of the contract. In this instance, the contract termination shall be effective as of the date indicated on the State's notification to the Contractor.
- B. This Contract may be suspended or cancelled without notice, at the option of the Contractor, if the Contractor or State's premises or equipment are destroyed by fire or other catastrophe, or so substantially

damaged that it is impractical to continue service, or in the event the Contractor is unable to render service as a result of any action by any governmental authority.

12. FORCE MAJEURE

Neither party shall be liable to the other for any delay in or failure of performance, nor shall any such delay in or failure of, performance constitute default, if such delay or failure is caused by "Force Majeure." As used in this section, "Force Majeure" is defined as follows: Acts of war and acts of god such as earthquakes, floods, and other natural disasters such that performance is impossible.

13. EVALUATION OF CONTRACTOR

Performance of the Contractor under this Agreement will be evaluated. The evaluation shall be prepared on Contract/Contractor Evaluation Sheet (STD 4), and maintained in the Agreement file. For consultant agreements, a copy of the evaluation will be sent to the Department of General Services, Office of Legal Services, if it is negative and over \$5,000.

14. SB/DVBE PARTICIPATION

In accordance with requirements set forth by the State, the CalVet shall enforce all laws, rules, and regulations pertaining to this program. It is the Contractors responsibility to provide CalVet with all required documents as outlined in this agreement. The CalVet reserves the right to contact each SB and DVBE identified by the Contractor to verify compliance. Failure to meet SB/DVBE requirements under Exhibit B, and Exhibit C (GTC 02/2025), paragraphs 19.a and 19.b. may deem the Contractor to be non-responsible and rejected from future bid and contract opportunities with the CalVet.

15. LICENSES AND PERMITS

The Contractor shall be an individual or firm licensed to do business in California and shall obtain at his/her expense all license(s) and permit(s) required by law for accomplishing any work required in connection with this contract.

If you are a Contractor located within the State of California, a business license from the city/county in which you are headquartered is necessary; however, if you are a corporation, a copy of your incorporation documents/letter from the Secretary of State's Office can be submitted. If you are a Contractor outside the State of California, you will need to submit to the California Department of Veterans Affairs a copy of your business license or incorporation papers for your respective State showing that your company is in good standing in that state.

In the event any license(s) and/or permit(s) expire at any time during the term of this contract, Contractor agrees to provide agency a copy of the renewed license(s) and/or permit(s) within 30 days following the expiration date. In the event the Contractor fails to keep in effect at all times all required license(s) and permit(s), the State may, in addition to any other remedies it may have, terminate this contract upon occurrence of such event.

16. CONSULTANT – STAFF EXPENSES

The Contractor represents that it has or shall secure at its own expense, all staff required to perform the services described in this Agreement. Such personnel shall not be employees of or have any contractual relationship with any governmental entity.

17. HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA) STANDARDS FOR PRIVACY OF INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION

For the purpose of this contract, contractor shall comply with the federal Health Insurance Portability and Accountability Act (HIPAA), as well as State and Federal requirements for privacy protection. The definitions and obligations required by the HIPAA Standards for Privacy of Individually Identified Health Information (U.S.C. 1320d et seq.), and implementing regulations including but not limited to 45 Code of Federal

Regulations parts 142, 160, 162, and 164, hereinafter referred to as the Privacy Rule, remain enforce and applicable for access to protected health information, including electronic protected health information.

18. Executive Order N-6-22 – Russia Sanctions

On March 4, 2022, Governor Gavin Newsom issued Executive Order [N-6-22](#) (the EO) regarding Economic Sanctions against Russia and Russian entities and individuals. "Economic Sanctions" refers to sanctions imposed by the U.S. government in response to Russia's actions in Ukraine, as well as any sanctions imposed under state law. The EO directs state agencies to terminate contracts with, and to refrain from entering any new contracts with, individuals or entities that are determined to be a target of Economic Sanctions. Accordingly, should the State determine Contractor is a target of Economic Sanctions or is conducting prohibited transactions with sanctioned individuals or entities, that shall be grounds for termination of this agreement. The State shall provide Contractor advance written notice of such termination, allowing Contractor at least 30 calendar days to provide a written response. Termination shall be at the sole discretion of the State.

19. LEGAL CONTRACTS (applies only to Legal Services Contracts)

In accordance with (Public Contract Code Section (10353.5) The Contractor shall:

- A. Agree to adhere to legal cost and billing guidelines designated by the State.
- B. Adhere to litigation plans designated by the state agency.
- C. Adhere to case phasing of activities designated by the state agency.
- D. Submit and adhere to legal budgets as designated by the state agency.
- E. Maintain legal malpractice insurance in an amount not less than the amount designated by the state agency.
- F. Submit to legal bill audits and law firm audits if requested by the state agency. The audits may be conducted by employees and designees of the state agency or by any legal cost control providers retained by the state agency for purpose.
- G. Submit to a legal cost and utilization review, as determined by the state agency.