

ORIGINAL

**County of El Dorado, State of California
Community Development Services**

PW No. 16-31129, P&C No. 093-C1775, FENIX No. 2762

**ARROWBEE ESTATES ROAD ZONE OF BENEFIT NO. 98201
ROAD MAINTENANCE AND IMPROVEMENT PROJECT**

THIS AGREEMENT ("Agreement") approved by the Board of Supervisors of the County of El Dorado this 24th day of April, in the year of 2018, made and concluded, in duplicate, between the COUNTY OF EL DORADO, a political subdivision of the State of California, by the Community Development Services, Administration and Finance Division thereof, the party of the first part hereinafter called "County," and Doug Veerkamp General Engineering, Inc., party of the second part hereinafter called "Contractor."

RECITALS:

WHEREAS, County has caused the above-captioned project to be let to formal bidding process; and

WHEREAS, Contractor has duly submitted a bid response for the captioned project upon which County has awarded this Contract;

NOW, THEREFORE, the parties hereto have mutually covenanted and agreed, and by these presents do covenant and agree, each with the other, as follows:

Article 1. THE WORK

Contractor shall complete the Work as specified or indicated under the Bid Schedule(s) of County's Contract Documents entitled:

**ARROWBEE ESTATES ROAD ZONE OF BENEFIT NO. 98201
ROAD MAINTENANCE AND IMPROVEMENT PROJECT**

The Project is located within the Arrowbee Estates Zone of Benefit No. 98201 on designated portions of Arrowbee Drive, Schirle Drive, River View Road, and Mewuk Drive in the County of El Dorado approximately eight (8) miles northwest of the City of Placerville. The Work to be done is indicated in the Total Bid Schedule and described in the Contract Documents, and generally consists of, but is not limited to:

- A. The project will be bid as a Base Bid (Schedule A) and Additive Alternative Bids (Schedules B and C) in accordance with the Proposal and Special Provisions.
- B. Base Bid (Schedule A) consists of road maintenance and improvements with chip seal, fabric installation, asphalt overlay, pothole repairs, asphalt blanket patch, and crack sealing.
- C. Additive Alternative Bid (Schedule B) consists of road maintenance with crack sealing, asphalt repairs, asphalt blanket patching, and double application chip seal with fabric installation on a portion of Arrowbee Drive.
- D. Additive Alternative Bid (Schedule C) consists of road maintenance with asphalt repairs and double application of chip seal with fabric installation on a portion of Mewuk Drive.



Article 2. CONTRACT DOCUMENTS

The Contract Documents consist of: (a) the Contract which includes this Agreement with all Exhibits thereto, including the Performance Bond, Payment Bond, and the drawings listed and identified as the Project Plans; (b) the Notice to Bidders and the bid forms which include the accepted Proposal, Bid Price Schedule and Total Bid, Subcontractor List, section 10285.1 Statement, section 10162 Questionnaire, section 10232 Statement, and Noncollusion Affidavit; (c) the Special Provisions which incorporate by reference the State of California Department of Transportation (Caltrans) Standard Plans 2010, and Standard Specifications 2010, Revised Standard Specifications, and standard drawings from the Design and Improvement Standards Manual of the County of El Dorado, revised March 8, 1994 including Resolution 199-91 and Resolution 58-94 to adopt changes to the Design and Improvement Standards Manual; (d) all Addenda incorporated in those documents before their execution, and all Contract Change Orders issued in accordance with the Contract Documents which may be delivered or issued after the Effective Date of this Agreement and are not attached hereto; (e) the prevailing Labor Surcharge And Equipment Rental Rates (when required) as determined by the Caltrans to be in effect on the date the Work is accomplished; (f) all the obligations of County and of Contractor which are fully set forth and described therein; (g) and all Contract Documents which are hereby specifically referred to and by such reference made a part hereof. All Contract Documents are intended to cooperate so that any Work called for in one and not mentioned in the other is to be executed the same as if mentioned in all Contract Documents. Contractor agrees to perform all of its promises, covenants, and conditions set forth in the Contract Documents, and to abide by and perform all terms and conditions set forth therein.

In the event of any conflict between or among the terms and conditions of this Agreement and documents referred to and incorporated herein, such conflict shall be resolved by giving precedence in the order of priority identified above, beginning with (a) and ending with (g).

Article 3. COVENANTS AND CONTRACT PRICE

County hereby promises and agrees with said Contractor to employ, and does hereby employ, said Contractor to provide the material and to do the Work according to the terms and conditions of the Contract Documents herein contained and referred to, for the prices hereinafter set forth, and hereby contracts to pay the same at the time, in the manner and upon the conditions herein set forth; and the said parties for themselves, their heirs, executors, administrators, successors and assigns, do hereby agree to the full performance of the covenants herein contained. County shall pay Contractor for the completion of the Work in accordance with the Contract Documents in current funds the Contract Prices named in Contractor's Bid and Bid Price Schedule, a copy of which is attached hereto as Exhibit A. The amount in Exhibit A is the not to exceed sum of the contract.

Article 4. COMMENCEMENT AND COMPLETION

The Work to be performed under this Contract shall commence on the date specified in the Notice to Proceed issued by County, and the Work shall be fully completed within the time specified in the Notice to Proceed pursuant to section 8 of the Special Provisions, and shall not exceed thirty (30) working days.

County and Contractor recognize that time is of the essence of the Agreement and that County will suffer financial loss if the Work is not completed within the time specified in the Notice to Bidders annexed hereto, plus any extensions thereof allowed in accordance with section 8 of the Standard Specifications and Special Provisions. They also recognize the delays, expense, and difficulties involved with proving in a legal proceeding the actual loss suffered by County if the Work is not completed on time. Accordingly, instead of requiring any such proof, County and Contractor agree that as liquidated damages for delay (but not as a penalty) Contractor shall pay County the sum of **Nine hundred dollars (\$900.00) per calendar day** as liquidated damages and not as a penalty, for each and every calendar day's delay in finishing the Work in excess of the Contract time prescribed herein.

Article 5. INDEMNITY

To the fullest extent allowed by law, Contractor shall defend, indemnify, and hold County, its officers, directors, and employees, and any property owners from whom the County obtained easements, harmless against and from any and all claims, suits, losses, damages, and liability for damages, including attorney's fees and other costs of defense brought for or on account of injuries to or death of any person, including but not limited to, workers and the public, or on account of injuries to or death of County, or any property owners from whom the County obtained easements, or damage to property, or any economic, consequential or special damages which are claimed or which shall in any way arise out of or be connected with Contractor's services, operations or performance hereunder, regardless of the existence or degree of fault or negligence on the part of the County, and any property owners from whom the County has obtained easements, the Contractor, subcontractors or employees of any of these, except for the active, or sole negligence of the County their officers and employees, or any property owners from whom the County has obtained easements, or where expressly prescribed by statute.

The duty to indemnify and hold harmless the County, and any property owners from whom the County obtained easements, associated with this Contract specifically includes the duties to defend set forth in section 2778 of the Civil Code. The insurance obligations of Contractor are separate, independent obligations under the Contract Documents, and the provisions of this defense and indemnity are not intended to modify nor should they be construed as modifying or in any way limiting the insurance obligations set forth in the Contract Documents.

This indemnity requirement applies to any claims, suits, losses, damages, and liability for damages, including attorney's fees and other costs, arising from alleged defects in the content or manner of submission of the Contractor's bid for the Contract.

This indemnification will remain in effect until terminated or modified in writing by mutual agreement.

Article 6. VENUE

The Contract Documents and all provisions thereto shall be governed by the laws of the State of California. Any litigation arising herein shall be brought in the County of El Dorado.

Article 7. NOTIFICATION OF SURETY COMPANY

The surety company shall familiarize itself with all of the conditions and provisions of this Contract, and shall waive the right of special notification of any change or modifications of this Contract or extension of time, or of decreased or increased work, or of the cancellation of the Contract, or of any other act or acts by County or its authorized agents, under the terms of this Contract; and failure to so notify the aforesaid surety company of changes shall in no way relieve the surety company of its obligation under this Contract.

Article 8. ASSIGNMENT OF ANTITRUST ACTIONS

In entering into a public works Contract or a Subcontract to supply goods, services, or materials pursuant to a public works Contract, the Contractor offers and agrees and will require all of its subcontractors and suppliers to agree to assign to the awarding body all rights, title, and interest in and to all causes of action it may have under section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, services, or materials pursuant to the public works Contract or the subcontract. This assignment shall be made and become effective at the time the awarding body tenders final payment to Contractor, without further acknowledgment by the parties.

If an awarding body or public purchasing body receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under Government Code sections 4550-4554, the assignor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the public body any portion of the recovery, including treble damages, attributable to overcharges that were

paid by the assignor but were not paid by the public body as part of the bid price, less the expenses incurred in obtaining that portion of the recovery. Upon demand in writing by the assignor, the assignee shall, within one (1) year from such demand, reassign the cause of action assigned under Government Code sections 4550-4554 if the assignor has been or may have been injured by the violation of law for which the cause of action arose and (a) the assignee has not been injured thereby, or (b) the assignee declines to file a court action for the cause of action.

Article 9. TERMINATION BY COUNTY FOR CONVENIENCE

County reserves the right to terminate the Contract at any time upon determination by County's representative that termination of the Contract is in the best interest of County. County shall issue Contractor a written notice specifying that the Contract is to be terminated.

Upon receipt of said written notice, Contractor shall stop all Work under the Contract except: (1) Work specifically directed to be completed prior to termination, (2) Work the Inspector deems necessary to secure the project for termination, (3) removal of equipment and plant from the site of the Work, (4) action that is necessary to protect materials from damage, (5) disposal of materials not yet used in the Work as directed by County, and (6) clean-up of the site.

If the Contract is terminated for County's convenience as provided herein, all finished or unfinished Work and materials previously paid for shall, at the option of County, become its property. Contractor shall be paid an amount which reflects costs incurred for Work provided to the date of notification of termination. In addition, Contractor shall be paid the reasonable cost, as solely judged by County, and without profit, for all Work performed to secure the project for termination.

Article 10. TERMINATION BY COUNTY FOR CAUSE

If Contractor is adjudged as bankrupt or insolvent, or makes a general assignment for the benefit of its creditors or if a trustee or receiver is appointed for Contractor or for any of its property, or if Contractor files a petition to take advantage of any debtor's act, or to reorganize under the bankruptcy or applicable laws, or on more than one occasion fails to supply sufficient skilled workmen or suitable material or equipment, or on more than one occasion fails to make prompt payments to subcontractors for labor, materials, or equipment, or disregards the authority of the County's representative, or the Engineer, if one is appointed, or otherwise violates any provision of the Contract Documents, then County may, without prejudice to any other right or remedy and after giving Contractor and its Surety a minimum of ten (10) days from delivery of a written termination notice, terminate the services of Contractor and take equipment and machinery thereon owned by Contractor and finish the Work by whatever method County may deem expedient. In such case, Contractor shall not be entitled to receive any further payment until the Work is finished.

Without prejudice to other rights or remedies County may have, if Contractor fails to begin delivery of materials and equipment, to commence Work within the time specified, to maintain the rate of delivery of material, to execute the Work in the manner and at such locations as specified, or fails to maintain a Work program which will ensure County's interest, or, if Contractor is not carrying out the intent of the Contract, an Inspector's written notice may be served upon Contractor and the Surety on its faithful performance bond demanding satisfactory compliance with the Contract. If Contractor or its Surety does not comply with such notice within five (5) days after receiving it, or after starting to comply, fails to continue, County may exclude it from the premises and take possession of all material and equipment, and complete the Work by County's own forces, by letting the unfinished Work to another Contractor, or by a combination of such methods.

Where Contractor's services have been so terminated by County, said termination shall not affect any right of County against Contractor then existing or which may thereafter accrue. Any retention or payment of monies by County due Contractor will not release Contractor from compliance with the Contract Documents.

If the unpaid balance of the Contract price exceeds the direct and indirect costs of completing the Work, including compensation for additional professional services, such excess shall be paid to Contractor. If the

sums under the Contract are insufficient for completion, Contractor or Surety shall pay to County within five (5) days after the completion, all costs in excess of the Contract price. In any event, the cost of completing the Work shall be charged against Contractor and its Surety and may be deducted from any money due or becoming due from County.

The provisions of this Article shall be in addition to all other rights and remedies available to County under law.

If after notice of termination, it is determined for any reason that Contractor was not in default, the rights and obligations of the parties shall be the same as if the notice of termination had not been issued. The Contract shall be equitably adjusted to compensate for such termination.

Article 11. SUCCESSORS AND ASSIGNS

This Agreement shall bind and inure to the heirs, devisees, assignees, and successors in interest of Contractor and to the successors in interest of County in the same manner as if such parties had been expressly named herein.

Article 12. REPORTING ACCIDENTS

Contractor shall prepare and submit (within twenty-four [24] hours of such incidents) reports of accidents at the site and anywhere else the Work is in progress in which bodily injury is sustained or property loss in excess of Five Hundred Dollars (\$500.00) occurs.

Article 13. EMISSIONS REDUCTION

Contractor shall comply with emission reduction regulations mandated by the California Air Resources Board, and sign a certification of knowledge thereof:

CERTIFICATE OF KNOWLEDGE – EMISSIONS REDUCTION REGULATIONS

I am aware of the emissions reduction regulations being mandated by the California Air Resources Board. I will comply with such regulations before commencing the performance of the Work and maintain compliance throughout the duration of this Contract.

Signed: Dayle B Weerling Date 4/27/18

Article 14. WORKERS' COMPENSATION CERTIFICATION

Contractor shall comply with Labor Code sections 3700 et seq., requiring it to obtain Workers' Compensation Insurance, and sign a certificate of knowledge thereof.

CERTIFICATE OF KNOWLEDGE - LABOR CODE SECTION 3700

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

Signed: Dayle B Weerling Date 4/27/18

Article 15. WARRANTY

Final Guarantee: Contractor shall guarantee all materials and equipment furnished and Work performed for a period of one (1) year. Contractor warrants and guarantees for a period of one (1) year from the date of Acceptance of the Work that the Work is free from all defects due to faulty materials or workmanship and Contractor shall promptly make such corrections as may be necessary, including repairs of any damage to other parts of the Work resulting from such defects at no cost to County. County will give notice of observed defects with reasonable promptness. In the event that Contractor should fail to make such repairs, adjustments, or other work that may be made necessary by such defects, County may do so and charge Contractor the cost thereby incurred.

Extended Guarantees: If a guaranty exceeding one (1) year is provided by the supplier or manufacturer of any equipment or materials used in this Project, then the guarantee for such equipment or materials shall be extended for such term. Contractor expressly agrees to act as co-guarantor of such equipment and materials, and Contractor shall supply County with all warranty and guaranty documents relative to equipment and materials incorporated in the job and guaranteed by its suppliers or manufacturers.

Warranty: Contractor warrants to County that materials and equipment furnished under this Agreement will be of good quality and new, unless otherwise required or permitted by this Agreement, that the Work will be free from defects or flaws and is of the highest quality of workmanship and that the Work shall conform with the requirements of this Agreement. Work not conforming to these requirements, including substitutions not properly approved and authorized, shall be considered defective.

If within one (1) year from the date of the Acceptance of the Work or such longer period of time as may be prescribed by law or regulations or by the terms of any applicable special guarantee required by the Contract Documents, any Work is found to be defective, Contractor shall promptly, without cost to County and in accordance with County's written instruction, correct such defective Work. If Work is rejected by County, defective material or Work will be removed from site and replaced with non-defective materials or Work. If Contractor is unable to promptly and properly correct any defective Work, County may at its option have the Work corrected by such other means as County deems appropriate and hold Contractor liable for all direct, indirect, and consequential costs caused by such defective Work. Said warranty shall apply to all Work found to be "defective" which is attributable to the quality or quantity of the materials used, the quality of the workmanship, or for performance of this Agreement.

Article 16. RETAINAGE

The retainage from payment is set forth in section 9-1.16F(1) of the Special Provisions. Contractor may elect to receive one hundred percent (100%) of payments due as set forth in the Contract Documents, without retention, by depositing securities of equivalent value with County, in accordance with, and as set forth in section 22300 of the Public Contract Code. Securities eligible for deposit hereunder shall be limited to those listed in section 16430 of the Government Code, or bank or savings and loan certificates of deposit.

Article 17. INVOICE

Contractor shall submit an invoice for payment, noting this Agreement number and the Zone title upon completion the work. Payment shall be made within forty-five (45) days after the receipt and approval of both the road zone key contact and County. Invoice shall be mailed to County at the following address:

County of El Dorado
Community Development Services
Administration and Finance Division
2850 Fairlane Court
Placerville, California 95667
Attn: Accounts Payable

Article 18. PREVAILING WAGE REQUIREMENTS

In accordance with the provisions of California Labor Code sections 1770 et seq., including but not limited to sections 1773, 1773.1, 1773.2, 1773.6, and 1773.7, the general prevailing rate of wages in the county in which the Work is to be done has been determined by the Director of the California Department of Industrial Relations. Interested parties can obtain the current wage information by submitting their requests to the Department of Industrial Relations, Division of Labor Statistics and Research, PO Box 420603, San Francisco California 94142-0603, Telephone (415) 703-4708 or by referring to the website at <http://www.dir.ca.gov/OPRL/PWD>. The rates at the time of the bid advertisement date of a project will remain in effect for the life of the project in accordance with the California Code of Regulations, as modified and effective January 27, 1997.

Copies of the general prevailing rate of wages in the county in which the Work is to be done are also on file at the Community Development Services, Department of Transportation's principal office, and are available upon request.

In accordance with the provisions of Labor Code 1810, eight (8) hours of labor constitutes a legal day's work upon all work done hereunder, and Contractor and any Subcontractor employed under this Contract must conform to and be bound by the provisions of Labor Code sections 1810 through 1815.

Article 19. CERTIFIED PAYROLL

As required under the provisions of Labor Code Section 1776, Contractor and subcontractors shall keep accurate payroll records. A certified copy of all payroll records shall be available for inspection at all reasonable hours at the principal office of Contractor. All contractors and subcontractors must furnish electronic certified payroll records directly to the Department of Industrial Relations.

Article 20. REGISTRATION OF CONTRACTORS

No contractor or subcontractor may bid on any public works project, be listed in a bid proposal for any public works project, or engage in the performance of any contract for public work unless registered with the Department of Industrial Relations pursuant to Labor Code sections 1725.5 and 1771.1. Public work projects are subject to compliance, monitoring, and enforcement by the Department of Industrial Relations.

Contractor shall post job site notices as prescribed by Title 8 of California Code of Regulations Section 16451.

Article 21. RECORDS EXAMINATION AND AUDIT REQUIREMENTS

Contractor and its subcontractors, if any are authorized hereunder, shall maintain all books, documents, papers, accounting records, and other evidence pertaining to the performance of the Contract, including but not limited to, the costs of administering the various aspects of the Contract. In accordance with Government Code Section 8546.7, all of the above-referenced parties shall make such materials available at their respective offices at all reasonable times during this Agreement period and for four (4) years from the date that final payment by County and all other pending matters are closed. Representatives of County, the State Auditor, and any duly authorized representative of other government agencies shall have access to any books, documents, papers, and records that are pertinent to this Agreement for audit, examination, excerpts, and transactions and copies thereof shall be furnished upon request.

Article 22. COMPLIANCE WITH ALL APPLICABLE LAWS

Contractor shall conform to and abide by all Federal, State, and local building, labor and safety laws, ordinances, rules, and regulations. All Work and materials shall be in full accordance with the latest rules and regulations of the State Fire Marshal, safety orders of the Division of Industrial Safety, California Electrical Code, California Building Code, California Plumbing Code, and any and all other applicable laws

and regulations. Nothing in the Contract Documents, including but not limited to the plans and specifications, is to be construed to permit work not conforming to these codes, laws, and regulations.

Article 23. NONDISCRIMINATION

- A. County may require Contractor's services on projects involving funding from various state and/or federal agencies, and as a consequence, Contractor shall comply with all applicable nondiscrimination statutes and regulations during the performance of this Agreement including but not limited to the following: Contractor and its employees and representatives shall not unlawfully discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical handicap, mental disability, medical condition, genetic information, military or veteran status, marital status, age, gender, gender identity, gender expression, sexual orientation, or sex; Contractor shall, unless exempt, comply with the applicable provisions of the Fair Employment and Housing Act (Government Code, Sections 12900 et seq.) and applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Sections 7285.0 et seq.); the applicable regulations of the Fair Employment and Housing Commission implementing Government Code, Section 12990, set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations incorporated into this Agreement by reference and made a part hereof as if set forth in full; and Title VI of the Civil Rights Act of 1964, as amended. Contractor and its employees and representatives shall give written notice of their obligations under this clause as required by law.
- B. Where applicable, Contractor shall include these nondiscrimination and compliance provisions in any of its agreements that affect or are related to the services performed herein.
- C. Contractor's signature executing this Contract shall provide any certifications necessary under the federal laws and the laws of the State of California, including but not limited to Government Code section 12990 and Title 2, California Code of Regulations, section 8103.

Article 24. RELOCATION OF UTILITIES

As required by Section 4215 of the California Government Code, County will assume responsibility for the removal, relocation, and protection of main or trunk-line utility facilities existing on the construction site, if such facilities are not shown in the plans and specifications, and County shall compensate Contractor for the costs of locating and repairing damage to such facilities not due to the failure of Contractor to exercise reasonable care.

Nothing herein shall be deemed to require County to indicate the presence of existing service laterals or appurtenances whenever the presence of such utilities on the site of the construction project can be inferred from the presence of other visible facilities, such as buildings, meter and junction boxes, on or adjacent to the site of the construction.

If Contractor, while performing the Work under this Agreement, discovers utility facilities not identified in the Contract Documents, including the plans or specifications, Contractor shall immediately notify County's Contract Administrator. County shall not be liable for Contractor's performance of unauthorized work.

Article 25. NOTICE OF DISCOVERY OF HAZARDOUS WASTE OR UNUSUAL CONDITIONS

- A. Contractor shall promptly, and before the following conditions are disturbed, notify County in writing, in the event Contractor encounters, after excavating to a depth of greater than four (4) feet, any of the following:
 - 1. Material that Contractor believes may be hazardous waste, as defined in section 25117 of the Health and Safety Code, which is required to be removed to a Class I, Class II, or Class III disposal site in accordance with provisions of existing law; or

2. Subsurface or latent physical conditions at the site differing materially from those indicated in the Contract Documents; or
 3. Unknown physical conditions at the site of any unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in the Work provided for in this Agreement.
- B. County shall promptly investigate the conditions, and if it finds that the conditions do materially so differ, or do involve hazardous waste, or cause a decrease or increase in Contractor's cost of, or time required for performance of any part of the Work, an adjustment, excluding loss of anticipated profits, will be made and this Agreement will be modified by a Change Order. County will notify Contractor of County's determination as to whether or not an adjustment of this Agreement is warranted.
- C. In the event a dispute arises between County and Contractor as to whether the conditions materially differ, or involve hazardous waste, or cause a decrease or increase in Contractor's cost of, or time required for, performance of any part of the Work, Contractor shall not be excused from any scheduled completion date provided for by this Agreement, but shall proceed with all Work to be performed under this Agreement. Contractor shall retain any and all rights provided either by contract or by law which pertain to the resolution of disputes and protests between Contractor and County.

Article 26. ADDITIONAL WORK

County reserves the right to make such alterations, deviations, additions to, or deletions from the plans and specifications, including the right to increase or decrease the quantity of any item or portion of work or to delete any items or portion of work, as may be deemed by County's Contract Administrator to be necessary or advisable, and to require such additional work to be required for the proper completion of the whole Work contemplated.

Any such changes will be set forth in a written Contract Change Order (Change Order) which will specify the additional work, adjustment of performance time, if any, and basis for additional compensation, if any. Any Change Order shall not become effective until approved by County's Community Development Services, Department of Transportation, Director, or where required, by the Board of Supervisors.

Any representative of the Zone of Benefit does not have authority to speak on behalf of or obligate County in any way under this Agreement.

Article 27. AMENDMENTS

This Agreement may be amended by mutual consent of the parties hereto. Said amendment shall become effective only when in writing and fully executed by duly authorized officers of the parties hereto.

Article 28. INSURANCE

GENERAL INSURANCE REQUIREMENTS: Contractor shall provide proof of a policy of insurance satisfactory to County's Risk Management Division and documentation evidencing that Contractor maintains insurance that meets the following requirements:

1. Full Workers' Compensation and Employers' Liability Insurance covering all employees of Contractor as required by law in the State of California.
2. Commercial General Liability Insurance of not less than One Million Dollars (\$1,000,000) combined single limit per occurrence for bodily injury and property damage, including but not limited to endorsements for the following coverage: premises, personal injury, operations, products and completed operations, blanket contractual, and independent contractors' liability and a Two Million Dollars (\$2,000,000) aggregate limit.

3. Automobile Liability Insurance of not less than One Million Dollars (\$1,000,000) is required in the event motor vehicles are used by Contractor in performance of this Agreement.
4. In the event Contractor is a licensed professional and is performing professional services under this Agreement, Professional Liability Insurance is required with a limit of liability of not less than One Million Dollars (\$1,000,000).
5. Explosion, Collapse, and Underground (XCU) coverage is required when the scope of work includes XCU exposures.

PROOF OF INSURANCE REQUIREMENTS:

1. Contractor shall furnish proof of coverage satisfactory to County's Risk Management Division as evidence that the insurance required herein is being maintained. The insurance will be issued by an insurance company acceptable to County's Risk Management Division, or be provided through partial or total self-insurance likewise acceptable to the Risk Management Division.
2. The County of El Dorado, its officers, officials, employees, and volunteers shall be included as additional insured, but only insofar as the operations under this Agreement are concerned. This provision shall apply to all general and excess liability insurance policies. Proof that County is named additional insured shall be made by providing the Risk Management Division with a certified copy, or other acceptable evidence, of an endorsement to Contractor's insurance policy naming County as additional insured.
3. In the event Contractor cannot provide an occurrence policy, Contractor shall provide insurance covering claims made as a result of performance of this Agreement for not less than three (3) years following completion of performance of this Agreement.
4. Any deductibles or self-insured retentions must be declared to and approved by County. At the option of County, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects County, its officers, officials, employees, and volunteers; or Contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.
5. Contractor shall require each of its subcontractors to procure and maintain Commercial General Liability Insurance, Automobile Liability Insurance and Workers' Compensation Insurance of the types and in the amounts specified above, or shall insure the activities of its subcontractors in its own policy in like amounts. Contractor shall also require each of its subcontractors to name Contractor and the County of El Dorado as additional insureds on each subcontractor's general and excess liability insurance policies. Upon request by County Contractor shall furnish proof of coverage satisfactory to County as evidence that the subcontractor insurance required herein is being maintained.

INSURANCE NOTIFICATION REQUIREMENTS:

1. Contractor agrees that no cancellation or material change in any policy shall become effective except upon prior written notice to County at the office of the Community Development Services, Administration and Finance Division, Contracts & Procurement Unit, 2850 Fairlane Court, Placerville, California 95667.
2. Contractor agrees that the insurance required herein shall be in effect at all times during the term of this Agreement, inclusive of the guarantee/warranty period specified hereinbelow. In the event said insurance coverage expires at any time or times during the term of this Agreement, Contractor shall immediately provide a new certificate of insurance as evidence of the required insurance coverage. In the event Contractor fails to keep in effect at all times insurance coverage as herein provided, County may, in addition to any other remedies it may have, terminate this Agreement upon the

occurrence of such event. New certificates of insurance are subject to the approval of County's Risk Management Division.

ADDITIONAL STANDARDS: Certificates shall meet such additional standards as may be determined by County's Community Development Services, Administration and Finance Division, either independently or in consultation with County's Risk Management Division, as essential for protection of County.

COMMENCEMENT OF PERFORMANCE: Contractor shall not commence performance of this Agreement unless and until compliance with each and every requirement of the insurance provisions is achieved.

MATERIAL BREACH: Failure of Contractor to maintain the insurance required herein, or to comply with any of the requirements of the insurance provisions, shall constitute a material breach of the entire Agreement.

REPORTING PROVISIONS: Any failure to comply with the reporting provisions of the policies shall not affect the coverage provided to County, its officers, officials, employees, or volunteers.

PRIMARY COVERAGE: Contractor's insurance coverage shall be primary insurance as respects County, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by County, its officers, officials, employees, or volunteers shall be in excess of Contractor's insurance and shall not contribute with it.

PREMIUM PAYMENTS: The insurance companies shall have no recourse against County, its officers, agents, employees, or any of them for payment of any premiums or assessments under any policy issued by any insurance company.

CONTRACTOR'S OBLIGATIONS: Contractor's indemnity and other obligations shall not be limited by the insurance required herein and shall survive the expiration of this Agreement.

Article 29. INDEPENDENT CONTRACTOR/LIABILITY

Contractor is, and shall be at all times, deemed independent and shall be wholly responsible for the manner in which it performs services required by terms of this Agreement. Contractor exclusively assumes responsibility for acts of its employees, associates, and subcontractors, if any are authorized herein, as they relate to services to be provided under this Agreement during the course and scope of their employment.

Contractor shall be responsible for performing the Work under this Agreement in a safe, professional, skillful, and workmanlike manner and shall be liable for its own negligence and negligent acts of its employees. County shall have no right of control over the manner in which Work is done and shall, therefore, not be charged with responsibility of preventing risk to Contractor or its employees.

Article 30. INTEREST OF PUBLIC OFFICIAL

No official or employee of County who exercises any functions or responsibilities in review or approval of services to be provided by Contractor under this Agreement shall participate in or attempt to influence any decision relating to this Agreement which affects personal interest or interest of any corporation, partnership, or association in which he/she is directly or indirectly interested; nor shall any such official or employee of County have any interest, direct or indirect, in this Agreement or the proceeds thereof.

Article 31. INTEREST OF CONTRACTOR

Contractor covenants that Contractor presently has no personal interest or financial interest, and shall not acquire same in any manner or degree in either: 1) any other contract connected with or directly affected by the services to be performed by this Agreement; or, 2) any other entities connected with or directly affected by the services to be performed by this Agreement. Contractor further covenants that in the performance of this Agreement no person having any such interest shall be employed by Contractor.

Article 32. NONRESIDENT WITHHOLDING

If Contractor is not a California resident, Contractor shall provide documentation that the State of California has granted a withholding exemption or authorized reduced withholding prior to execution of this Agreement or County shall withhold seven percent (7%) of each payment made to the Contractor during term of the Agreement as required by law. This requirement applies to any agreement/contract exceeding \$1,500.00. Contractor shall indemnify and hold the County harmless for any action taken by the California Franchise Tax Board.

Article 33. NO CONFLICT OF INTEREST

No official or employee of County who exercises any functions or responsibilities in review or approval of services to be provided by Contractor under this Agreement shall participate in or attempt to influence any decision relating to this Agreement which affects personal interest or interest of any corporation, partnership, or association in which he/she is directly or indirectly interested; nor shall any such official or employee of County have any interest, direct or indirect, in this Agreement or the proceeds thereof.

Contractor covenants that Contractor presently has no personal interest or financial interest, and shall not acquire same in any manner or degree in either: 1) any other contract connected with or directly affected by the services to be performed by this Agreement; or, 2) any other entities connected with or directly affected by the services to be performed by this Agreement. Contractor further covenants that in the performance of this Agreement no person having any such interest shall be employed by Contractor

The parties to this Agreement have read and are aware of the provisions of Government Code Section 1090 et seq. and Section 87100 relating to conflict of interest of public officers and employees. Contractor attests that it has no current business or financial relationship with any County employee(s) that would constitute a conflict of interest with provision of services under this contract and will not enter into any such business or financial relationship with any such employee(s) during the term of this Agreement. County represents that it is unaware of any financial or economic interest of any public officer or employee of Contractor relating to this Agreement. It is further understood and agreed that if such a financial interest does exist at the inception of this Agreement either party may immediately terminate this Agreement by giving written notices as detailed in Article 10, "Termination by County for Cause."

Article 34. CLEANING UP

Contractor shall not allow the site of the Work to become littered with trash, rubbish, or waste material, but shall maintain the site of the Work in a neat and orderly condition throughout the performance of the Work. At the end of each work day, Contractor shall clean up all debris and waste materials generated by the Work and shall properly dispose of all trash, rubbish and waste materials off site at no additional cost to County.

Article 35. ACCESS TO WORK

County, and any state or local authorities having jurisdiction over the Project, shall at all times have access to the Work. Zone roads cannot be closed without prior approval of County's Board of Supervisors.

Article 36. ACCEPTANCE OF WORK

The Work will be accepted by County in writing when the whole shall have been completed satisfactorily, as determined by County or its duly authorized representative. Acceptance of the Work shall not constitute an acceptance of latent defects nor relieve Contractor of responsibility for any act or omission which is a violation of this Agreement.

Article 37. RESOLUTION OF CLAIMS

Contractor’s attention is invited to Public Contract Code sections 20104, et seq., for resolution of construction claims, and specifically section 20104.2. Claims pertaining to this Contract shall be governed by the provisions of those sections.

Contractor’s attention is directed to California Public Contract Code section 9204, which describes procedures for the resolution of claims on public works projects. Among other things, section 9204 requires the claimant to furnish reasonable documentation to support a claim, requires the public entity to respond to the claim within forty-five (45) days of receipt of the claim, and allows for the claimant to demand an informal meet and confer conference for settlement of the issues in dispute. For any portion of a claim that remains in dispute, section 9204 requires submission of the claim to nonbinding mediation. Additionally, section 9204 requires the public entity to make any payment due on an undisputed portion of the claim within sixty (60) days of the public entity’s written response and to pay interest at the rate of 7 percent (7%) per annum on any amounts not paid in a timely manner. The claims procedures described herein and in any other Contract Documents are in addition to the procedures required by section 9204 and, in the event of a conflict between those various procedures, the more stringent procedures will control.

Article 38. ENVIRONMENTAL AND TOXIC WARRANTY

Contractor warrants that its operations concerning the Project are not and will not be in violation of any applicable federal, state, or local environmental statute, law, or regulation dealing with hazardous materials substances or toxic substances.

Article 39. NOTICE

Any notice or other correspondence required to be given under this Agreement by either party to the other may be affected by personal delivery in writing or by mail, postage prepaid. Notices personally delivered during normal business hours shall be deemed received on the actual date of delivery; mailed notices shall be deemed received one (1) day after affixed postmark. Notices and correspondence to County shall be in duplicate and shall be delivered to it as follows:

To County:

County of El Dorado
Community Development Services
Administration and Finance Division
2850 Fairlane Court
Placerville, California 95667

County of El Dorado
Community Development Services
Department of Transportation
2850 Fairlane Court
Placerville, California 95667

Attn.: Becky Morton
Chief Fiscal Officer

Attn.: Rafael Martinez
Director

With a copy to:

County of El Dorado
Community Development Services
Administration and Finance Division
2850 Fairlane Court
Placerville, California 95667

Attn.: Michele Weimer
Administrative Services Officer
Contracts & Procurement Unit

Notices and correspondence to Contractor shall be delivered when personally delivered to, or if mailed, addressed to Contractor at:

Doug Veerkamp General Engineering, Inc.
2585 Cold Springs Road
Placerville, California 95667
Attn.: Douglas B. Veerkamp, President

Either party may change its address for notices or for its principal place of business by giving written notice pursuant to this Article.

Article 40. CHANGE OF ADDRESS

In the event of a change in address for Contractor's principal place of business, Contractor's Agent for Service of Process, or Notices to Contractor, Contractor shall notify County in writing as provided in Article 39 – Notice. Said notice shall become part of this Agreement upon acknowledgment in writing by County's Contract Administrator, and no further amendment of this Agreement shall be necessary provided that such change of address does not conflict with any other provisions of this Agreement.

Article 41. DRUG-FREE WORKPLACE

Contractor shall comply with Government Code section 8355.

Article 42. CALIFORNIA RESIDENCY (FORM 590)

All independent contractors providing services to County must file a State of California Form 590, certifying their California residency or, in the case of a corporation, certifying that they have a permanent place of business in California. Contractor will be required to submit a Form 590 prior to execution of an Agreement or County shall withhold seven percent (7%) of each payment made to Contractor during the term of this Agreement. This requirement applies to any agreement/contract exceeding \$1,500.00.

Article 43. COUNTY PAYEE DATA RECORD FORM

All independent contractors or corporations providing services to County who do not have a Department of the Treasury Internal Revenue Service Form W-9 (Form W-9) on file with County must file a County Payee Data Record Form with County.

Article 44. CONTRACTOR ASSURANCES

By executing this Contract, Contractor certifies that it:

- a. Will abide by all administrative, contractual or legal remedies in instances where Contractor violates or breaches Contract terms, and will comply with sanctions and penalties as the Contract Administrator deems appropriate.
- b. Will comply with the termination for cause and termination for convenience provisions of the Contract including the manner by which such termination may be effected and the basis for settlement afforded by those provisions.
- c. Will comply with County, State of California and FHWA requirements and regulations pertaining to: (a) reporting; (b) patent rights with respect to any discovery or invention which arises or is developed in the course of or under this Contract; and (c) copyrights and rights in data.
- d. Will comply with: (i) section 504 of the Rehabilitation Act of 1973 (Rehabilitation Act) which prohibits discrimination on the basis of disability in federally assisted programs; (ii) the Americans with Disabilities Act (ADA) of 1990 which prohibits discrimination on the basis of disability

irrespective of funding; and (iii) all applicable regulations and guidelines issued pursuant to both the Rehabilitation Act and the ADA.

- e. Will comply with the Department of Industrial Relations pursuant to Labor Code sections 1725.5 and 1771.1.

Any subcontract entered into as a result of this Contract shall contain all of the provisions of this Article.

Article 45. BUSINESS LICENSE

The County Business License Ordinance provides that it is unlawful for any person to furnish supplies or services, or transact any kind of business in the unincorporated territory of County of El Dorado without possessing a County business license unless exempt under County Ordinance Code section 5.08.070. Contractor warrants and represents that it shall comply with all of the requirements of the County Business License Ordinance, where applicable, prior to beginning Work under this Contract and at all times during the term of this Contract.

Article 46. TAXES

Contractor certifies that as of today's date, it is not in default on any unsecured property taxes or other taxes or fees owed by Contractor to County. Contractor agrees that it shall not default on any obligations to County during the term of this Agreement.

Article 47. CONTRACT ADMINISTRATOR

The County Officers or employees with responsibility for administering this Agreement are Becky Morton, Chief Fiscal Officer, Community Development Services, Administration and Finance Division, and Rafael Martinez, Director, Community Development Services, Department of Transportation or successors.

Article 48. AUTHORIZED SIGNATURES

The parties hereto represent that the undersigned individuals executing this Agreement on behalf of their respective parties are fully authorized to do so by law or other appropriate instrument and to bind upon said parties the obligations set forth herein.

Article 49. PARTIAL INVALIDITY

If any provision, part, or sentence of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions, parts, and sentences will continue in full force and effect without being impaired or invalidated in any way.

Article 50. NO THIRD PARTY BENEFICIARIES

Nothing in this Agreement is intended, nor will be deemed, to confer rights or remedies upon any person or legal entity not a party to this Agreement.

Article 51. COUNTERPARTS

This Agreement may be executed in one or more counterparts, each of which shall be an original and all of which together shall constitute one and the same instrument.

Article 52. ENTIRE AGREEMENT

This document and the documents referred to herein or exhibits hereto are the entire Agreement between the parties and they incorporate or supersede all prior written or oral agreements or understandings.

IN WITNESS WHEREOF, the said Community Development Services, Administration and Finance Division of the County of El Dorado, State of California, has caused this Agreement to be executed by the Board of Supervisors, on its behalf, and the said Contractor has signed this Agreement the day and year written below.

COUNTY OF EL DORADO

Dated: 4/24/2018


Board of Supervisors
"County"

Date: 4/24/2018



Attest:
James S. Mitrison
Clerk of the Board of Supervisors

CONTRACTOR

Dated: 4/27/18 License No. 440233 Federal Employee Identification Number 68-0462256

By: 
Douglas B. Veerkamp, President

By: 
Lori A. Veerkamp, Secretary

NOTE: If Contractor is a corporation, the legal name of the corporation shall be set forth above together with the signature of the officer or officers authorized to sign Contracts on behalf of the corporation; if Contractor is a co-partnership, the true name of the firm shall be set forth above together with the signature of the partner or partners authorized to sign Contracts on behalf of the co-partnership; and if Contractor is an individual, his/her signature shall be placed above. Contractor executing this document on behalf of a corporation or partnership shall be prepared to demonstrate by resolution, article, or otherwise that it is appropriately authorized to act in these regards. For such corporation or partnership, such authority shall be demonstrated to the satisfaction of County. If signature is by an agent, other than officer of a corporation or a member of a partnership, an appropriate Power of Attorney shall be on file with the County prior to signing this document.

Mailing Address: 2585 Cold Spring Road, Placerville, California 95667

Business Address: 3701 Trade Way, Cameron Park, California 95682

Email Address: _____

Phone: (530) 676-0825

Fax: (530) 676-0826

EXHIBIT A
CONTRACTOR'S BID AND BID PRICE SCHEDULE
ARROWBEE ESTATES ROAD ZONE OF BENEFIT NO 98201
ROAD MAINTENANCE AND IMPROVEMENT PROJECT
CONTRACT No. PW 16-31129, P&C No. 093-C1775, FENIX No. 2762

BASE BID - SCHEDULE A

ITEM NO.	AREA(S)	DESCRIPTION OF WORK	UNIT OF MEASURE	ESTIMATED QUANTITY	UNIT PRICE (IN FIGURES)	ITEM TOTAL (IN FIGURES)
1	Schirle, Arrowbee	CRACK SEALING	L.F.	1,473 (F)	3.01	4,433.73
2	River View, Schirle, Arrowbee	ASPHALT REPAIRS	SQ. FT.	4,839 (F)	8.49	41,083.11
3	River View, Schirle, Arrowbee	ASPHALT BLANKET PATCHING	SQ. FT.	1,702 (F)	6.83	11,624.66
4	River View, Schirle, Arrowbee	GEOSYNTHETIC REINFORCED CHIP SEAL (GRCS)	SQ. FT.	70,969 (F)	1.03	73,098.07
5	Arrowbee	HMA OVERLAY ON INTERLAYER	SQ. FT.	15,818 (F)	3.03	47,928.54
TOTAL FOR BASE BID – SCHEDULE A:						178,168.11

ADDITIVE ALTERNATIVE BID – SCHEDULE B

ITEM NO.	AREA	DESCRIPTION OF WORK	UNIT OF MEASURE	ESTIMATED QUANTITY	UNIT PRICE (IN FIGURES)	ITEM TOTAL (IN FIGURES)
Add Alt A	Arrowbee Sta 32+00 to 40+50	CRACK SEALING	L.F.	280 (F)	2.76	772.80
		ASPHALT REPAIRS	SQ. FT.	622 (F)	8.10	5,038.20
		ASPHALT BLANKET PATCHING	SQ. FT.	84 (F)	7.12	598.08
		GEOSYNTHETIC REINFORCED CHIP SEAL (GRCS)	SQ. FT.	14,940 (F)	1.02	15,238.80
TOTAL FOR ADDITIVE ALTERNATIVE BID A – SCHEDULE B:						21,647.88

ADDITIVE ALTERNATIVE BID – SCHEDULE C

ITEM NO.	AREA	DESCRIPTION OF WORK	UNIT OF MEASURE	ESTIMATED QUANTITY	UNIT PRICE (IN FIGURES)	ITEM TOTAL (IN FIGURES)
Add Alt B	Mewuk Drive Sta 0+00 to 1+50	ASPHALT REPAIRS	SQ.FT.	518 (F)	8.02	4,154.36
		GEOSYNTHETIC REINFORCED CHIP SEAL (GRCS)	SQ.FT.	3,484 (F)	1.02	3,553.68
TOTAL FOR ADDITIVE ALTERNATIVE BID B – SCHEDULE C:						7,708.04

TOTAL BIDS – SCHEDULES A, B, AND C:						207,524.06
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(F) Final Pay Quantity

(P) Eligible for Partial Payment

(LS) Lump Sum