



# COUNTY OF EL DORADO

## DEPARTMENT OF TRANSPORTATION

### AGREEMENT FOR AS-NEEDED MAINTENANCE SERVICES #9751

**THIS AGREEMENT** made and entered into by and between the **COUNTY OF EL DORADO**, a political subdivision of the State of California, acting through the governing body or board thereof (hereinafter referred to as "County"), and **IRON HORSE LLC**, an Oregon limited liability company, CSLB #1047903, duly qualified to conduct business in the State of California, whose principal place of business is 5501 North East 223<sup>rd</sup> Avenue Building D, Fairview, Oregon 97024, and whose mailing address is Post Office Box 1472, Fairview, Oregon 97024 (hereinafter referred to as "Contractor").

### RECITALS

On July 10, 2025, Contractor was formally approved to the qualified list for as-needed thermoform Polyvinyl Chloride (PVC) Pipe Lining services as a result of competitive Request for Qualifications (RFQ) #2025-0116;

That for and in consideration of the mutual promises, covenants, agreements and conditions herein contained, the parties hereto agree with each other as follows:

#### 1. Contract Documents

The complete Agreement (hereinafter "Agreement") between the parties consists of and is set forth in the Contract Documents. The Contract Documents consist of: (a) this Agreement and any amendments thereto in accordance with the provisions herein; (b) exhibits to this Agreement; (c) Work Orders or Work Order amendments issued under this Agreement; (d) applicable California Department of Transportation (Caltrans) Standards; (e) an executed Subcontractors Listing Form, if applicable; (f) executed Certificate of Insurance forms; (g) an executed California Form 590; (h) and an executed Department of the Treasury Internal Revenue Service Form W-9 or County Payee Data Record Form, whichever is applicable. All obligations of the parties are contained in the Contract Documents, and by acceptance of this Agreement the parties hereto agree to be bound by the provisions of all of said documents. All of said documents are intended to cooperate so that any work called for in one and not mentioned in the other or vice versa, is to be executed the same as if mentioned in all of them.

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 (h).

#### 2. The Work

Contractor is engaged in the business of doing the services and tasks required under this Agreement, or as identified in individual Work Orders to be issued in accordance with this Agreement, and those services and tasks that are reasonably necessary for the completion of the work identified in the Scope of Work.

Contractor shall furnish all labor, equipment, services, transportation, and materials necessary to complete the lining of culverts. The work shall include the preparation of the construction site, including cleaning and flushing of existing piping; flow control bypass pumping; protection of existing conditions during work; unloading; testing of all pipe, fittings, scaffolding, piping, valves, and other accessories as required for proper installation; protection of the site during the work, including necessary watchmen, warning lights, barricades, traffic control, dust control and maintenance of detours, as needed; and the cleanup of the work site.

Services shall include at a minimum:

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### **Delivery, Storage and Handling**

Contractor shall use reasonable means to protect lining materials before, during, and after installation and to protect the installed work and materials of all other trades.

In the event of damage to lining materials, the Contractor shall make timely repairs and replacements necessary to the approval the County Contract Administrator at no additional cost to the County.

### **Liner Materials**

- Contractor shall supply all materials and install all materials. Included shall be the removal and disposal of deleterious materials excavated from the work area.
- Liner material shall meet American Society for Testing and Materials (ASTM) standards that pertain to fold and form PVC liners (ASTM F1871, ASTM F1867) or approved equal.
- The liner should be fabricated to a size that, when installed, will tightly fit the internal circumference and the length of the original conduit. Allowances should be made for the longitudinal and circumferential stretching that occurs during placement of the liner.
- The liner shall be uniform in thickness and, when subjected to the installation pressures, shall meet or exceed the designed finish wall thickness.
- The liner shall be homogeneous across the entire wall thickness.
- The wall color of the interior liner surface shall be a light reflective color to allow detailed examination and inspection with closed circuit television (CCTV).

### **Structural Requirements**

Design shall assume no bonding to the original pipe wall. All liner materials shall meet structural properties of ASTM standards or approved equal that pertain to fold and form PVC liners (ASTM F1871, ASTM F1867) when in place.

### **Testing Requirements**

Before final approval, all work must be examined and inspected with CCTV. Any defects shall be replaced and approved by the County's Contract Administrator at the Contractor's expense. All fold and form pipe, and associated services shall be included in a post construction sewer video.

### **Preparation**

- Access Points: Contractor shall locate and designate all manhole access points and open and make access points available for the work.
- Cleaning of Lines: The Contractor shall remove all roots and internal debris (including grease) from the culvert prior to liner installation by any means necessary.
- Inspection of Culverts: Inspection of culverts shall be performed by personnel experienced and trained in locating defects, breaks, obstacles, and service connections by CCTV.
- Site Restoration: Areas damaged or modified by the work for this project shall be repaired or restored to a condition equal to or better than the original condition. Site restoration is incidental to the work and shall not be regarded as a reason for additional charges.
- Bypassing Water - The Contractor, when required, shall provide for the flow of water around the section or sections of pipe designated for repair. Damming the water upstream and pumping the flow downstream shall make the bypass. The pump(s) and bypass line(s) shall be adequate capacity to accommodate water flow. The County's Contract Administrator may require a detail of the bypass plan to be submitted.
- Public Notification: Contractor shall be responsible for contacting each home or business who will be affected by the construction activities and informing them of the work to be done and estimated timing for the work. Written notice shall be delivered to each home or business at least seventy-two (72) hours prior to installation. Notice shall include a local telephone number of the Contractor they can call to discuss the project, and how the homeowner or business will be affected. The written notice must be reviewed by the County's Contract Administrator prior to the start of any work.

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### **Installation**

Installation shall be in accordance with applicable ASTM standards and the manufacturer's recommendations, which shall be available for verification by the County's Contract Administrator. Curing schedules shall be strictly adhered to, per manufacture requirements. Finished pipe liner shall be a smooth continuation of the pipe(s) and shall be merged with other lines or channels to meet the following:

- Fold and form lining installation shall be measured by Linear Foot and shall include the materials, shipping, personnel, equipment, installation, cleanup, and all other work associated with lining existing pipes.
- The cured liner shall be continuous over the entire length of an installation run and be free of material defects. The lining shall be impervious and free of any leakage from the pipe to the surrounding ground or from the ground to inside the lined pipe.
- Any defect, which will or could affect the structural integrity, strength, capacity, or future maintenance of the installed liner, shall be repaired at the Contractor's expense, in a manner approved by the County's Contract Administrator.
- Both ends of the cured liner shall be cut flush at the inlet and outlet points in the manhole and sealed with either Expanding Hydrophilic Rubber joint seal or approved equal.
- The top half of the liner through a manhole shall be neatly cut off (not broken or sheared off). All manholes shall be individually inspected for cut-offs and sealing works. Liner shall be cut off at the pipes and all liner removed within intermediate manholes with deflection angles greater than forty-five (45) degrees.
- The liner shall be pulled into place via the manufacturer's instructions. The liner shall be inflated with air with sufficient pressure to hold the liner tight to the host pipe wall prior to curing according to manufacturer's specifications.

### **Mobilization**

Mobilization shall include at a minimum:

- All preparatory work, materials necessary for obtaining clearances for the work, moving personnel, equipment, supplies and incidentals to the project site, providing protection of on-site materials, quality control, compaction testing, clean-up, temporary utilities and quarters, permits, bonds, insurance, Stormwater Pollution Prevention Plan (SWPPP), storm water control, environmental controls, noise abatement, waste, rubbish disposal and control, sanitation, project close-out operations, and pipe coordination and inspection.
- Coordination with the County, and public engagement. Specifically, informing residents when services, road, or drive access will be interrupted.
- All materials, equipment, personnel, and other work needed to maintain functionality of the existing system during construction and other work needed to clean, camera, and prepare the existing culvert pipes prior to installation of lining.

### **Traffic Control**

Traffic Control shall include at a minimum:

- All material, labor, operations and equipment necessary to provide traffic control in accordance with Manual on Uniform Traffic Control Devices (MUTCD), American Association of State Highway and Transportation Officials (AASHTO) standards and with the County Contract Administrator's direction for the duration of the project.
- Comply with all applicable State Highway, local, and installation requirements when preparing the Traffic Control Plan.
- Provide labor, signs, barricades, cones, arrow boards, flaggers and any additional equipment necessary to complete the work.
- The preparation and submittal of a Traffic Control Plan prior to the commencement of construction.

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A pre-construction conference between County's Contract Administrator and Contractor will be scheduled by County's Contract Administrator prior to the issuance of the separate written Work Orders for each work assignment. The conferences will be coordinated by County's Contract Administrator and will be held at the individual work sites where the work will be performed. The purpose of the pre-construction conferences is to discuss important aspects of the work and all essential matters pertaining to the prosecution and the satisfactory completion of the work, including at a minimum, traffic control measures and the method and timing of notice to the residents of the work to be performed in the work site areas.

Following each pre-construction conference, County's Contract Administrator will issue a separate written Work Order to Contractor identifying the site where the work is to be performed, a description of the work or other services to be performed, a not-to-exceed cost to complete the work, a specific date by which the work shall be completed, liquidated damages to be charged to Contractor if the work is not completed within the prescribed timeframe, and any required deliverables to be supplied by Contractor in connection with the work assignment. Contractor shall not commence work until County has reviewed and approved the payment and performance bonds (if applicable), as outlined in Article 12, Performance Bond, and Article 13, Payment Bond, and has issued Contractor the written Work Order. Contractor shall not commence work until receiving the written Work Order. No payment will be made for any work performed prior to the issuance of the written Work Order. No payment will be made for any work performed prior to approval and full execution of the Work Order or beyond the earlier of the expiration date of the Work Order or expiration of the underlying Agreement, and no payment will be made for amounts in excess of the not-to-exceed amount of the Work Order.

Contractor shall submit the following information to the County's Contract Administrator, after a Work Order is executed and at least ten (10) days before any material is delivered to the job site.

- Fold and form system Manufacturer's certification that the materials and installation procedures to be used in the work performed meets the referenced standards and these specifications.
- Proposed equipment information and written performance work procedures for accomplishing the items of work on this specific project.
- Technical data (i.e., material, sealant/caulking material, curing schedule including time and temperature, certifications of applicability, and qualified testing results).
- Notification flyers for subdivision areas should traffic control be required to complete the work.

Deliverables shall be submitted via electronic file and Contractor shall produce the file using Microsoft (MS) Office 365 applications (specifically, MS Word, MS PowerPoint, and MS Excel). Signed reports shall be submitted in Adobe portable document format (PDF). All deliverables shall be submitted in the language, format and design that are compatible with and completely transferable to County's computer, and that are acceptable to County's Contract Administrator. Newer versions of software may be used and other types of software used for analytical purposes may be authorized if approved in advance of the submittal by County's Contract Administrator. Contractor shall submit all deliverables to County's Contract Administrator in accordance with completion time schedules identified in the individual Work Orders issued pursuant to this Agreement. Failure to submit the required deliverables in the format required may be grounds for termination of the Agreement, as provided in Article 33, Termination by County for Cause, herein.

All methods and materials shall be consistent with applicable provisions of the California Department of Transportation (Caltrans) 2024 Standard Specifications for the types of materials and services required by each Work Order.

Unless otherwise specified, all equipment and parts furnished by the Contractor under this Agreement shall be new and unused. All waste materials shall be removed and properly disposed of in accordance with all local, state, and federal laws. All parts and materials shall be installed and/or applied in accordance with manufacturer recommendations.

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Contractor shall perform the work in accordance with all of the terms and conditions of the Contract Documents and in a safe, professional, skillful, and workmanlike manner. Contractor is responsible for ensuring that its employees, as well as any subcontractor if applicable, perform the services and tasks required under this Agreement accordingly. All of the services included in the Scope of Work, or in the individual Work Orders issued pursuant to this Agreement, are the responsibility of Contractor unless specifically described as a task or item of work to be provided by County. Contractor shall be responsible for the supervision, administration, and work performed by any subcontractor for services rendered under this Agreement. County shall have no right of control over the manner in which work is to be done and shall, therefore, not be charged with responsibility of preventing risk to Contractor or its employees, agents, associates, representatives, or subcontractors.

**3. Shoring Plan**

Excavation for any trench five (5) feet or more in depth shall not begin until Contractor has received approval, from the Contract Administrator, of Contractor's detailed shoring plan for worker protection from the hazards of caving ground during the excavation of that trench, and any design calculations used in the preparation of the detailed plan. The detailed plan shall show the details of the design of shoring, bracing, sloping or other provisions to be made for worker protection during the excavation. No plan shall allow the use of shoring, sloping or a protective system less effective than that required by the Construction Safety Orders of the California Division of Occupational Safety and Health. If the plan complies with the shoring system standards established by the Construction Safety Orders, the plan shall be submitted at least five (5) days before Contractor intends to begin excavation for the trench. If the plan varies from the shoring system standards established by the Construction Safety Orders, the plan shall be prepared and signed by an engineer who is registered as a Civil Engineer in the State of California, and the plan and design calculations shall be submitted at least three (3) weeks before Contractor intends to begin excavation for the trench. Nothing in this Article shall be deemed to allow the use of a shoring, sloping or protective system less effective than that required by the Construction Safety Orders.

**4. Ownership of Data**

Upon completion or earlier termination of all services under this Agreement, or upon the completion or earlier termination of services provided in accordance with individual Work Orders issued pursuant to this Agreement, ownership and title to all reports, documents, plans, maps, specifications, estimates, compilations, photographs, videos, and any and all other materials or data produced or obtained as part of this Agreement will automatically be vested in County without restriction or limitation on their use, and no further agreement will be necessary to transfer ownership to County. Copies may be made for Contractor's records, but shall not be furnished to others without prior written authorization from County's Contract Administrator. Such deliverables shall be deemed works made for hire and all rights in copyright therein shall be retained by County. Contractor shall furnish County all necessary copies of data, including data stored in electronic format, needed to complete the review and approval process of the services and deliverables provided under this Agreement.

**5. Location of Work**

The projects will be located in various areas throughout El Dorado County. Said work is to be performed within County as designated by issued Work Orders.

**6. Project Coordination and Schedule (Where Required)**

Notification of the work to residents shall be provided by Contractor not less than seventy-two (72) hours in advance and shall consist of door hangers at each of the individual affected residences and notices posted on barricades.

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**7. Contract Price**

For services provided herein, including any deliverables or reports that may be required by the individual Work Orders issued pursuant to this Agreement, County agrees to pay Contractor upon the satisfactory completion and acceptance of each work assignment in arrears. Payment shall be made within forty-five (45) days following County's receipt and approval of itemized invoices detailing the services rendered.

The total amount of this Agreement shall not exceed \$280,000, inclusive of all Work Orders and amended Work Orders, all work of subcontractors, and all costs, taxes, and expenses. In no event, however, will the Contract Administrator issue a Work Order, or series of Work Orders related to the same project, for public project services greater than \$75,000. Work Orders for maintenance can exceed \$75,000.00. It is understood and agreed that there is no guarantee, either expressed or implied that this dollar amount will be authorized under this Agreement through Work Orders.

Itemized invoices shall follow the format specified by County and shall reference this Agreement number and the County-supplied Work Order number both on their faces. Copies of documentation attached to invoices shall reflect Contractor's charges for the specific services billed on those invoices. Contractor shall bill County for only one (1) Work Order per invoice.

Invoices shall be mailed to County at the following address:

County of El Dorado  
Department of Transportation  
2441 Headington Road  
Placerville, California 95667

Attn.: Brian Mullens, Deputy Director, Maintenance and Operations Division

**8. Protection of Facilities**

- A. Contractor shall exercise care to prevent damage to the existing building, grounds, and property while performing the Work. Any damage caused as a result of Contractor's operations shall be repaired back to its original condition by Contractor at no additional cost to County.
- B. Contractor shall provide for continuous County occupancy and operation of the facility for the duration of the project.
- C. Contractor shall provide for public use, and shall limit access to the facility as directed by County's Contract Administrator.
- D. Contractor shall provide for work by other contractors and County.
- E. Contractor shall coordinate the use of the premises, including the storage of materials, tools, and equipment with County's Contract Administrator.

**9. Safety**

Contractor shall maintain safe conditions at the jobsite for the duration of the Work for the public, County staff, and all persons performing the Work. Contractor shall comply fully with all laws, orders, citations, rules, regulations, standards, and statutes with respect to occupational health and safety, the handling and storage of hazardous materials, accident prevention, safety equipment and practices. Contractor shall be solely responsible

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for providing a safe place to work for its employees and for employees of its subcontractors and suppliers or material and equipment, for adequacy of and required use of all safety equipment, and for full compliance with aforesaid laws, orders, citations, rules, regulations, standards, and statutes.

Other safety measures shall include, but not be limited to the following:

- A. Providing safe accessibility to all building entrances, keeping all sidewalks, active doors, corridors or other walkways, driveways, or any emergency vehicle access clear for the duration of the project.
- B. Keeping flammable rags, if applicable, in a sealed container and removing them from the site at the end of each work day.

#### 10. **Time of Completion**

This Agreement shall become effective upon final execution by both parties hereto and shall expire three (3) years thereafter.

Time is of the essence. The work under the Agreement shall be completed **within the timeframe designated within each issued Work Order**, unless an extension of time or suspension of work is authorized by County in writing in accordance with an amended Work Order.

It is agreed by the parties to this Agreement that in case all the work called for in each written Work Order is not finished or completed within the working days identified in each written Work Order, damage will be sustained by County, and that it is and will be impracticable and extremely difficult to ascertain and determine the actual damage which County will sustain in the event of and by reason of the delay; and it is therefore agreed that Contractor will pay to County a sum, as liquidated damages and not as a penalty, for each and every working days delay in finishing the work in excess of the number of working days prescribed in the Work Order; the sum shall be calculated as fifteen percent (15%) of the total of each issued Work Order amount divided by the number of working days identified for the completion of the Work Order; and Contractor agrees to pay the liquidated damages herein provided for, and further agrees that County may deduct the amount thereof from any moneys due or that may become due Contractor under the Agreement. The calculated liquidated damages amount will be included in each Work Order, however, omissions of the calculated liquidated damages amount from a Work Order does not constitute surrender by County of liquidat damages and such liquidated damages shall be applied as provided herein.

#### 11. **Payment**

The not to exceed compensation amount for each individual work assignment will be discussed and negotiated between Contractor and County's Contract Administrator, and will be included in each written Work Order. The not to exceed compensation amount shall include all the services required to complete the tasks in Article 2, The Work.

No payment will be made for any work performed prior to approval and full execution of each Work Order or beyond the earlier of the expiration date of the Work Order or expiration of the underlying Agreement, and no payment will be made for amounts in excess of the not-to-exceed amount of the Work Order.

The period of performance for the Work Order shall be in accordance with dates specified in each Work Order. No payment will be made for any work performed before or after the period of performance in the Work Order unless County's Contract Administrator and Contractor amend the Work Order. No Work Order will be written which exceeds the cumulative total of the not-to-exceed dollar amount of this Agreement. No Work Order will be written which extends beyond the expiration date of this Agreement.

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Notwithstanding any other provision of this Agreement to the contrary, payments to Contractor and subcontractor for travel, lodging, per diem, and mileage expenses, if applicable, for Consultant's or subconsultant's claims for reimbursement shall not exceed the rates to be paid to County employees under the current Board of Supervisor's Travel Policy in effect at the time the expenses are incurred, without markup. Any individual travel expense exceeding one hundred dollars (\$100) and any work requiring overnight stay must be approved in advance by County's Contract Administrator or designee. Contractor and subcontractor are responsible for canceling hotel rooms before the cancellation period ends and should record the cancellation number in case of disputes. Contractor and subcontractor shall not be reimbursed for "no-show" hotel charges unless there are unavoidable reasons for not cancelling the room and County's Contract Administrator or designee has determined that the reasons are valid. Any reimbursements for such expenses, if any, will only be made if such expenses are included in the fully executed Work Order issued pursuant to this Agreement.

Any parts, materials, or equipment used during the performance of work under this Agreement shall be listed on the invoice which shall list the amount being charged to County for same.

Retention of five percent (5%) of the total Work Order amount will be held at the option of County. Payment by County as herein provided shall not be construed as an absolute acceptance of defects in the work or improper materials.

County shall promptly pay Contractor in accordance with Public Contract Code section 20104.50.

**12. Performance Bond (Where Required)**

As a part of the execution of this Agreement, for any Work Order issued in the amount of \$25,000 or greater, Contractor shall furnish a bond of a surety company authorized to do business in the State of California, conditioned upon the faithful performance of all covenants and stipulations under this Agreement. The amount of this bond shall be one hundred percent (100%) of the total Work Order and shall be executed upon the form provided by County.

**13. Payment Bond (Where Required)**

As a part of the execution of this Agreement, for any Work Order issued in the amount of \$25,000 or greater, Contractor shall furnish a bond of a surety company authorized to do business in the State of California, conditioned upon the payment in full of all claims for labor and materials in accordance with the provisions of the law of the State of California. The amount of this bond shall be one hundred percent (100%) of the total Work Order and shall be executed upon the form provided by County.

**14. Notification of Surety Company**

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

**15. Payment of Prevailing Wages**

Contractor shall pay and require payment of wages according to a scale of prevailing wage rates determined by California law, which scale is on file at County's Department of Transportation's principal office and shall comply with all applicable wage requirements, as set forth in Labor Code sections 1770, et seq., 1773.2, 1775, 1776, 1810, and 1813. In accordance with the provisions of Labor Code section 1810, eight (8) hours of labor shall constitute a legal day's work upon all work done hereunder, and Contractor and any subcontractor employed under this Agreement shall also conform to and be bound by the provisions of Labor Code sections 1810 through 1815.



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**16. Apprentices**

Attention is directed to Labor Code sections 1777.5, 1777.6, and 1777.7 and 8 California Code of Regulations section 200, et seq. To ensure compliance and complete understanding of the law regarding apprentices, and specifically the required ratio thereunder, each Contractor or subcontractor should, where some question exists, contact the Division of Apprenticeship Standards, 455 Golden Gate Avenue, San Francisco, CA 94102, or one of its branch offices prior to commencement of work on the public works contract. Responsibility for compliance with this section lies with Contractor.

It is County policy to encourage the employment and training of apprentices on public works contracts as may be permitted under local apprenticeship standards.

**17. Certified Payroll**

As required under the provisions of Labor Code section 1776, Contractor and any subcontractors shall keep accurate payroll records as follows:

1. The payroll records shall show the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by Contractor or subcontractors in connection with this Project.
2. A certified copy of all payroll records enumerated above shall be available for inspection at all reasonable hours at the principal office of Contractor as follows:
  - a. Make available or furnish to the employee or his or her authorized representative on request.
  - b. Make available for inspection or furnished upon request to a representative of County, the State Division of Labor Standards Enforcement, and the Division of Apprenticeship Standards of the State Department of Industrial Relations.
  - c. Make available upon request by the public for inspection or copies thereof made; provided, however, that a request by the public shall be made through either County, the State Division of Labor Standards Enforcement, or the State Division of Apprenticeship Standards. The requesting party shall, prior to being provided the records, reimburse the costs of preparation by Contractor, subcontractor, and the entity through which the request was made. The public shall not be given access to the records at the principal office of Contractor.
  - d. All contractors and subcontractors must furnish electronic certified payroll records directly to the Department of Industrial Relations.

**18. 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.

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

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**19. 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 this Agreement, including but not limited to, the costs of administering the various aspects of this Agreement. 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.

**20. Payment of all Federal, State, or Local Taxes**

Any federal, state, or local tax payable on the articles furnished by Contractor under this Agreement shall be included in the Contract Price and paid by Contractor.

**21. 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.

**22. 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 section 12900, et seq.) and applicable regulations promulgated thereunder (2 California Code of Regulations section 11000, et seq.); the applicable regulations of the Fair Employment and Housing Commission implementing Government Code section 12990, set forth in Subchapter 5 Chapter 5 of Division 4.1 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 shall provide any certifications necessary under the federal laws, the laws of the State of California, including but not limited to Government Code section 12990 and 2 California Code of Regulations section 11102.

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**23. Reporting Accidents**

Contractor shall prepare and submit (within 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.

**24. Workers' Compensation**

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

Signed: \_\_\_\_\_ Dated: \_\_\_\_\_

**25. Emissions Reduction**

Contractor and its subcontractors shall at all times have valid Certificates of Reported Compliance as described in 13 California Code of Regulations section 2449(n) for fleets of vehicles subject to 13 CCR section 2449 which may be used in performance of the contract. No such vehicle is permitted onsite unless and until Contractor provides County with a valid Certificate of Reported compliance.

Contractor and its subcontractors 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 (CARB). I will comply with such regulations before commencing the performance of the Work and maintain compliance throughout the duration of this Contract.

Signed: \_\_\_\_\_ Date \_\_\_\_\_

**26. Deviation from Plans and Specifications**

No deviation shall be made from the plans and/or the specifications, if any, without the prior written approval of County.

**27. Unity of Plans and Specifications**

The plans and specifications, if any, are one document, and any work shown or mentioned, in one and not in the other, or vice versa, shall be furnished or performed as though mentioned or shown in both.

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**28. Relocation of Utilities**

As required by Government Code section 4215, 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 the Contract Administrator or Project Manager. County shall not be liable for Contractor's performance of unauthorized work.

**29. 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 the Work Order will be amended. 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.

**30. Subcontracting**

The provisions of Sections 4100-4114, inclusive, of the Public Contract Code regarding subcontracting shall apply to this Agreement, and Contractor represents that it will comply with all provisions therein. For the purposes hereof, subcontractors shall be listed in accordance with Exhibit A, marked "Subcontractors Listing," incorporated herein and made by reference a part hereof. Exhibit A shall be submitted with each Work Order where subcontractors are used.

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**31. 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 the Contract Administrator or Project Manager 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 amended Work Order which will specify the additional work, adjustment of performance time, if any, and basis for additional compensation, if any.

**32. Termination by County for Convenience**

County reserves the right to terminate this Agreement at any time, in whole or in part, for convenience upon thirty (30) calendar days written Notice of Termination. County shall issue Contractor a written notice specifying that this Agreement is to be terminated.

Upon receipt of said written notice, Contractor shall stop all work under this Agreement 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 this Agreement 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 satisfactory 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.

**33. Termination by County for Cause**

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 if any of the following events occur:

1. Contractor is adjudged as bankrupt or insolvent.
2. Contractor 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.
3. Contractor files a petition to take advantage of any debtor's act, or to reorganize under the bankruptcy or applicable laws.
4. Contractor on more than one occasion fails to supply sufficient skilled workmen or suitable material or equipment.
5. Contractor on more than one occasion fails to make prompt payments to subcontractors for labor, materials, or equipment.
6. Contractor disregards the authority of County's representative, or the Engineer, if one is appointed.
7. Contractor violates Article 43.

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8. Contractor otherwise violates any material provision of the Contract Documents.

County shall state in that written notice the reason(s) for the default. After that ten (10) day period has elapsed, County may terminate the services of Contractor immediately 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, County may serve Contractor and the Surety on its faithful performance bond with an Inspector's written notice demanding satisfactory compliance with this Agreement if Contractor does any of the following:

1. Contractor fails to begin delivery of materials and equipment, to commence Work within the time specified, or to maintain the rate of delivery of material.
2. Fails to execute the Work in the manner and at such locations as specified.
3. Fails to maintain a work program which will ensure County's interest.
4. Contractor is not carrying out the intent of this Agreement.

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 this Agreement 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. This Agreement shall be equitably adjusted to compensate for such termination.

### **34. 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.

### **35. Assignment of Contract**

Neither this Agreement, nor any part thereof, nor any monies due or to become due hereunder, may be assigned by Contractor without the written approval of County, nor without the consent of the Surety unless the Surety has waived its right to notice of assignment in writing. County may assign this Agreement to a lender, or any third party that assumes the obligations of County hereunder.

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**36. 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.

**37. Separate Contracts**

County reserves the right to let other contracts in connection with the Work. Contractor shall afford all other such contractors reasonable opportunity for storage of their materials, shall provide that the execution of its work properly connects and coordinates with theirs, and shall cooperate with them to the end of facilitating the Work.

**38. Indemnity**

To the fullest extent permitted by law, Contractor shall defend at its own expense, indemnify, and hold the County harmless, its officers, employees, agents, and volunteers, against and from any and all liability, claims, suits, losses, damages, or expenses of every name, kind and description, including attorney's fees and costs incurred, brought for, or on account of, injuries to or death of any person, including but not limited to workers, County employees, and the public, or damage to property, or any economic or consequential losses, which are claimed to or in any way arise out of or are connected with the acts or omissions of Contractor or its officers, agents, or employees in rendering the services, operations, or performance hereunder, except for liability, claims, suits, losses, damages or expenses arising from the active negligence, sole negligence, or willful acts of the County, its officers and employees, or as expressly prescribed by statute. This duty of Contractor to indemnify and save County harmless includes the duties to defend set forth in Civil Code section 2778.

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.

Nothing herein shall be construed to seek indemnity in excess of that permitted by Civil Code section 2782, et seq. In the event any portion of this Article is found invalid, the Parties agree that this Article shall survive and be interpreted consistent with the provisions of Civil Code section 2782, et seq.

**39. 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. Workers' Compensation Insurance with statutory limits as required by the laws of any and all states in which Contractor's employees are located, and Employer's Liability Insurance on a per occurrence basis with a limit of not less than \$1,000,000.
2. Commercial General Liability Insurance (providing scope of coverage equivalent to ISO policy form CG 00 01) 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 \$2,000,000 aggregate limit. County, including, without limitation, its officers, officials, employees, and volunteers shall be named as an additional insured on ISO form CG 2010 1185, or its equivalent.
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.

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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 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 thirty (30) days prior written notice to Department of Transportation, 2441 Headington Road, 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 herein below. 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.



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**ADDITIONAL STANDARDS:** Certificates shall meet such additional standards as may be determined by County's Department of Transportation 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, officials, employees, and volunteers 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.

#### **40. Independent Contractor**

It is understood that the services provided under this Agreement shall be prepared in and with cooperation from County and its staff. It is further understood that this Agreement does not create an exclusive relationship between County and Contractor, and Contractor may perform similar work or services for others. However, Contractor shall not enter into any agreement with any other party, or provide any information in any manner to any other party, that would conflict with Contractor's responsibilities or hinder Contractor's performance of services hereunder, unless County's Contract Administrator, in writing, authorizes that agreement or sharing of information.

The parties intend that an independent contractor relationship will be created by this contract. 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 the terms of this Agreement. Contractor exclusively assumes responsibility for acts of its employees, agents, affiliates, and subcontractors, if any are authorized herein, as they relate to the services or work to be performed under this Agreement during the course and scope of their employment by Contractor. Those persons will be entirely and exclusively under the direction, supervision, and control of Contractor.

County may designate the tasks to be performed and the results to be accomplished under this Agreement, provide information concerning the work or services, approve or disapprove the final work product and/or services provided, and set deadlines for the completion of the work or services, but County will not control or direct the manner, means, methods, or sequence in which Contractor performs the work or services for accomplishing the results. Contractor understands and agrees that Contractor lacks the authority to bind County or incur any obligations on behalf of County.

Contractor, including any subcontractor or employees of Contractor, shall not receive, nor be eligible for, any benefits County provides for its employees, including, but not limited to, vacation pay, paid holidays, life insurance, health insurance, social security, disability insurance, pension, or 457 plans. Contractor shall not receive, nor be eligible for, workers' compensation, including medical and indemnity payments. County is not responsible for

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withholding, and shall not withhold, Federal Income Contribution Act amounts or taxes of any kind from any payments which it owes Contractor. Contractor shall not be subject to the work schedules or vacation periods that apply to County employees.

Contractor shall be solely responsible for paying its employees, and for withholding Federal Income Contribution Act amounts and other taxes, workers' compensation, unemployment compensation, medical insurance, life insurance, or any other benefit that Contractor provides for its employees.

Contractor acknowledges that it has no authority to bind the County or incur any obligations on behalf of the County with regard to any matter, and shall not make any agreements or representations on the County's behalf.

**41. Force Majeure**

Neither party will be liable for any delay, failure to perform, nor omission under this Agreement that is due to any cause that it is beyond its control, not due to its own negligence, and cannot be overcome by the exercise of due diligence. In that event, the affected party will:

1. Promptly give written notice to the other of the fact that it is unable to so perform and the cause(s) that is beyond its control.
2. Once the cause(s) has ceased, provide written notice to the other party and immediately resume its performance under this Agreement.

For purposes of this Article, "cause that is beyond its control" includes labor disturbances, riots, fires, earthquakes, floods, storms, lightning, epidemics, war, disorders, hostilities, expropriation or confiscation of properties, failure of and delays by carriers, interference by civil or military authorities, whether legal or de facto, and whether purporting to act under some constitution, decree, or law, or otherwise, or acts of God.

**42. Waiver**

No failure on the part of the parties to exercise any rights under this Agreement, and no course of dealing with respect to any right hereunder, shall operate as a waiver of that right, nor shall any single or partial exercise of any right preclude the exercise of any other right. The remedies herein provided are cumulative and are not exclusive of any other remedies provided by law.

**43. Conflict of Interest**

The parties to this Agreement have read and are aware of the provisions of Government Code section 1090, et seq. and the Political Reform Act of 1974 (section 87100, et seq.), relating to conflict of interest of public officers and employees. Individuals who are working for Contractor and performing work for County and who are considered to be consultant within the meaning of 2 California Code of Regulations section 18700.3, as it now reads or may thereafter be amended, are required to file a statement of economic interest in accordance with County's Conflict of Interest Code. County's Contract Administrator shall at the time this Agreement is executed make an initial determination whether or not the individuals who will provide services or perform work pursuant to this Agreement are consultants within the meaning of the Political Reform Act and County's Conflict of Interest Code. Statements of economic interests are public records subject to disclosure under the California Public Records Act.

Contractor covenants that during the term of this Agreement neither it, nor any officer or employee of the Contractor, has or shall acquire any interest, directly or indirectly, in any of the following:

1. Any other contract connected with, or directly affected by, the services to be performed by this Agreement.
2. Any other entities connected with, or directly affected by, the services to be performed by this Agreement.

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3. Any officer or employee of County that are involved in this Agreement.

If Contractor becomes aware of a conflict of interest related to this Agreement, Contractor shall promptly notify County of the existence of that conflict, and County may, in its sole discretion, immediately terminate this Agreement by giving written notice of termination specified in Article 33.

**44. Licenses**

Contractor warrants and represents that it holds a valid California license pursuant to the Contractors' State License Law (Business and Professions Code Sections 7000, et seq.), that its license, #1047903, is in good standing and that it possesses a Class C34 - Pipeline Contractor License as required by the categories and type of the Work. Copies of Contractor's State Contractors' License must be provided with this Agreement.

**45. Business License**

County's 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 County's Business License Ordinance, where applicable, prior to beginning work under this Agreement and at all times during the term of this Agreement.

**46. 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 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.

**47. Access to the Work**

County, and any state or local authorities having jurisdiction over the Project, shall at all times have access to the Work.

**48. Acceptance of Work**

The Work will be accepted by County in writing when the whole shall have been completed satisfactorily, as determined by County's Contract Administrator 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.

**49. Resolution of Claims**

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

Contractor's attention is directed to 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

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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 seven (7) percent 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.

**50. 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.

**51. Guarantee**

**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 will 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.

**52. 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:

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To County:

County of El Dorado  
Department of Transportation  
2441 Headington Road  
Placerville, California 95667

Attn.: Brian Mullens  
Deputy Director  
Maintenance and Operations Division

With a copy to:

County of El Dorado  
Chief Administrative Office  
Procurement and Contracts Division  
330 Fair Lane  
Placerville, California 95667

Attn.: Michele Weimer, MPA, CPPO  
Procurement and Contracts Manager

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

Iron Horse LLC  
Post Office Box 1472  
Fairview, Oregon 97024

Attn.: Carlie Moore  
Managing Member

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

**53. Drug-Free Workplace**

Contractor shall comply with Government Code section 8355.

**54. 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 County harmless for any action taken by the California Franchise Tax Board.

**55. 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.

**56. 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.

**57. 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.

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**58. Contract Administrator**

The County Officer or employee with responsibility for administering this Agreement is Brian Mullens, Deputy Director, Department of Transportation, or successor.

**59. Authorized Signatures**

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

**60. Electronic Signatures**

Each party agrees 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. Electronic Signature means any electronic visual symbol or signature attached to or logically associated with a record and executed and adopted by a party with the intent to sign such record, including facsimile or email electronic signatures, pursuant to the California Uniform Electronic Transactions Act (Civil Code sections 1633.1 to 1633.17) as amended from time to time.

**61. Partial Invalidity**

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

**62. 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.

**63. 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.

**64. 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.

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**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement on the dates indicated below, the latest of which shall be deemed to be the effective date of this Agreement.

**--COUNTY OF EL DORADO--**

By: \_\_\_\_\_

Dated: \_\_\_\_\_

Board of Supervisors  
"County"

Attest:  
Kim Dawson  
Clerk of the Board of Supervisors

By: \_\_\_\_\_

Dated: \_\_\_\_\_

Deputy Clerk

**--IRON HORSE LLC--**

By: \_\_\_\_\_

Dated: \_\_\_\_\_

Carlie Moore  
Managing Member  
"Contractor"

By: \_\_\_\_\_

Dated: \_\_\_\_\_

Kathy Moore  
Managing Member

# Iron Horse LLC

## Exhibit A

### Subcontractors List

Contractor must list the name, address, license number, and DIR number of each subcontractor to whom the Bidder proposes to subcontract portions of the Work in excess of 0.5% of the total bid or \$10,000.00 whichever is greater, in accordance with the Public Contract Code commencing with Section 4100 and as required by the Contract Documents. Contractor must also list the Work portion to be performed by each subcontractor by listing the bid item number, bid item description, and portion of the Work to be performed by the subcontractor in the form of a percentage calculated by dividing the Work to be performed by the subcontractor by the respective bid item amount(s) (not by the total bid price).

| <b>Firm Name<br/>Address<br/>City, State, Zip Code</b> | <b>Phone<br/>Fax</b> | <b>License No.<br/>DIR No.</b> | <b>Bid Item Number<br/>Bid Item Description</b> | <b>Percentage of<br/>Each Bid Item<br/>Subcontracted</b> |
|--------------------------------------------------------|----------------------|--------------------------------|-------------------------------------------------|----------------------------------------------------------|
| <i>Name</i>                                            | <i>Phone</i>         | <i>License No.</i>             |                                                 |                                                          |
| <i>Address</i>                                         |                      |                                |                                                 |                                                          |
| <i>City, State, Zip Code</i>                           | <i>Fax</i>           | <i>DIR No.</i>                 |                                                 |                                                          |
| <i>Name</i>                                            | <i>Phone</i>         | <i>License No.</i>             |                                                 |                                                          |
| <i>Address</i>                                         |                      |                                |                                                 |                                                          |
| <i>City, State, Zip Code</i>                           | <i>Fax</i>           | <i>DIR No.</i>                 |                                                 |                                                          |
| <i>Name</i>                                            | <i>Phone</i>         | <i>License No.</i>             |                                                 |                                                          |
| <i>Address</i>                                         |                      |                                |                                                 |                                                          |
| <i>City, State, Zip Code</i>                           | <i>Fax</i>           | <i>DIR No.</i>                 |                                                 |                                                          |