

County of El Dorado, State of California  
Department of Transportation,

CONTRACT NO. 73113  
for the construction of  
**GREEN VALLEY ROAD SIDEWALK  
FROM PLEASANT GROVE MIDDLE SCHOOL TO BASS LAKE ROAD**

**THIS AGREEMENT** ("Agreement") approved by the Board of Supervisors this 20th day of May, in the year of 2008, made and concluded, in duplicate, between the COUNTY OF EL DORADO, a political subdivision of the State of California, by the Department of Transportation thereof, the party of the first part hereinafter called "County," and (**CONTRACTOR**), the 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**

The improvement contemplated in the performance of the Contract is an improvement over which County shall exercise general supervision. County, therefore, shall have the right to assume full and direct control over the Contract whenever County, at its sole discretion, shall determine that its responsibility is so required.

Contractor shall complete, in accordance with the Plans and the Contract Documents, the Work as specified or indicated under the Bid Schedule(s) of County's Contract Documents entitled:

**Green Valley Road Sidewalk From Pleasant Grove Middle School To Bass Lake Road**

The project is located in the Western part of El Dorado County, on Green Valley Road between the Pleasant Grove Middle School and Bass Lake Road in the Rescue area. The Work to be done is shown on the Plans, described in the Special Provisions and generally consists of, but is not limited to: Base Bid (Schedule A) consists of constructing new concrete curbs and sidewalks on south side of the road and asphalt concrete sidewalk and dike on the north side of the road. Perform roadway excavation, asphalt paving and reconstruct of existing drainage facilities. Additive Alternate Bid (Schedule B) consists of trenching for a communication conduit, installing conduit, tracking wire and pull boxes. Other items or details not mentioned above that are required by the Plans, Standard Specifications, or the Special Provisions, shall be performed, constructed or installed.

**Article 2. CONTRACT DOCUMENTS**

The Contract Documents consist of: the Notice to Bidders; the bid forms which include the accepted Proposal, Bid Price Schedules and Total Bid, Equal Employment Opportunity Certification, Section 10285.1 Statement, Section 10162 Questionnaire, Section 10232 Statement, Noncollusion Affidavit, Debarment and Suspension Certification, Non-lobbying Certification for Federal-Aid Contracts, Disclosure of Lobbying Activities (Standard Form LLL), the BIDDER'S LIST OF SUBCONTRACTORS (DBE and NON-DBE) – PART I and BIDDER'S LIST OF SUBCONTRACTOR'S (DBE and NON-DBE) – PART II forms; Form FHWA 1273; the Contract which includes this Agreement with all Exhibits thereto, the Performance Bond, and Payment Bond, the LOCAL AGENCY BIDDER – DBE INFORMATION form; the drawings listed and identified as the Project Plans; the Special Provisions which incorporate by reference the Caltrans Standard Plans, dated May 2006, and Standard Specifications, dated May 2006, Amendments to the May 2006 Standard Specifications, and standard drawings from the Design and Improvement Standards Manual of the County of El Dorado, revised March 8, 1994 including Resolution 58-94 to adopt changes to the Design and Improvement Standards Manual; 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; the prevailing Labor Surcharge And Equipment Rental Rates (when required) as determined by the Department of Industrial Relations to be in effect on the date the Work is accomplished; all the obligations of County and of Contractor which are fully set forth and described therein; 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 case of conflict between this Agreement and any other contract document, this Agreement shall take precedence.

### **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.

### **Article 4. COMMENCEMENT AND COMPLETION**

The Work to be performed under the Contract shall commence on the date specified in the Notice to Proceed by County. The Work shall be fully completed within the time specified in the Notice to Proceed pursuant to Section 4 of the Special Provisions.

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 Section 4 of the Special Provisions annexed hereto, plus any extensions thereof allowed in accordance with Section 4 of the 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 one thousand dollars (\$1,000.00) for each and every calendar day's delay in finishing the Work in excess of the number of working days prescribed herein.

If only Schedule A Work is awarded, liquidated damages will be assessed for each and every calendar day's delay in the finishing the Work in Schedule A in excess of the forty five (45) working days prescribed herein. If both Schedule A and Schedule B Work are awarded, liquidated damages will be assessed for each and every calendar day's delay in the finishing of the Work in both Schedules A and B in excess of the fifty (50) working days prescribed herein.

### **Article 5. INDEMNITY**

To the fullest extent allowed by law, Contractor shall defend, indemnify, and hold County, the State of California (State) and any federal government agencies associated with this Contract 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, State or federal government agency employees, 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, the State or any federal government agencies, the Contractor, subcontractors or employees of any of these, except for the active, or sole negligence of the County, the State or any federal government agencies their officers and employees, or where expressly prescribed by statute.

The duty to indemnify and hold harmless the County, the State and any federal government agencies 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.

## **Article 6. GUARANTEES**

Contractor shall repair or replace any or all Work provided hereunder which is defective due to faulty materials, poor workmanship, or defective equipment at no expense to County, ordinary wear or tear and unusual abuse or neglect excepted, during the term of the Contract and for a period of one (1) year from the completion date stated in the Notice of Completion.

Contractor shall be required to repair or replace any and all adjacent facilities or areas which have been damaged or displaced due to Contractor's work performed under this Agreement at no expense to County during the term of this Agreement and for a period of one (1) year from the completion date stated in the Notice of Completion.

If a warranty or guarantee exceeding one (1) year is provided by the supplier or manufacturer of any equipment or materials used in this Project, or if a warranty or guarantee exceeding one (1) year is required elsewhere in these Contract Documents, 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.

The parties agree that this guarantee and the rights and obligations accruing therefrom shall be in addition to, and not by way of limitation in any manner whatsoever to, the rights, obligations, warranties or remedies otherwise provided for by law.

In the event of Contractor's failure to comply with the above mentioned conditions within ten (10) calendar days after being notified in writing by County, Contractor hereby authorizes County to proceed to have said defects repaired and made good at Contractor's expense, and Contractor will honor and pay all costs and charges therefore upon written demand.

## **Article 7. DISPUTES RESOLUTION**

- a. **CONTINUE WORK DURING DISPUTE:** In the event of any dispute between County and Contractor, Contractor will not stop Work but will prosecute the Work diligently to completion in the manner directed by County, and the dispute shall be resolved by a court of law after completion of the Work. However, all disputes must be submitted by Contractor in accordance with subsequent provisions of this Article.
- b. **COUNTY'S REVIEW OF CLAIM:** County shall review the facts pertinent to the claim, secure assistance from legal and other advisors, coordinate with the contract administrators, and within the time stipulated in subsection "c" herein, render a written decision on the claim. A copy of the decision shall be furnished to Contractor by certified mail, return receipt requested, or any other method that provides evidence of receipt. The decision of County shall be made final and conclusive except as is otherwise provided herein.
- c. **REQUIREMENTS FOR FILING A CLAIM:** For any claim subject to this Article, the following requirements apply: The claim shall be in writing and include the documents necessary to substantiate the claim. Claims must be filed on or before the date of final payment. Nothing in this subdivision is intended to extend the time limit or supersede notice requirements otherwise provided by contract for the filing of claims.
  1. For claims of less than fifty thousand dollars (\$50,000), County shall respond in writing to any claim within forty-five (45) days of the receipt of the claim or may request, in writing, within thirty (30) days of receipt of the claim, any additional documentation supporting the claim or relating to defenses or claims County may have against the claimant. If additional information is thereafter required, it shall be requested and provided pursuant to this subdivision, upon mutual agreement of County and the claimant. County's written response to the claim, as further documented, shall be submitted to the claimant within fifteen (15) days after the receipt of the further documentation or within a period of time no greater than that taken by the claimant in producing the additional information, whichever is greater.
  2. For claims of fifty thousand dollars (\$50,000) or more, but less than or equal to three hundred seventy-five thousand dollars (\$375,000), County shall respond in writing to all written claims within sixty (60) days of the receipt of the claim or may request, in writing, within thirty (30) days of receipt of the claim, any

additional documentation supporting the claim or relating to defenses or claims County may have against the claimant. If additional information is thereafter required, it shall be requested and provided pursuant to this subdivision, upon mutual agreement of County and the claimant. County's written response to the claim, as further documented, shall be submitted to the claimant within thirty (30) days after the receipt of the further documentation or within a period of time no greater than that taken by the claimant in producing the additional information, whichever is greater.

3. If the claimant disputes County's written response, or County fails to respond within the time prescribed, the claimant may so notify County, in writing, either within fifteen (15) days of County's response or within fifteen (15) days of County's failure to respond within the time prescribed, respectively, and demand an informal conference to meet and confer for the settlement of the issues in dispute. Upon a demand, County shall schedule a meet and confer conference within thirty (30) days for settlement of the dispute.
  4. If following the meet and confer conference the claim or any portion remains in dispute, the claimant may file a claim pursuant to Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910) of Part 3 of Division 3.6 of Title 1 of the Government Code. For the purpose of these provisions, the running of the period of time within which a claim must be filed shall be tolled from the time the claimant submits a written claim pursuant to subdivision (a) until the time the claim is denied as a result of the meet and confer process, including any period of time utilized by the meet and confer conference.
- d. CLAIMS EXEMPT FROM REVIEW: The procedures and remedies provided in this Article 7 do not apply to:
1. Any claims by County.
  2. Any claims for or respecting personal injury or death or reimbursement or other compensation arising out of or resulting from liability for personal injury or death.
  3. Any claim or dispute relating to stop payment requests or stop notices.
  4. Any claim related to the approval, refusal to approve, or substitution of subcontractors, regardless of tier, and suppliers.
- e. PROCEDURE TO RESOLVE CIVIL CLAIMS: County and Contractor shall follow procedures established for all civil actions filed to resolve claims pursuant to Section 20104.4 of the Public Contract Code.
- f. PAYMENT OF UNDISPUTED PORTION OF CLAIM: Payment by County of undisputed portion of claim; interest on arbitration award or judgment.
1. County shall pay such portion of a claim which is undisputed except as otherwise provided in the Contract Documents.
  2. In any suit filed under Section 20104.4, of the Public Contract Code, County shall pay interest at the legal rate on any arbitration award or judgment. The interest shall begin to accrue on the date the suit is filed in a court of law.
- g. SUIT IN EL DORADO COUNTY ONLY: Any litigation arising out of this Contract shall be brought in El Dorado County.

#### **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 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 4450-4554, 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 year from such demand, reassign the cause of action assigned under Government Code Sections 4450-4554 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 violates any of the Contract assurances, nondiscrimination provisions or any other federal or state requirements as identified in Section 2-1.06 of the Special Provisions, 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.

If the Surety assumes any part of the Work, it shall take Contractor's place in all respects for that part and shall be paid by County for all Work performed by it in accordance with the Contract. If the Surety assumes the entire Contract, all money due Contractor at the time of its default shall be payable to the Surety as the work progresses, subject to the terms of this Contract.

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. 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: \_\_\_\_\_ Date: \_\_\_\_\_

**Article 12. WARRANTY**

Contractor warrants to County that materials and equipment furnished for the Work will be good quality and new, unless otherwise required or permitted under the Contract Documents, 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 therein. Work not conforming to these requirements, including substitutions not properly approved and authorized, shall be considered defective.

**Article 13. RETAINAGE**

The retainage from payment is set forth in "Payments" 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.

**Article 14. DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM**

Contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Contract. Contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the Contractor to carry out these requirements is a material breach of this Contract, which may result in the termination of this Contract or such other remedy, as County deems appropriate. Contractor shall include this assurance in every subcontract entered into as a result of this Agreement.

**Article 15. PROMPT PAYMENT OF SUBCONTRACTORS**

Prompt Progress Payment to Subcontractors

A prime Contractor or subcontractor shall pay to any subcontractor not later than ten (10) days of receipt of each progress payment, in accordance with the provision in Section 7108.5 of the California Business and Professions Code concerning prompt payment to subcontractors. The ten day period is applicable unless a longer period is agreed to in

writing. Any delay or postponement of payment over thirty (30) days may take place only for good cause and with County's prior written approval. Any violation of Section 7108.5 shall subject the violating contractor or subcontractor to the penalties, sanctions and other remedies of that Section. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies otherwise available to the Contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the Contractor, deficient subcontractor performance, and/or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.

#### Prompt Payment of Withheld Funds to Subcontractors

County shall hold retainage from the prime Contractor and shall make prompt and regular incremental acceptances of portions, as determined by the Department of the contract work and pay retainage to the prime Contractor based on these acceptances. The prime Contractor or subcontractor shall return all monies withheld in retention from the subcontractor within thirty (30) days after receiving payment for work satisfactorily completed and accepted including incremental acceptances of portions of the contract work by County. Any delay or postponement of payment may take place only for good cause and with County's prior written approval. Any violation of these provisions shall subject the violating Contractor or subcontractor to the penalties, sanctions, and remedies specified in Section 7108.5 of the California Business and Professions Code. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies otherwise available to Contractor or subcontractor in the event of a dispute involving late payment or nonpayment by Contractor, deficient subcontract or performance, and/or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.

#### **Article 16. PREVAILING WAGE REQUIREMENTS**

In accordance with the provisions of California Labor Code sections 1770, et seq., including but not limited to 1773, 1773.1, 1773.2, 1773.6 and 1773.7, the general prevailing rate of wages in County in which the Work is to be done has been determined by the Director of the California Department of Industrial Relations. These wage rates appear in the California Department of Transportation publication entitled General Prevailing Wage Rates. 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 CA 94142-0603, Telephone (415) 703-4708 or by referring to the website at <http://www.dir.ca.gov/dlsr/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 County in which the Work is to be done are also on file at the Department of Transportation's principal office, and shall be made available upon request, and in the case of projects involving federal funds, federal wage requirements have been included in the Contract Documents.

In accordance with the provisions of Labor Code 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 Contract shall conform to and be bound by the provisions of Labor Code Sections 1810 through 1815.

In the case of federally funded projects, where federal and state prevailing wage requirements apply, compliance with both is required. This project is funded in whole or in part by federal funds. Contractor's attention is directed to Section 14 of these Specifications and the requirements of, and compliance with, the Copeland Act (18 U.S.C. 874 and 29 CFR Part 3), the Davis-Bacon Act (40 U.S.C. 276a to 276a-7 and 29 CFR Part 5), and the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330 and 29 CFR Part 5).

If there is a difference between the minimum wage rates predetermined by the Secretary of Labor and the general prevailing wage rates determined by the Director of the California Department of Industrial Relations for similar classifications of labor, Contractor and subcontractors shall pay not less than the higher wage rate. The Department will not accept lower State wage rates not specifically included in the Federal minimum wage determinations. This includes "helper" (or other classifications based on hours of experience) or any other classification not appearing in the Federal wage determinations. Where Federal wage determinations do not contain the State wage rate determination otherwise available for use by Contractor and subcontractors, Contractor and subcontractors shall pay not less than the Federal minimum wage rate which most closely approximates the duties of the employees in question.

## **Article 17. NONDISCRIMINATION**

- A. In connection with its performance under this Contract, Contractor shall comply with all applicable nondiscrimination statutes and regulations during the performance of this Contract including, but not limited to the following: Contractor, its employees, subcontractors and representatives shall not unlawfully discriminate against any employee or applicant for employment because of race, color, sex, sexual orientation, religion, ancestry or national origin, physical disability, medical condition, marital status, political affiliation, family and medical care leave, pregnancy leave or disability leave. Contractor will take affirmative action to ensure that employees are treated during employment, without regard to their race, color, sex, sexual orientation, religion, ancestry or national origin, physical disability, medical condition, marital status, political affiliation, family and medical care leave, pregnancy leave or disability leave. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Contractor shall post in conspicuous places, available to employees for employment, notices to be provided by State setting forth the provisions of this Fair Employment section. 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, its employees, subcontractors 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 subcontracts that affect or are related to the Work performed herein.
- C. The Congress of the United States, the Legislature of the State of California and the Governor of the State of California, each within their respective jurisdictions, have prescribed certain nondiscrimination requirements with respect to contract and other work financed with public funds. Contractor agrees to comply with the requirements of Exhibit B, marked "Fair Employment Practices Addendum" and the requirements of Exhibit C, marked "Nondiscrimination Assurances," including Appendices A through D to Exhibit C, both of which exhibits and all of the Appendices to Exhibit C are incorporated herein and made by reference a part hereof. Contractor further agrees that any agreement entered into by Contractor with a third party for the performance of project-related work shall incorporate Exhibits B and C and Appendices A through D to Exhibit C (with third party's name replacing Contractor) as essential parts of such agreement to be enforced by that third party as verified by Contractor.
- D. 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 18. 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 Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 CFR Chapter 60).
- d. Will comply with the Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR Part 3).



- e. Will comply with the Davis-Bacon Act (40 U.S.C. 276a to 276a-7) as supplemented in Department of Labor regulations (29 CFR part 3).
- f. Will comply with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR Part 5).
- g. 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.
- h. Will comply with all applicable standards, orders or requirements issued under Section 306 of the Clean Air Act (42 U.S.C. 1857 [h]), Section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR Part 15).
- i. Will comply with mandatory standards and policies relating to energy efficiency, which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. : 94-163, 89 Stat. 871).
- j. 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.

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

**Article 19. 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 El Dorado County 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 20. CONTRACT ADMINISTRATOR**

The County Officer or employee with responsibility for administering this Agreement is Thor Larsen, P.E., Senior Civil Engineer, Department of Transportation, or successor.

**Article 21. AUTHORIZED SIGNATURES**

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

**IN WITNESS WHEREOF**, the said Department of Transportation of the County of El Dorado, State of California, has caused this Agreement to be executed by County's 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 \_\_\_\_\_

\_\_\_\_\_  
Chairman, Board of Supervisors

Attest:  
Cindy Keck  
Clerk of the Board of Supervisors

By: \_\_\_\_\_  
Deputy Clerk

**CONTRACTOR**

Dated \_\_\_\_\_

\_\_\_\_\_  
Name of Company

By \_\_\_\_\_  
Authorized Representative

\_\_\_\_\_  
License No. Federal Employer Identification #

**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 Department prior to signing this document.

Mailing Address \_\_\_\_\_

Business Address \_\_\_\_\_

City, Zip \_\_\_\_\_

Phone (\_\_\_\_) \_\_\_\_\_ Fax (\_\_\_\_) \_\_\_\_\_

