

County of El Dorado, State of California
Community Development Services
Department of Transportation

P&C No. 087-C1799, CIP No. 95179, PW 16-31121

**MEYERS STREAM ENVIRONMENT ZONE/
EROSION CONTROL PROJECT**

THIS AGREEMENT ("Agreement") approved by the Board of Supervisors this 6th day of June, in the year of 2017, made and concluded, in duplicate, between the COUNTY OF EL DORADO, a political subdivision of the State of California, by the Community Development Services, Department of Transportation, thereof, the party of the first part hereinafter called "County," and THOMAS HAEN COMPANY, INC., 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 this Contract is an improvement over which the County shall exercise general supervision. The County, therefore, shall have the right to assume full and direct control over this Contract whenever the County, at its sole discretion, shall determine that its responsibility is so required.

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

**MEYERS STREAM ENVIRONMENT ZONE/
EROSION CONTROL PROJECT**

The project is located in the community of Meyers in South Lake Tahoe. The Project is bordered by the Upper Truckee River on the west and Lake Tahoe Golf Course on the northwest, US Highway 50/ State Route 89 on the south, and by Pioneer Trail on a small portion to the east, in eastern El Dorado County, in the Tahoe Basin. The Work to be done is shown on the Plans, described in the Special Provisions and generally consists of, but is not limited to:

Construction of erosion control improvements including tree removal, culverts, rock slope protection, blanket lined channels and pavement removal. Other items or details not mentioned above, that are required by the plans, Standard Plans, Standard Specifications, or these Special Provisions must 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 Schedule and Total Bid, Subcontractor List, Equal Employment Opportunity Certification, Section 10285.1 Statement, Section 10162 Questionnaire, Section 10232 Statement, Noncollusion Affidavit, Iran Contracting Act Certification, Debarment, Suspension, Ineligibility, and Voluntary Exclusion Certification, Non-lobbying Certification for Federal-Aid Contracts, Disclosure of Lobbying Activities (Standard Form LLL); the Contract which includes this Agreement with all Exhibits thereto, including the Fair

Employment Practices Addendum and the Nondiscrimination Assurances, the Performance Bond, and Payment Bond; the drawings listed and identified as the Project Plans; the Special Provisions which incorporate by reference the State of California Department of Transportation (Caltrans) Standard Plans 2010, and Standard Specifications 2010, Revised Standard Specifications, and standard drawings from the Design and Improvement Standards Manual of the County of El Dorado, revised March 8, 1994 including Resolution 199-91 and Resolution 58-94 to adopt changes to the Design and Improvement Standards Manual; 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 Caltrans 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 herein after 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 this Contract shall commence on the date specified in the Notice to Proceed issued by County, and the Work shall be fully completed within the time specified in the Notice to Proceed pursuant to Section 8 of the Special Provisions.

County and Contractor recognize that time is of the essence of the Agreement and that County will suffer financial loss if the Work is not completed within the time specified in the Notice to Bidders annexed hereto, plus any extensions thereof allowed in accordance with Section 8 of the Standard Specifications and Special Provisions. They also recognize the delays, expense, and difficulties involved with proving in a legal proceeding the actual loss suffered by County if the Work is not completed on time. Accordingly, instead of requiring any such proof, County and Contractor agree that as liquidated damages for delay (but not as a penalty) Contractor shall pay County the sum of **\$2,250**, as liquidated damages and not as a penalty, for each and every calendar day's delay in finishing the Work in excess of the contract time prescribed herein.

Article 5. INDEMNITY

To the fullest extent allowed by law, Contractor shall defend, indemnify, and hold County, its (their) officers, directors, and employees, and the State of California (State), its officers, directors, agents (excluding agents who are design professionals), State Contractors doing work within the project limits, any property owners from whom the County obtained easements, 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, any property owners from whom the County obtained easements, 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 of California, or any federal government agencies, any property owners from whom the County has obtained

easements, the Contractor, subcontractors or employees of any of these, except for the active, or sole negligence of the County, the State of California or any federal government agencies their officers and employees, or any property owners from whom the County has obtained easements, or where expressly prescribed by statute.

The duty to indemnify and hold harmless the County, the State, any property owners from whom the County obtained easements, 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.

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

Article 6. VENUE

Any litigation arising out of this Contract shall be brought in El Dorado County and governed by California law.

Article 7. NOTIFICATION OF SURETY COMPANY

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

Article 8. ASSIGNMENT OF ANTITRUST ACTIONS

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

If an awarding body or public purchasing body receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under Government Code Sections 4550-4554, the assignor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the public body any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the public body as part of the bid price, less the expenses incurred in obtaining that portion of the recovery. Upon demand in writing by the assignor, the assignee shall, within one year from such demand, reassign the cause of action assigned under Government Code Sections 4550-4554 if the assignor has been or may have been injured by the violation of law for which the cause of action arose and (a) the assignee has not been injured thereby, or (b) the assignee declines to file a court action for the cause of action.

Article 9. TERMINATION BY COUNTY FOR CONVENIENCE

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

Upon receipt of said written notice, Contractor shall stop all work under the Contract except: (1) work specifically directed to be completed prior to termination, (2) work the Inspector deems necessary to secure the project for termination, (3) removal of equipment and plant from the site of the Work, (4) action that is

necessary to protect materials from damage, (5) disposal of materials not yet used in the Work as directed by County, and (6) cleanup 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 7-1.02 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.

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

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

Article 11. SUCCESSORS AND ASSIGNS

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

Article 12. REPORTING ACCIDENTS

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

Article 13. EMISSION REDUCTION

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

CERTIFICATE OF KNOWLEDGE – EMISSIONS REDUCTION REGULATIONS

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

Signed:  Date 6/6/17

Article 14. WORKERS' COMPENSATION CERTIFICATION

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

CERTIFICATE OF KNOWLEDGE - LABOR CODE SECTION 3700

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

Signed:  Date 6/6/17

Article 15. WARRANTY

Contractor warrants to County that materials and equipment furnished for the Work will be of 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 herein. Work not conforming to these requirements, including substitutions not properly approved and authorized, shall be considered defective.

Article 16. RETAINAGE

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

Article 17. RESERVED

Article 18. PREVAILING WAGE REQUIREMENTS

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

Copies of the general prevailing rate of wages in the county in which the Work is to be done are also on file at the Community Development Services, Department of Transportation's principal office, and are available upon request, and in case of projects involving federal funds, federal wage requirements as predetermined by the United States Secretary of Labor have been included in the Contract Documents. Addenda to modify the Federal minimum wage rates, if necessary, will be issued as described in the Project Administration section of this Notice to Bidders.

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

This project is subject to the requirements of Title 8, Chapter 8, Subchapter 4.5 of the California Code of Regulations including the obligation to furnish certified payroll records directly to the Compliance Monitoring Unit under the Labor Commissioner within the Department of Industrial Relations Division of Labor Standards Enforcement in accordance with Section 16461.

No contractor or subcontractor may be awarded the contract for this Project unless registered with the Department of Industrial Relations in accordance with Labor Code section 1725.5.

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 part by federal funds. Comply with Exhibit D of this Agreement and 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 must pay not less than the higher wage rate. The Community Development Services, Department of Transportation 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 must pay not less than the federal minimum wage rate which most closely approximates the duties of the employees in question.

Article 19. 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 20. 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.
- k. Will comply with the Department of Industrial Relations pursuant to Labor Code sections 1725.5 and 1771.1.

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

Article 21. BUSINESS LICENSE

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

Article 22. TAXES

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

Article 23. CONTRACT ADMINISTRATOR

The County Officer or employee with responsibility for administering this Agreement is John Kahling, Deputy Director Engineering, Headington Unit, Community Development Services, Department of Transportation, or successor.

Article 24. AUTHORIZED SIGNATURES

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

Article 25. PARTIAL INVALIDITY

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

invalidated in any way.

Article 26. NO THIRD PARTY BENEFICIARIES

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

Article 27. COUNTERPARTS

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

Article 28. 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.

Article 29. DRUG-FREE WORKPLACE

Contractor agrees to maintain a drug-free workplace in accordance with Government Code Section 8355, et seq. by doing all of the following:

- a. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the person's or organization's workplace, and specifying actions that will be taken against employees for violations of this prohibition;
- b. Establishing a drug-free awareness program to inform employees about (1) the dangers of drug abuse in the workplace; (2) the person's or organization's policy of maintaining a drug-free workplace; (3) any available drug counseling, rehabilitation, and employee assistance programs; and (4) the penalties that may be imposed upon employees for drug abuse violations;
- c. Submitting a drug-free workplace certification form Exhibit E to County with the submittal of the signed Agreement;
- d. Requiring that each employee engaged in the performance of the contract be given a copy of the certification.

IN WITNESS WHEREOF, the said Community Development Services, 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.

Dated: 6/6/2017

COUNTY OF EL DORADO




Chair, Board of Supervisors

Board Date: 6/6/2017

Dated: 6/6/2017

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

Board Date: 6/6/2017


Deputy Clerk

THOMAS HAEN COMPANY, INC.

Dated: 6/6/17 447064 94-2916871
License No. Federal Employee Identification Number

By: 
President

By: 
Corporate Secretary

NOTE: If Contractor is a corporation, the legal name of the corporation shall be set forth above together with the signature of the officer or officers authorized to sign contracts on behalf of the corporation; if Contractor is a co-partnership, the true name of the firm shall be set forth above together with the signature of the partner or partners authorized to sign contracts in 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 they are appropriately authorized to act in these regards. For such corporation or partnership, such authority shall be demonstrated to the satisfaction of County. If signature is by an agent, other than officer of a corporation or a member of a partnership, an appropriate Power of Attorney shall be on file with the County prior to signing this document.

Mailing Address PO Box 8998, South Lake Tahoe, CA 96158

Business Address 1012 Industrial Ave, South Lake Tahoe, CA 96150

Email Address rhaen@thomashaenco.com

Phone (530) 541-4700 Fax (530) 541-1153

EXHIBIT A
CONTRACTOR'S BID AND BID SCHEDULE
MEYERS STREAM ENVIRONMENT ZONE/
EROSION CONTROL PROJECT
CONTRACT NO. PW 16-311121, CIP NO. 95179, P&C 087-C1799

ITEM NO.	ITEM CODE	ITEM DESCRIPTION	UNIT OF MEASURE	ESTIMATED QUANTITY	UNIT PRICE (in Figures)		ITEM TOTAL (in Figures)	
1	999990	MOBILIZATION	LS	1	70,000	00	70,000	00
2	025506	WOOD RAIL FENCE	LF	792	45	00	35,640	00
3	072007	EXCAVATION SAFETY	LS	1	1,000	00	1,000	00
4	120090	CONSTRUCTION AREA SIGNS	LS	1	6,000	00	6,000	00
5	120100	TRAFFIC CONTROL SYSTEM	LS	1	10,000	00	10,000	00
6	130100	JOB SITE MANAGEMENT	LS	1	50,000	00	50,000	00
7	130000	TEMPORARY CONSTRUCTION ENTRANCE	EA	2	2,000	00	4,000	00
8	130640	TEMPORARY FIBER ROLL	EA	20	120	00	2,400	00
9	130670A	TEMPORARY REINFORCED SILT FENCE MODIFIED	LF	998	15	00	14,970	00
10	130730	STREET SWEEPING	LS	1	5,000	00	5,000	00
11	141000	TEMPORARY FENCE (TYPE ESA)	LF	6,880	6	00	41,280	00
12	141000A	TEMPORARY FENCE (TYPE ESA) (TREE TRUNK PROTECTION)	EA	15	400	00	6,000	00
13	150770A	REMOVE ASPHALT CONCRETE PAVEMENT (ARAPAHOE BULB)	LS	1	12,000	00	12,000	00
14	150776A	REMOVE DRAINAGE FACILITY (CSP INLET)	EA	4	2,000	00	8,000	00
15	150809A	REMOVE PIPE (LF)	LF	520	40	00	20,800	00
16	151540	P RECONSTRUCT CHAIN LINK FENCE	LF	18	70	00	1,260	00
17	160102A	TREE REMOVAL	EA	62	1,200	00	74,400	00
18	190101A	ROADWAY EXCAVATION (SEDIMENT BASIN)	CY	2,524	60	00	151,440	00

ITEM NO.	ITEM CODE	ITEM DESCRIPTION	UNIT OF MEASURE	ESTIMATED QUANTITY	UNIT PRICE (in Figures)		ITEM TOTAL (in Figures)	
19	194001A	DITCH EXCAVATION (BLANKET LINED CHANNEL)	CY	229	70	00	16,030	00
20	194001B	DITCH EXCAVATION (ROCK SLOPE PROTECTION)	CY	751	40	00	30,040	00
21	194001C	DITCH EXCAVATION (BERM)	CY	229	40	00	9,160	00
22	194001D	DITCH EXCAVATION (FILL EXISTING CHANNEL)	CY	32	30	00	960	00
23	210011A	HUMUS	CY	129	240	00	30,960	00
24	210012A	MULCH	CY	190	140	00	26,600	00
25	210013A	TACKIFIER	SQFT	81,217	0	15	12,182	55
26	390132A	HOT MIX ASPHALT (TYPE A) (SQFT)	SQFT	4,796	15	00	71,940	00
27	394076A	SUPPLY AND PLACE HOT MIX ASPHALT DIKE (TYPE E)	LF	4	50	00	200	00
28	510502A	F MINOR CONCRETE (MINOR STRUCTURE) (CONCRETE PIPE APRON)	CY	3	9,000	00	27,000	00
29	510502B	MINOR CONCRETE (MINOR STRUCTURE) (ARTICULATED BLOCK)	SQFT	114	35	00	3,990	00
30	510502C	F MINOR CONCRETE (MINOR STRUCTURE) (CONCRETE COLLAR AND ENCASEMENT)	CY	9	1,000	00	9,000	00
31	641107A	18" PLASTIC PIPE	LF	577	170	00	98,090	00
32	641107A	24" PLASTIC PIPE	LF	247	190	00	46,930	00
33	641125A	36" PLASTIC PIPE	LF	115	210	00	24,150	00
34	667010	24" X 18" CORRUGATED STEEL PIPE ARCH (.109" THICK)	LF	51	190	00	9,690	00
35	667014	28" X 20" CORRUGATED STEEL PIPE ARCH (.109" THICK)	LF	121	210	00	25,410	00
36	667019	35" X 24" CORRUGATED STEEL PIPE ARCH (.109" THICK)	LF	57	240	00	13,680	00
37	681065A	24" PERFORATED PLASTIC PIPE UNDERDRAIN	LF	180	130	00	23,400	00
38	700639	36" CORRUGATED STEEL PIPE INLET (.109" THICK)	LF	45	1,100	00	49,500	00

ITEM NO.	ITEM CODE	ITEM DESCRIPTION	UNIT OF MEASURE	ESTIMATED QUANTITY	UNIT PRICE (in Figures)		ITEM TOTAL (in Figures)	
39	700655	48" CORRUGATED STEEL PIPE INLET (.109" THICK)	LF	6	1,500	00	9,000	00
40	705011	18" STEEL FLARED END SECTION	EA	8	700	00	5,600	00
41	705015	24" STEEL FLARED END SECTION	EA	8	800	00	6,400	00
42	705407	28" X 20" STEEL FLARED END PIPE ARCH SECTION	EA	5	900	00	4,500	00
43	705409	35" X 24" STEEL FLARED END PIPE ARCH SECTION	EA	1	1,100	00	1,100	00
44	721026A	F ROCK SLOPE PROTECTION (NO. 1, METHOD A) (CY)	CY	481	300	00	144,300	00
TOTAL BID							1,214,002	55

(F) Final Pay Quantity

(P) Eligible for Partial Payment

(LS) Lump Sum

EXHIBIT B

FAIR EMPLOYMENT PRACTICES ADDENDUM

1. In the performance of this Agreement, Contractor will not discriminate against any employee 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.
2. Contractor and all subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code Section 1290-0 et seq.), and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285.0 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code, Section 12900(a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Each of Contractor's contractors and all subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreements, as appropriate.
3. Contractor shall include the nondiscrimination and compliance provisions of this clause in all contracts and subcontracts to perform work under this Agreement.
4. Contractor will permit access to the records of employment, employment advertisements, application forms and other pertinent data and records by County, State, the State Fair Employment and Housing Commission or any other agency of the State of California designated by State, for the purposes of investigation to ascertain compliance with the Fair Employment section of this Agreement.
5. Remedies for Willful Violation:
 - (a) County may determine a willful violation of the Fair Employment provision to have occurred upon receipt of a final judgment to that effect from a court in an action to which Contractor was a party, or upon receipt of a written notice from the Fair Employment and Housing Commission that it has investigated and determined that Contractor has violated the Fair Employment Practices Act and had issued an order under Labor Code Section 1426 which has become final or has obtained an injunction under Labor Code Section 1429.
 - (b) For willful violation of this Fair Employment provision, County shall have the right to terminate this Agreement either in whole or in part, and any loss or damage sustained by County in securing the goods or services thereunder shall be borne and paid for by Contractor and by the surety under the performance bond, if any, and County may deduct from any moneys due or thereafter may become due to Contractor, the difference between the price named in the Agreement and the actual cost thereof to County to cure Contractor's breach of this Agreement.

EXHIBIT C

NONDISCRIMINATION ASSURANCES

Contractor hereby agrees that, as a condition to receiving any federal financial assistance from County or the State, acting for the U.S. Department of Transportation, it will comply with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d-42 U.S.C. 2000d-4 (hereinafter referred to as the Act), and all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964" (hereinafter referred to as the Regulations), the Federal-aid Highway Act of 1973, and other pertinent directives, to the end that in accordance with the Act, Regulations, and other pertinent directives, no person in the United States shall, on the grounds of race, color, sex, national origin, religion, age or disability, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which County receives federal financial assistance from the Federal Department of Transportation. Contractor hereby gives assurance that Contractor will promptly take any measures necessary to effectuate this agreement. This assurance is required by subsection 21.7(a) (1) of the Regulations.

More specifically, and without limiting the above general assurance, Contractor hereby gives the following specific assurances with respect to its Federal-aid Program:

1. That Contractor agrees that each "program" and each "facility" as defined in subsections 21.23 (e) and 21.23 (b) of the Regulations, will be (with regard to a "program") conducted, or will be (with regard to a "facility") operated in compliance with all requirements imposed by, or pursuant to, the Regulations.
2. That Contractor shall insert the following notification in all solicitations for bids for work or material subject to the Regulations made in connection with the Federal-aid Program and, in adapted form, in all proposals for negotiated agreements:

Contractor hereby notifies all bidders that it will affirmatively insure that in any agreement entered into pursuant to this advertisement, minority business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, sex, national origin, religion, age, or disability in consideration for an award.

3. That Contractor shall insert the clauses of Appendix A of this assurance in every agreement subject to the Act and the Regulations.
4. That the clauses of Appendix B of this Assurance shall be included as a covenant running with the land, in any deed effecting a transfer of real property, structures, or improvements thereon, or interest therein.
5. That where Contractor receives federal financial assistance to construct a facility, or part of a facility, the Assurance shall extend to the entire facility and facilities operated in connection therewith.
6. That where Contractor receives federal financial assistance in the form, or for the acquisition, of real property or an interest in real property, the Assurance shall extend to rights to space on, over, or under such property.
7. That Contractor shall include the appropriate clauses set forth in Appendix C and D of this Assurance, as a covenant running with the land, in any future deeds, leases, permits, licenses, and similar agreements entered into by Contractor with other parties:

Appendix C;

- (a) For the subsequent transfer of real property acquired or improved under the Federal-aid Program;
and

Appendix D;

- (b) For the construction or use of or access to space on, over, or under real property acquired, or improved under the Federal-aid Program.
8. That this assurance obligates Contractor for the period during which federal financial assistance is extended to the program, except where the federal financial assistance is to provide, or is in the form of, personal property or real property of interest therein, or structures, or improvements thereon, in which case the assurance obligates Contractor or any transferee for the longer of the following periods:
- (a) The period during which the property is used for a purpose for which the federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or
 - (b) The period during which Contractor retains ownership or possession of the property.
9. That Contractor shall provide for such methods of administration for the program as are found by the U.S. Secretary of Transportation, or the official to whom he delegates specific authority, to give reasonable guarantee that Contractor, other recipients, sub-grantees, applicants, sub-applicants, transferees, successors in interest, and other participants of federal financial assistance under such program will comply with all requirements imposed by, or pursuant to, the Act, the Regulations, this Assurance and the Agreement.
10. That Contractor agrees that County, the United States and the State of California have a right to seek judicial enforcement with regard to any matter arising under the Act, the Regulations, and this Assurance.
11. Contractor shall not discriminate on the basis of race, religion, age, disability, color, national origin or sex in the award and performance of any State assisted contract or in the administration of County's DBE Program or the requirements of 49 CFR Part 26. Contractor shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of State assisted contracts. County's DBE Race-Neutral Implementation Agreement is incorporated by reference in this Agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this Agreement. Upon notification to the recipient of its failure to carry out its approved DBE Race-Neutral Implementation Agreement, State may impose sanctions as provided for under 49 CFR Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 USC 1001 and/or the Program Fraud Civil Remedies Act of 1985 (31 USC 3801 et. seq.).

These Assurances are given in consideration of and for the purpose of obtaining any and all federal grants, loans, agreements, property, discounts or other federal financial assistance extended after the date hereof to County by State, acting for the U.S. Department of Transportation, and is binding on Contractor, other recipients, subgrantees, applicants, sub-applicants, transferees, successors in interest and other participants in the Federal-aid Highway Program.

APPENDIX A to EXHIBIT C

During the performance of this Agreement, Contractor, for itself, its assignees and successors in interest (hereinafter collectively referred to as "Contractor") agrees as follows:

(1) **Compliance with Regulations:** Contractor shall comply with the regulations relative to nondiscrimination in federally assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this Agreement.

(2) **Nondiscrimination:** Contractor, with regard to the work performed by it during the Agreement, shall not discriminate on the grounds of race, color, sex, national origin, religion, age, or disability in the selection and retention of sub-applicants, including procurements of materials and leases of equipment. Contractor shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the Agreement covers a program set forth in Appendix b of the Regulations.

(3) **Solicitations for Sub-agreements, Including procurements of Materials and Equipment:** In all solicitations either by competitive bidding or negotiation made by Contractor for work performed under s Sub-agreement, including procurements of materials or leases of equipment, each potential sub-applicant or supplier shall be notified by Contractor of the Contractor's obligations under this Agreement and the Regulations relative to nondiscrimination on the grounds of race, color or national origin.

(4) **Information and Reports:** Contractor shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to Contractor's books, records, accounts, other sources of information, and its facilities as may be determined by County, State or FHWA to be pertinent to ascertain compliance with such Regulations or directives. Where any information required of Contractor is in the exclusive possession of another who fails or refuses to furnish this information, Contractor shall so certify to County, State or the FHWA as appropriate, and shall set forth what efforts Contractor has made to obtain the information.

(5) **Sanctions for Noncompliance:** In the event of Contractor's noncompliance with the nondiscrimination provisions of this Agreement, County shall impose such agreement sanctions as it, the State or the FHWA may determine to be appropriate, including, but not limited to:

- (a) withholding of payments to Contractor under the Agreement within a reasonable period of time, not to exceed 90 days; and/or
- (b) cancellation, termination or suspension of the Agreement, in whole or in part.

(6) **Incorporation of Provisions:** Contractor shall include the provisions of paragraphs (1) through (6) in every sub-agreement, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.

Contractor shall take such action with respect to any sub-agreement or procurement as County, State or FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance, provided, however, that, in the event Contractor becomes involved in, or is threatened with, litigation with a sub-applicant or supplier as a result of such direction, Contractor may request County or State enter into such litigation to protect the interests of County or State, and, in addition, Contractor may request the United States to enter into such litigation to protect the interests of the United States.

**APPENDIX B
to
EXHIBIT C
(NOT USED)**

**APPENDIX C
to
EXHIBIT C
(NOT USED)**

**APPENDIX D
to
EXHIBIT C
(NOT USED)**

EXHIBIT D

(NOT USED)

EXHIBIT E
DRUG-FREE WORKPLACE CERTIFICATION

COMPANY/ORGANIZATION NAME

The Contractor named above hereby certifies compliance with Government Code Section 8355 in matter relating to providing a drug-free workplace. The above named contractor will:

1. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations, as required by Government Code Section 8355(a).
2. Establish a Drug-Free Awareness Program as required by Government Code Section 8355(b), to inform employees about all of the following:
 - a. The dangers of drug abuse in the workplace,
 - b. The person's or organization's policy of maintaining a drug-free workplace,
 - c. Any available counseling, rehabilitation, and employee assistance programs, and
 - d. Penalties that may be imposed upon employees for drug abuse violations.
3. Provide as required by Government Code Section 8355(c), that every employee who works on the proposed contract:
 - a. Will receive a copy of the company's drug-free policy statement, and
 - b. Will agree to abide by the terms of the company's statement as a condition of employment on the contract.

CERTIFICATION

I, the official named below, hereby swear that I am duly authorized legally to bind the contractor to the above-described certification. I am fully aware that this certification, executed on the date and in the county below, is made under penalty of perjury under the laws of the State of California.

OFFICIALS NAME

Thomas Haern

DATE EXECUTED

6/6/17

EXECUTED IN THE COUNTY OF

El Dorado

CONTRACTOR SIGNATURE

Tom Haern

TITLE

President

FEDERAL I.D. NUMBER

942916871