

**AGREEMENT FOR THE SAN LORENZO CREEK BANK EMERGENCY REPAIR BETWEEN THE CITY
OF HAYWARD AND DUTRA ENTERPRISES, INC.**

THIS AGREEMENT, dated for convenience this ___ day of May, 2024, is by and between Dutra Enterprises, Inc., a California Corporation ("DEI") or its nominee, J. Darwin Homes LLC, a California Limited Liability Company, and the CITY OF HAYWARD, a municipal corporation of the State of California ("City") (collectively, DEI or its nominee and the City shall be referred to as "the Parties").

RECITALS:

WHEREAS, a storm drain outfall and streambank (the "Outfall and Streambank") is located along the San Lorenzo Creek (Creek), approximately 50 feet upstream from the A Street bridge crossing of Creek in the City of Hayward, Alameda County, California (Lat. 37.6787117, Long. -122.0765198);

WHEREAS, DEI is as of the date of this Agreement is the owner of real property adjacent to the Outfall and Streambank and shall be transferring its interest to its nominee, J. Darwin Homes LLC California Limited Liability Company, (sometimes hereinafter referred to as the "nominee" or "Property Owner") with the Parties agreeing that upon recordation of DEI's transfer of interest to its nominee, all rights and obligations by DEI under this Agreement shall be transferred or otherwise assigned to the Property Owner, with the City looking to the Property Owner and not to DEI for performance of the terms of this Agreement. J. Darwin Homes shall execute an addendum to this Agreement confirming its status as Property Owner and assumption of all obligations under this Agreement.

WHEREAS, a recent inspection of the Storm Drain confirmed that it has collapsed and identified an approximately 30-foot-wide bank concrete lining collapse and washout area at the Outfall and Streambank;

WHEREAS, the Property Owner and the City have determined that unless the damage to the Storm Drain, Outfall and Streambank is repaired immediately, the water flowing through the collapsed Storm Drain and Creek will continue to undermine and damage the existing concrete armoring as further washout and erosion occurs and will eventually impact the downstream abutment supporting the A Street bridge;

WHEREAS, The Property Owner and the City have concluded that specific actions are necessary to prevent an emergency that would compromise public health, safety, and welfare;

WHEREAS, Property Owner has offered to assist the City with the permitting and the needed repairs through its team of State licensed and qualified construction contractor(s), engineering and other professionals;

WHEREAS, the City intends, through Property Owner, to complete emergency repairs to the Storm Drain, Outfall and Streambank along Creek under provisions of the U.S.

Army Corps of Engineers ("USACE") Regional General Permit ("RGP") 5, permits from the State and local regulatory agencies and a grading permit from the City of Hayward.

NOW, THEREFORE, Property Owner and the City agree as follows:

AGREEMENT:

Scope of Service. Because of the exigency of the issue and to abate the emergency, Property Owner has agreed to assist the City in applying for and securing all related permits and completing the required repairs to the Storm Drain, Outfall and Streambank, and related work as required by the permit(s) conditions ("Emergency Repairs"). A plan for this work is shown in Exhibit A. Emergency Repairs shall be completed by California State Licensed and qualified contractors to be retained by Dutra Enterprises and approved by the Director of Public Works of the City (hereinafter, "Contractors") for the reconstruction of the Creek bank, bank armoring and approximately 100 feet of 18-inch diameter drainpipe damaged during recent storm events as per the conditions of the US Army Corps of Engineers permit SPN-2024-00152 issued on 4/23/2024 and as per the Avoidance and Minimization Measures stated in California Department of Fish and Wildlife Notification of Emergency Work, also enclosed in Exhibit A.

1. Cost Sharing. Property Owner has obtained the attached proposal, dated 4/3/2024, from McGuire Hester to perform the Emergency Repairs as detailed in Exhibit B. Upon receiving the required permits, Property Owner shall engage Contractor to perform said repairs subject to City approval of the Contractor's agreement (price, terms and conditions), license, insurance, and permits being obtained as required by the City. City agrees to reimburse Property Owner up to fifty percent (50%) of the Property Owner's expenses reasonably incurred for the Emergency Repairs (the "Property Owner Reimbursement"), including but not limited to the Property Owner studies, permits, design, construction, inspection, material testing, construction reports, city and other agency fees, and as-built plans, and to do so within 30-days of receiving invoices from Property Owner. Should further work be required either by the Contractor and/or City, County, State or Federal Agencies - for additional emergency and/or permanent repairs associated with the Emergency Permit beyond the work set forth in Exhibit B, - both parties shall continue to share costs on a 50/50 basis. Finally, Property Owner agrees to work with the City to obtain Government Reimbursements with each party receiving 50% of any and all Governmental Reimbursements.
2. Effective Date and Term. This agreement shall apply retroactively to April 15, 2024 and shall continue in full force and effect until completion of the Emergency Repairs. Property Owner shall make commercially reasonable and good faith efforts to complete the Emergency Repairs before September 1, 2024.
3. Indemnification. Indemnification of City Prior To Commencement of Emergency Repairs.

Property Owner shall ensure that each of the Contractors agrees to indemnify, defend, and hold City, its officers, employees, agents, and volunteers harmless from and against any

and all liability, claims, suits, actions, damages, and causes of action arising out of any personal injury, bodily injury, loss of life, or damage to property, or any violation of any federal, state, or municipal law or ordinance, or other cause in connection with the negligent or intentional acts or omissions of Contractors, their employees, subcontractors, or agents, or on account of the performance or character of this work, except for any such claim arising solely out of the active negligence, sole negligence, or willful misconduct of the City, its officers, employees, agents, or volunteers. It is understood that the duty of Contractors to indemnify and hold harmless includes the duty to defend as set forth in section 2778 of the California Civil Code. Acceptance of insurance certificates and endorsements required under this agreement does not relieve Contractor from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply whether or not such insurance policies shall have been determined to be applicable to any such damages or claims for damages. The Property Owner and City agree to work with each other in executing any necessary documents as may be required in order for the Contractors to bear sole liability for indemnifying the City as required pursuant to the terms of this agreement. The City shall agree in writing that the City has reviewed and approved the agreements by and between the Property Owner and the Property Owner's contractors.

4. Insurance. On or before beginning any of the services or work called for by any term of this agreement, Property Owner shall ensure that each of the Contractors, at its own cost and expense, shall carry, maintain for the duration of the agreement, and provide proof thereof that is acceptable to the City the insurance specified in subsections (a) through (c) below with insurers and under forms of insurance satisfactory in all respects to the City. Contractor shall not allow any subcontractor to commence work on any subcontract until all insurance required of the Contractor has also been obtained for the subcontractor. The City shall agree in writing that the City has reviewed and approved the insurance policies specified in subsections (a) through (c) by and between the Property Owner and the Property Owner's insurers.
 - a. Workers' Compensation. Statutory Workers' Compensation Insurance and Employer's Liability insurance for any and all persons employed directly or indirectly by Contractor shall be provided with limits not less than one million dollars. In the alternative, Contractor may rely on a self-insurance program to meet these requirements so long as the program of self-insurance complies fully with the provisions of the California Labor Code. The insurer, if insurance is provided, or the Contractor, if a program of self-insurance is provided, shall waive all rights of subrogation against the City for loss arising from work performed under this agreement.
 - b. Commercial General and Automobile Liability. Contractor, at Contractor's own costs and expense, shall maintain commercial general and automobile liability insurance for the period covered by this agreement in an amount not less than one million dollars per occurrence, combined single limit coverage for risks associated with the work contemplated by this agreement. If a Commercial General Liability Insurance or

an Automobile Liability form or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the work to be performed under this agreement or the general aggregate limit shall be at least twice the required occurrence limit. Such coverage shall include but shall not be limited to, protection against claims arising from bodily and personal injury, including death resulting therefrom, and damage to property resulting from activities contemplated under this agreement, including the use of owned and non-owned automobiles. Coverage shall be as broad as Insurance Services Office Commercial Liability occurrence form CG 0001 and Insurance Services Office Automobile Liability form CA 0001 Code 1 (any auto).

Each of the following shall be included in the insurance coverage or added as an endorsement to the policy:

- i. City, its officers, employees, agents, and volunteers are to be covered as insureds as respects each of the following: liability arising out of activities performed by or on behalf of Contractor, including the insured's general supervision of Contractor; products and completed operations of Contractor; premises owned, occupied or used by Contractor; or automobiles owned, leased, hired, or borrowed by Contractor. The coverage shall contain no special limitations on the scope of protection afforded to City, its officers, employees, agents, or volunteers.
- ii. The insurance shall cover on an occurrence basis, and not on the basis of an accident or claims made.
- iii. The insurance must cover personal injuries as well as bodily injuries. Any exclusion of contractual liability in personal injury provisions of the policy or any endorsement to it must be eliminated.
- iv. The insurance must cover complete contractual liability. This may be provided by amending the definition of "incidental contract" to include any written agreement.
- v. Any explosion, collapse, and underground property damage exclusion must be deleted.
- vi. An endorsement must state that coverage is primary insurance and that no other insurance affected by the City will be called upon to contribute to a loss under the coverage.
- vii. The policy must contain a cross liability or severability of interests clause.
- viii. Any failure of Contractor to comply with reporting provisions of the policy shall not affect coverage provided to City and its officers, employees, agents, and volunteers.
- ix. Broad form property damage liability must be afforded. A deductible that does not exceed \$25,000 may be provided.
- x. Insurance is to be placed with California- admitted insurers with a Best's rating of no less than B:XI.
- xi. Notice of cancellation or non-renewal must be received by City at least thirty days prior to such change.

- c. Professional Liability. Contractor, at Contractor's own cost and expense, shall maintain for the period covered by this agreement professional liability insurance for licensed professionals performing work pursuant to this agreement in an amount not less than one million dollars covering the licensed professionals' errors and omissions, as follows:
- i. Any deductible shall not exceed \$100,000 per claim.
 - ii. Notice of cancellation or non-renewal must be received by the City at least thirty (30) days prior to such change.
 - iii. If the professional liability coverages are written on an occurrence form, the policy must contain a cross liability or severability of interest clause.
 - iv. The following provisions shall apply if the professional liability coverages are written on a claims made form:
 1. The retroactive date of the policy must be shown and must be provided for at least five years after completion of the agreement or the work.
 2. Insurance must be maintained and evidence of insurance must be provided for at least five years after completion of the agreement or the work.
 3. If coverage is canceled or not renewed and it is not replaced with another claims made policy form with a retroactive date that precedes the date of this agreement, Contractor must provide extended reporting coverage for a minimum of five years after completion of the agreement or the work.
 4. A copy of the claim reporting requirements must be submitted to the City prior to the commencement of any work under this agreement.
- d. Deductibles and Self-Insured Retentions. During the period covered by this agreement, upon express written authorization of City's City Attorney, Contractor may increase such deductibles or self-insured retentions with respect to City, its officers, employees, agents, and volunteers. The City may condition approval of an increase in deductible or self-insured retention levels upon a requirement that Contractor procure a bond guaranteeing payment of losses and related investigations, claim administration, and defense expenses that is satisfactory in all respects to each of them.
- e. Notice of Reduction in Coverage. In the event that any coverage required under this section is reduced, limited, or materially affected in any other manner, Contractor shall provide written notice to City at Contractor's earliest possible opportunity and in no case later than five days after Contractor is notified of the change in coverage.

f. In addition to any other remedies City may have if Contractor fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, City may, at its sole option:

- i. Obtain such insurance and deduct and retain the amount of the premiums for such insurance from any sums due under the agreement;
- ii. Order Contractor to stop work under this agreement, or withhold any payment which becomes due to Contractor hereunder, or both stop work and withhold any payment, until Contractor demonstrates compliance with the requirements hereof;
- iii. Terminate the agreement.

Exercise of any of the above remedies, however, is an alternative to other remedies City may have and is not the exclusive remedy for Contractor's failure to maintain insurance or secure appropriate endorsements.

5. Notices. Notices required by this agreement shall be personally delivered or mailed, postage prepaid, as follows:

To Property Owner: Attn: Dominic D. Dutra
J Darwin Homes LLC
43360 Mission Blvd #230
Fremont, CA 94539

To the City: Attn: Dustin Claussen, Interim City Manager
City of Hayward
777 B. St., 4th floor
Hayward, CA 94541-5007

6. Amendments. This agreement may be modified or amended only by a written document executed by both Property Owner and City's City Manager and approved as to form by the City Attorney. Such document shall expressly state that it is intended by the parties to amend the terms and conditions of this agreement.

7. Abandonment by Property Owner. In the event the Property Owner ceases performing services under this agreement or otherwise abandons the project prior to completing all of the services described in this agreement, Property Owner shall, without delay, deliver to City all materials and records prepared or obtained in the performance of this agreement, and shall be paid for the reasonable value of the services performed up to the time of cessation or abandonment, less a deduction for any damages or additional expenses which City incurs as a result of such cessation or abandonment.

8. Waiver. The waiver by either party of a breach by the other of any provision of this agreement shall not constitute a continuing waiver or a waiver of any subsequent breach of either the same or a different provision of this agreement.


9. No Third-party Rights. The parties intend not to create rights in, or to grant remedies to, any third party as a beneficiary of this agreement or of any duty, covenant, obligation, or undertaking established herein.
10. Severability. Should any part of this agreement be declared by a final decision by a court or tribunal of competent jurisdiction to be unconstitutional, invalid, or beyond the authority of either party to enter into or carry out, such decision shall not affect the validity of the remainder of this agreement, which shall continue in full force and effect, provided that the remainder of this agreement, absent the unexcised portion, can be reasonably interpreted to give effect to the intentions of the parties.
11. Compliance with Laws. In the performance of this agreement, Property Owner shall abide by and conform to any and all applicable laws of the United States, the State of California, and the City Charter and Ordinances of City. Property Owner shall ensure that each of the Contractors agrees to the same provision.

Property Owner shall ensure that each of the Contractors warrants that all work done under this agreement will be in compliance with all applicable safety rules, laws, statutes, and practices, including but not limited to Cal/OSHA regulations.
12. Controlling Law. This agreement and all matters relating to it shall be governed by the laws of the State of California.
13. Whole Agreement. This agreement has 8 pages excluding the exhibits described on its signature page. This agreement constitutes the entire understanding and agreement of the parties. This agreement integrates all of the terms and conditions mentioned herein or incidental hereto and supersedes all negotiations or previous agreements between the parties with respect to all or any part of the subject matter hereof.
14. Multiple Copies of Agreement. Multiple copies of this agreement may be executed but the parties agree that the agreement on file in the office of City's City Clerk is the version of the agreement that shall take precedence should any differences exist among counterparts of the document.
15. Electronic Signatures. The parties agree that the electronic signatures [whether digital or encrypted], of the parties included in this Agreement are intended to authenticate this writing and to have the same force and effect as manual signatures of this Agreement.

IN WITNESS WHEREOF, Property Owner has executed this agreement, and the City, by its City Manager, who is authorized to do so, has executed this agreement.

PROPERTY OWNER:

Dated: 5/13/2024 _____

By:  _____
Dominic Dutra,
President of Dutra Enterprises, Inc
Managing Member
J. Darwin Homes LLC

CITY OF HAYWARD, a California charter city:

Dated: _____

By: _____
Dustin Claussen, Interim City Manager

Attest: _____
Miriam Lens, City Clerk

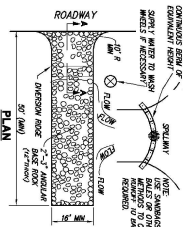
Approved as to form and procedure:

Michael S. Lawson, City Attorney

Attachments: Exhibit A – Scope of Work (21 pages)
 Exhibit B – McGuire Hester Bid Proposal (4 pages)
 Exhibit C – Affirmation of Non-Involvement in the Development or Production of
 Nuclear Weapons (1 page)

EMERGENCY REPAIR CONSTRUCTION SEQUENCE

1. INSTALL STABILIZED CONSTRUCTION ENTRANCE
2. EXCAVATE TRENCH ALONG AREA WHERE DAMAGED
3. EXCAVATE TRENCH ALONG AREA WHERE DAMAGED
4. EXCAVATE TRENCH ALONG AREA WHERE DAMAGED
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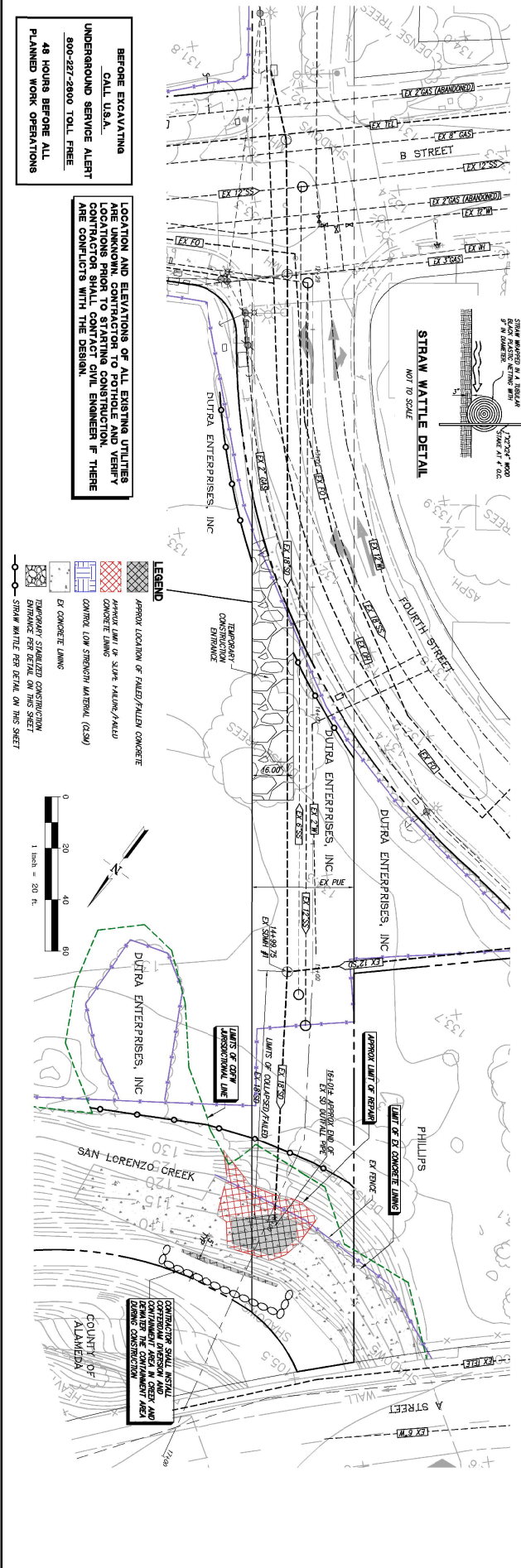
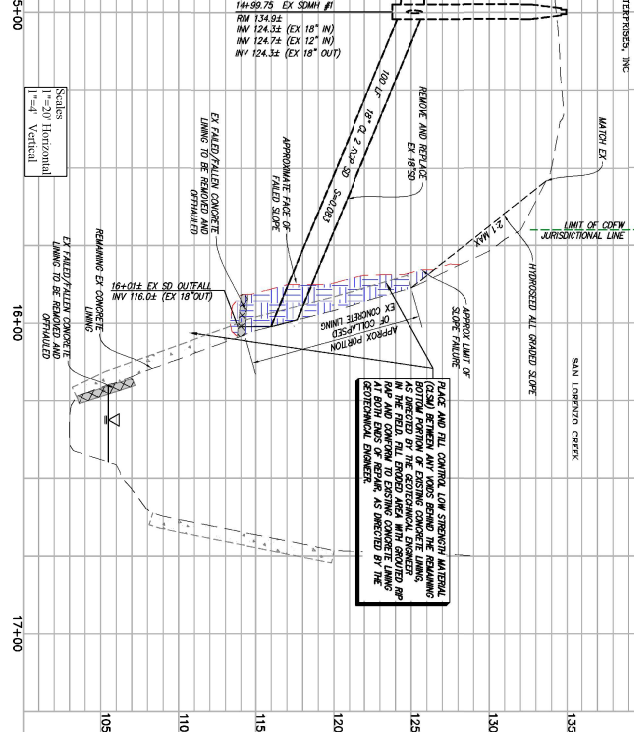


SECTION A-A

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18. EXCAVATE TRENCH ALONG AREA WHERE DAMAGED

- WORK SCOPE FOR THE SAN LORENZO CREEK BANK EMERGENCY REPAIR:
- Work Scope is generally shown on this Improvement Plan and the following:
1. A qualified biologist hired by DEI shall review the work site before start of any land disturbing activity and shall mark any habitat of interest which must be protected.
 2. City of Hayward grading permit shall be secured before start of any activity by DEI. This permit shall require posting of securities for work performance and for payment of labor and material.
 3. The concrete lining or along the restored creek bank shall match or exceed the thickness of existing such improvements.
 4. The storm drain to be replaced on site shall comply with the Hayward Standard Details (available on-line).
 5. Hayward City Public Works Construction Inspector shall be requested to inspect and approve all backfill and improvements to be completed under this contract.
 6. City of Hayward has secured permits from the US Army Corps of Engineers, California State Water Control Board and the California State Department of Fish and Wildlife. The project related activities shall be completed in compliance with the conditions of these and the City's grading permits. See attached.

EXISTING STORM DRAIN OUTFALL





DEPARTMENT OF THE ARMY
SAN FRANCISCO DISTRICT, U.S. ARMY CORPS OF ENGINEERS
450 GOLDEN GATE AVENUE
SAN FRANCISCO, CALIFORNIA 94102

April 23, 2024

Regulatory Division

SUBJECT: File Number SPN-2024-00152

Mr. Alex Ameri
City of Hayward
777 B Street
Hayward, California 94541

Alex.Ameri@hayward-ca.gov

Dear Mr. Ameri:

This letter is written in response to your submittal of April 19, 2024, concerning Department of the Army authorization to implement emergency repairs to a storm drain outfall and stream bank armoring along San Lorenzo Creek. The project is located northeast of the A Street and 4th Street intersection, approximately 50 feet upstream of the A Street bridge over San Lorenzo Creek in the City of Hayward, Alameda County, California, latitude 37.6787117°, longitude -122.0765198°.

Based on a review of the information you submitted, your project qualifies for authorization under Department of the Army Regional General Permit (RGP) No. 5 for Repair and Protection Activities in Emergency Situations, pursuant to Section 404 of the Clean Water Act, as amended (33 U.S.C. § 1344 *et seq.*). A copy is located on our website at:

https://www.spn.usace.army.mil/Portals/68/docs/regulatory/Emergency%20Permits/RGP05_2019.pdf. Work within waters of the U.S. includes the installation and removal of a temporary cofferdam system within San Lorenzo Creek to dewater approximately 0.02 acre area along 30 linear feet of the channel. The repairs to the channel armoring and the outfall will not require work or discharge of fill within the creek below the ordinary high water mark. All work shall be completed in accordance with the attached plans and drawings titled "USACE ID SPN-2024-00152, San Lorenzo Creek Emergency Bank Repair Project, dated April 22, 2024, in 2 Sheets. See Enclosure 1.

The project must be in compliance with the General and Special Conditions cited in the RGP for the authorization to remain valid. Non-compliance with any condition could result in the suspension, modification, or revocation of the authorization for your project, thereby requiring you to obtain a Nationwide or Individual Permit from the Corps. State Water Quality Certification (WQC) has been issued for work performed under the provisions of the RGP. In order for this authorization to remain valid, you must follow the limitations and conditions stated in the WQC attached to the RGP. This RGP

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authorization does not obviate the need to obtain other State or local approvals required by law.

Work must be initiated within seven days of receiving this letter. RGP5 authorization will remain valid until August 15, 2024, unless the RGP is suspended, modified, or revoked. All work must be completed by this date and the associated post-activity report forwarded within 45 days of project completion (as required by RGP 5 General Condition 26). Upon completion of the project and all associated mitigation requirements, you shall sign and return the enclosed Certification of Compliance, Enclosure 2, verifying that you have complied with the terms and conditions of the permit.

In order to ensure compliance with this RGP authorization, the following special conditions shall be implemented:

1. Access roads shall be properly stabilized and maintained during and following construction to prevent erosion. Construction of the road fill shall occur in a manner that minimizes the encroachment of trucks, tractors, bulldozers, or other heavy equipment within waters of the United States (including adjacent wetlands) that lie outside the lateral boundaries of the fill itself.
2. Vegetative disturbance in the waters of the U.S. shall be kept to a minimum.
3. Borrow material shall be taken from upland sources whenever feasible.
4. This Corps permit does not authorize you to take a threatened or endangered species. In order to legally take a listed species, you must have a separate authorization under the Endangered Species Act (ESA) (e.g., an ESA Section 10 permit or a Biological Opinion (BO) under ESA Section 7 with "incidental take" provisions with which you must comply). In the event that a listed species is observed within the project area, you shall immediately stop work within 50 feet of the individual and allow the individual to leave the area of its own accord, and contact the Corps to initiate Section 7 consultation.
5. A post-construction report shall be submitted 45 days after the conclusion of construction activities. The report shall document construction activities and contain as-built drawings (if different from drawings submitted with application)

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You may refer any questions on this matter to me by telephone at (415) 503-6792 or by e-mail at Frances.P.Malamud-Roam@usace.army.mil. All correspondence should be addressed to the Regulatory Division, South Branch, referencing the file number at the head of this letter.

The San Francisco District is committed to improving service to our customers. The Regulatory staff seeks to achieve the goals of the Regulatory Program in an efficient and cooperative manner while preserving and protecting our nation's aquatic resources. If you would like to provide comments on our Regulatory Program, please complete the Customer Service Survey Form available on our website:
www.sfn.usace.army.mil/Missions/Regulatory.aspx

Sincerely,

A handwritten signature in black ink that reads "Frances Malamud-Roam". The signature is written in a cursive, slightly slanted style.

Frances Malamud-Roam

Senior Project Manager, Regulatory
Division

Enclosures

cc:

Cameron Johnson, Integral Consulting Inc. (cjohnson@integral-corp.com)

CA RWQCB, San Francisco Bay, Brian Wines (Brian.Wines@waterboards.ca.gov)

California Department of Fish and Wildlife

San Lorenzo Creek Emergency Bank Repair

Notification of Emergency Work

Environmental Permit Information Management System Upload

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Section 1. Contact Information

Applicant Proposing the Project

Alex Ameri

City of Hayward

alex.ameri@hayward-ca.gov

777 B Street, Hayward, CA 94541

510-583-4720

Designated Representative Contact Information

Cameron Johnson

Integral Consulting Inc.

cjohnson@integral-corp.com

433 Visitacion Ave, Brisbane, CA 94005

415-602-2970

Section 2. Location of Work

Work site description

The project is located along San Lorenzo Creek, northeast of the A Street and 4th Street intersection in the City of Hayward, Alameda County, California (Appendix A, Figure 1). Land use in the vicinity of project site includes urban development and vacant lots. Photographs of the site from February 2024 are provided in Appendix B.

County

Alameda

Work Site APN

427-36-85-1

GPS Coordinates

37.6787117, -122.0765198

Affected Body of Water

River, Stream or Lake Affected

San Lorenzo Creek

Waterbody Tributary

San Francisco Bay

Wild and Scenic Rivers Act

No

Section 3. Nature of Emergency Work

Date Emergency was Discovered

February 27, 2024

Date Work Began

N/A

Date Emergency Work Was or Will be Completed

Proposed work window of May 1 through July 15, 2024

Type of Property Affected

San Lorenzo Creek bank erosion threatening 4th street bridge crossing

Type of Emergency Work

Immediate Work to Protect Life or Property

Describe Emergency Work

During a February 27, 2024, field inspection of a reported collapsed storm drain outfall along San Lorenzo Creek, ENGEO identified an approximately 30-foot-wide bank failure where a collapsed storm drain pipe was draining into a washout area behind concrete streambank armoring. A portion of the concrete armoring had collapsed into the creek. ENGEO has concluded that additional failures will continue to undermine and damage the existing concrete armoring as further washout occurs and will eventually impact the downstream abutment supporting the A Street bridge. In order to abate the immediate emergency, the City of Hayward intends to replace the collapsed storm drain outfall that has damaged the concrete channel liner. The emergency project will generally remove and replace the failed structures in the same impact footprint as the existing condition. Below is a summarized construction sequence:

1. Install stabilized construction entrance.
2. Stage equipment at top of bank.
3. Remove vegetation and debris from area of repair.
4. Assess condition of existing concrete armoring in area of repair.
5. Install coffer dam diversion and containment system in creek.
6. Remove loose concrete armoring in area of repair, as needed.
7. Remove debris and loose soil to firm, competent soil in area of repair.
8. Fill voids behind concrete armoring with controlled low-strength material (CLSM); install forms as necessary.
9. Excavate trench along area where damaged storm drain is to be replaced.
10. Remove and replace damaged storm drain.
11. Backfill storm drain trench.
12. Place rip rap up to bottom of storm drain.

13. Extend storm drain to outfall location.
14. Continue placing rip rap above storm drain to final grade.
15. Grout rip rap.
16. Remove coffer dam and containment system.
17. Revegetate site in areas of temporary disturbance.
18. Demobilize.

A project plan is provided as Appendix C.

The following equipment is anticipated to be used during construction: crew trucks, skid steer, excavator, ready-mix trailer, and concrete line pump.

An estimated 2,500 square feet (50 linear feet) of San Lorenzo Creek may be temporarily impacted by the project. The project would not result in any permanent impacts to the creek.

Work within CDFW jurisdiction includes temporary placement of barriers in San Lorenzo Creek to create a de-watered work area (as described above), excavation and repair of the Creek Bank to replace the storm drain pipe, and repair and buttressing of the existing armoring. A single live oak tree (within CDFW jurisdiction) will be removed; this tree is currently laying at an acute angle and is falling into the eroded area. It will need to be removed for access to the void in the bank.

Avoidance and Minimization Measures

To minimize impacts on the environment, the City of Hayward will implement the following Best Management Practices and conservation/avoidance and minimization measures as part of the proposed project:

BMP-1: Dewatering

- Cofferdams will be placed in San Lorenzo Creek at the base of the repair area to divert water away from the toe of slope. Plastic sheeting will be installed as a containment measure during CLSM operations. The diversion dams shall be constructed with a combination of sand bags and impermeable plastic sheathing, or watertight materials, as necessary.

BMP-2: Access and Staging

- Access and staging will occur on the south and west sides of the project which drains away from the work area and generally away from San Lorenzo Creek. Sediment controls will be used between the creek and the access road where construction staging is proposed. Street sweeping measures will be implemented daily during construction.

BMP-3: Spill Prevention, Erosion Control and Water Quality Protection

- Equipment will be checked for leaks daily.
- A Spill Prevention and Control Plan will be created, as required by the City of Hayward.

- Petroleum products, chemicals, fresh cement, or water contaminated by the aforementioned will not be allowed to enter flowing waters.
- Adequate erosion control supplies (plastic sheeting, gravel bags, shovels, sweeps, etc.) will be always available on site.
- Any disturbed ground will receive appropriate erosion control treatment (mulching, seeding, planting, etc.) prior to the end of the construction season, prior to a cease of operations due to forecasted wet weather, and within seven days of project completion. Operations will use all feasible techniques to prevent any sediment or concrete products from entering the creek system. In areas expected or forecasted to get rainfall during the construction season, effective erosion control measures will be in place at all times during construction activities. Construction will not begin until all temporary sediment and erosion controls are in place. Sediment will be removed from sediment controls once it has reached one-third of the exposed height of the control.
- See attached schematic Erosion and Sediment Control Plan (Figure 3).

Dimensions of Area Affected

0.06 acre/50 linear feet of San Lorenzo Creek (Appendix A, Figure 2)

Restoration

No restoration activities are proposed. The streambank is covered in concrete and English ivy. Any bare soil will be covered with a native seed mix following construction.

Documents and Maps

Appendix A.	Figures
Appendix B.	Site Photographs
Appendix C.	Project Plan





EXPLANATION

ALL LOCATIONS ARE APPROXIMATE

- - - Existing 18" Storm Drain Site Boundary

San Lorenzo Creek Emergency Bank Repair Figure 2. Work Area



0 50 ft 100 ft

BASEMAP SOURCE: © Mapbox



Creek Bank Assessment

B Street

1422 B Street, Hayward, CA, USA

PROJECT NO. : 13599.004.001

SCALE: 1:1000

DRAWN BY: DRS

CHECKED BY: JAF

FIGURE NO.

ORIGINAL FIGURE PRINTED IN COLOR



100 ft

San Lorenzo Creek Emergency Bank Repair

Figure 3. Erosion and Sediment Control Plan

Stormwater Pollution Prevention BMPs per California Association of Stormwater Quality Standards

- 1) EC-1 Scheduling
- 2) EC-2 Preservation of Existing Vegetation
- 3) EC-4 Hydroseed / Revegetation
- 4) EC-10 Energy Dissipation
- 5) SE-1 Silt Fence
- 6) SE-7 Street Sweeping and Vacuuming
- 7) SE-8 Sand Bag Barrier
- 8) SE-10 Storm Drain Inlet Protection
- 9) NS-2 Dewatering Operations
- 11) NS-12 Concrete Curing
- 12) NS-12 Concrete Finishing
- 13) WM-3 Stockpile Management
- 14) WM-4 Spill Prevention and Control

NS-2/WM-4:
Cofferdam with
Plastic Containment

SE-1: Silt Fence

WM-3 and 4:
Approximate staging
and stockpiling area.

Remove and reinstall
storm drain.
Refurbish concrete
slope lining

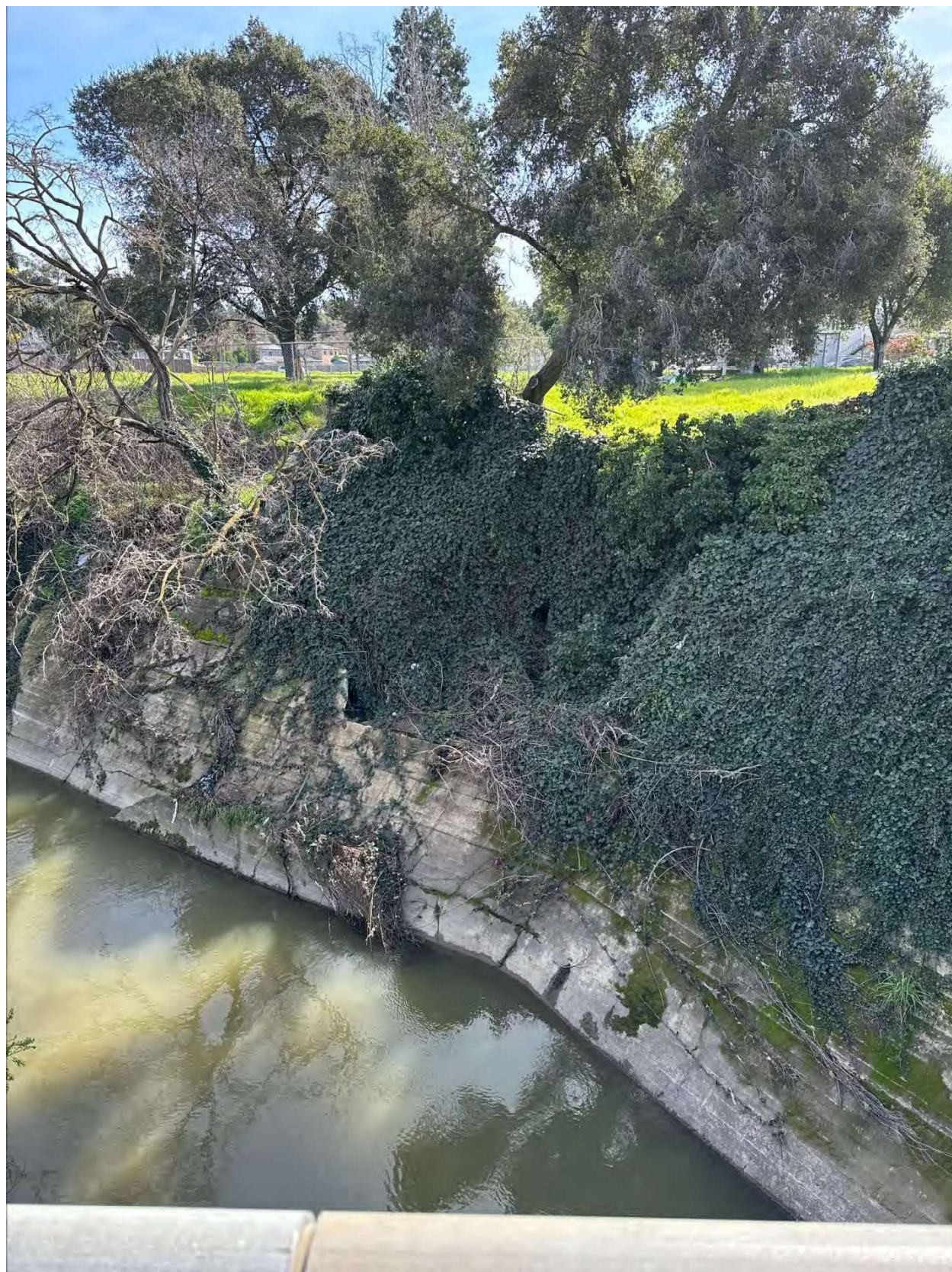
TC-1 Construction
Stabilized
Entrance

4th St

4th St















1-2

McGUIRE
HESTER

Since 1926

4/3/24

Attention: Dominic Dutra

Reference: Hayward – Tract 8427 – B Street and 4th Street, Storm Drain and Outfall RepairSubject: Bid Proposal

McGuire and Hester (M&H) is pleased to provide the following bid proposal for the above referenced project. All work conforms to the project plans and specifications prepared by RJA, sheet C1.1, dated 3/25/24.

McGuire and Hester proposes to furnish and install the work outlined in the breakdown dated 4/3/24 (attached) for the lump sum price of \$380,360.00.

INCLUSIONS

1. Items of work as listed in the 'Emergency Repair Construction Sequence' on sheet C1.1
2. 50 cubic yards of CLSM backfill behind existing headwalls. Exceedance of 50 cubic yards will be \$300/yard and added to the contract value
3. Removal of leaning oak tree that is in conflict with the work
4. Hydroseeding disturbed vegetative areas only. If additional plant types or work is required pricing can be provided.
5. Assumed grouting of rip rap is defined as placed high slump concrete in and around rip rap to lock it in place.

EXCLUSIONS

- | | |
|--|--|
| 1. Adjusting to grade of new or existing utility castings. | 13. Air, settlement, vibration, sound, or other monitoring and mitigation. |
| 2. Restoration work resulting from the activities of others. | 14. Pre or post construction surveys (e.g. GPS, video, photographic, consultant, etc.). |
| 3. Installing, maintaining, backfilling or removal of bracing, shoring or underpinning. | Biologist services, wildlife surveys, demarcations and/or relocations. Rodent eradication or pest control. |
| 4. Dewatering of subsurface ground water or control of rain / surface water, other than dewatering of marked cofferdam area. | 15. Archeologist cost and related delays. |
| 5. Cathodic protection design and installation. | 16. Tree trimming, root pruning, protection or arborist services. |
| 6. Water meters, bypass meters and associated fees. | 17. Overtime, shift premiums or liquidated damages. |
| 7. Import or export of soils. | 18. Traffic and pedestrian control measures, plans and fees. |
| 8. Relocation, protection and removal of existing utilities, sub-surface obstructions or debris. It is assumed that all proposed improvements are free of conflicts. | 19. Design, engineering and Building Information Modeling (BIM) participation. |
| 9. Handling, removal or disposal of hazardous or contaminated substances. | 20. Bond premium. Bonds must be requested at execution of contract. |
| 10. Subgrade or trench stabilization by means of ripping, sub-excavation, fabric, chemical treatment, etc. | 21. Survey and construction staking. |
| 11. Dust control when our forces are not actively working on site. | 22. Testing and inspection. |
| 12. SWPPP Plans, QSP/QSD services, BMP installation/maintenance/removal, inspection, sampling, monitoring, reporting and post construction BMP's. | 23. Permits and fees. |
| | 24. Compliance with project specific equipment emission standards. |
| | 25. Project specific project accounting software (Textura) costs. |

www.McGuireandHester.com

2810 HARBOR BAY PARKWAY, ALAMEDA CA 94502 • 9009 RAILROAD AVE, OAKLAND, CA 94603 • PH: 510.632.7676

1016 N. MARKET BOULEVARD, SACRAMENTO, CA 95834 • PH: 916.372.8910

CONTRACTOR'S LICENSE NUMBERS • CA:95879, DIR:1000000033



Page 2 of 3
12/21/23

CLARIFICATIONS

1. Proposal includes 1 ea. move-in(s). Costs of additional move-ins are \$5,000/move-in.
2. Native excavated material is assumed to be acceptable, without treatment, for trench zone backfill.

Thank you for the opportunity to provide our proposal. If you have any questions, please feel free to call.

Sincerely,
McGuire & Hester

A handwritten signature in black ink, appearing to read "Matt Finley", is written over a horizontal line.

Matt Finley
Area Manager

Attachment: Standard Terms and Conditions
Bid Price Breakdown



Page 3 of 3
12/21/23

STANDARD TERMS AND CONDITIONS

1. Price based on the award of the complete scope of work included herein.
2. All other work not specifically included shall be considered excluded from this proposal.
3. The inclusions, exclusions, and clarifications noted in this proposal shall be made a part of the contract and shall supersede any conflicting provisions.
4. Change order work to include 10% markup for project overhead and 15% markup for profit. Work performed on a T&M basis will be paid according to the latest M&H labor and equipment rate sheets.
5. This proposal is valid for (30) days from the date of this proposal.
6. Payments are due within 30 days of invoice. Late payments subject to 1½% monthly finance charge.
7. Retention (5% max.) to be released within 35 days of M&H final billing.
8. Retention monies withheld to be deposited in an escrow account with M&H as the beneficial owner.
9. Project schedule to be mutually agreeable and will allow M&H to perform its work in an efficient sequence and manner. M&H to receive a copy of the baseline and subsequent schedule updates.
10. Client to provide unobstructed access to all areas of work.
11. Work requested during or near inclement weather or wet jobsite conditions may result in additional costs.
12. On-site construction water to be provided by client. Hydrant meter and imported water costs by others.
13. Proposal based on a contract agreement that is mutually agreeable.
14. M&H carries the following insurance limits with admitted "A" rated insurance carriers:
 - a. \$2,000,000 - General Liability
 - b. \$2,000,000 - Auto Liability
 - c. \$1,000,000 - Employers Liability (Workers Compensation)
 - d. \$5,000,000 - Pollution Liability
 - e. \$25,000,000 - Excess Liability coverage (attaches over General, Auto, & Employers Liability)
 - f. \$10,000,000 - Builders Risk/Installation coverage
 - g. \$1,000,000 - Earthquake and Flood (subject to specific exclusions)
 - h. \$2,000,000 - Design/Build Professional Liability
15. Additional costs apply for the following insurance enhancements: Railroad Protective Liability, Longshoreman/Harbor Workers, Federal Employers Liability Act, Job Specific Pollution Liability, or other.
16. OCIP / CCIP Policies including deductibles, are subject to M&H review and approval.
17. Any cancellation or modification of Owner or General Contractor procured Wrap Up (OCIP or CCIP) insurance will result in reimbursement to Contractor or Subcontractor tier to procure equivalent coverage. To the extent equivalent insurance is unavailable, or a gap in coverage does occur as a result of cancellation or modification, Owner or General Contractor shall reimburse contractor and/or subcontractor tier for all costs incurred for any and all claims.
18. This proposal includes and follows McGuire and Hester's Site Specific Covid-19 Response Protocol dated 5/6/2020. M&H's Site Safety Representative (SSR) is considered a senior member of the proposed crew. Third party Jobsite Safety Accountability Supervisor (JSAS), if required, is not included in this proposal. Overall site safety is the responsibility of the Owner, or General Contractor which includes providing adequate social distance space for M&H to productively and safely perform our work, and in accordance with CalOSHA and CDPH requirements.
19. Due to the current pandemic, or Force Majeure event (strikes, lockouts, terrorism, acts of God, COVID-19, or governmental restrictions on the work) there may be material, or manpower shortages, impacts to the work, or supply chain issues. McGuire and Hester will do our best to mitigate these issues, but will not be held liable for delays, or impacts to the project schedule and/or costs associated with such impacts.

www.McGuireandHester.com

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04/03/202414:40

240310DUTRA - B-STREET/SAN LORENZO CREEK

*** Matt FinleyBID TOTALS

<u>Biditem</u>	<u>Description</u>	<u>Quantity</u>	<u>Units</u>	<u>Unit Price</u>	<u>Bid Total</u>
100	MOBILIZATION	1.000	LS	11,335.00	11,335.00
200	CONSTRUCTION ENTRANCE	1.000	LS	8,000.00	8,000.00
300	REMOVE AND REPLACE FENCING	1.000	LS	3,820.00	3,820.00
400	REMOVE ONE OAK TREE	1.000	LS	4,775.00	4,775.00
500	REMOVE VEGATATION	1.000	LS	13,150.00	13,150.00
600	SITE ASSESSMENT	1.000	LS		
700	INSTALL COFFERDAM	1.000	LS	73,460.00	73,460.00
800	REMOVE LOOSE CONCRETE WALLS	1.000	LS	38,390.00	38,390.00
900	REMOVE LOOSE SOIL TO COMPETENT	1.000	LS	20,190.00	20,190.00
1000	FILL BEHIND CONCRETE WITH CLSM	1.000	LS	21,030.00	21,030.00
1100	REMOVE/REPLACE 18" STORM DRAIN	1.000	LS	100,955.00	100,955.00
1200	PLACE RIP RAP	1.000	LS	42,270.00	42,270.00
1300	GROUT RIP RAP	1.000	LS	15,890.00	15,890.00
1400	REMOVE COFFERDAM	1.000	LS	21,540.00	21,540.00
1500	HYDROSEED DISTURBED AREAS	1.000	LS	5,555.00	5,555.00
Bid Total =====>					\$380,360.00

**AFFIRMATION OF NON-INVOLVEMENT IN
DEVELOPMENT OR PRODUCTION OF NUCLEAR WEAPONS**

The respondent to a City of Hayward Request for Proposal or recipient of a City of Hayward Purchase Order/Contract hereby certifies:

- 1) That it understands that City of Hayward Ordinance No. 87-024 C.S. prohibits award of contract to, or purchase of goods or services from, "any person, which is knowingly or intentionally engaged in the development or production of nuclear weapons."
- 2) That it understands the ordinance defines "Nuclear Weapon" as "any device the intended explosion of which results from the energy released by fission or fusion reactions involving atomic nuclei."
- 3) That it understands the ordinance defines "Person" as "any person, private corporation, institution or other entity..."

As the owner or company official of the firm identified below, I affirm that this company is not knowingly or intentionally engaged in such development or production.

(Print/Type Company Name)

(Print/Type Official Name & Title)

(Company Address)

(Signature of Company Official)

(City/State/Zip Code)

(Date)