

NO. 001304

**STATE OF CALIFORNIA
COUNTY OF PLACER
DEPARTMENT OF PUBLIC WORKS**

CONSTRUCTION CONTRACT

THIS CONTRACT is made on the date set forth below, by and between the COUNTY OF PLACER, a political subdivision of the State of California (hereinafter "COUNTY"), and ALL-AMERICAN CONSTRUCTION, INC., (A California Corporation, hereinafter "CONTRACTOR"). The COUNTY and CONTRACTOR for the consideration hereinafter mentioned agree as follows:

ARTICLE 1: SCOPE OF WORK

- 1.1. CONTRACTOR agrees to furnish all work, labor, tools, materials, transportation, equipment, services, and other means of construction necessary to construct and complete in a good and workmanlike manner and substantial manner, those certain improvements as called for, and in the manner designated in, and in strict conformity with Contract No. 001304, Placer County Project No. PJ01942 entitled: 2022 ROADWAY HOT MIX ASPHALT OVERLAY & SURFACE TREATMENT PROJECT, hereafter "PROJECT", in compliance with the Contract Documents as described in Article 3.
- 1.2. CONTRACTOR understands and agrees that the work, labor, tools, materials, transportation, equipment, incidentals, services and other means of construction for the Project shall be furnished and the work performed as required in the Contract Documents under the sole direction and control of CONTRACTOR, and subject to the inspection and approval of the COUNTY, or its representatives.

ARTICLE 2: CONTRACT PRICE

- 2.1. The County agrees to pay and the Contractor agrees to accept, in full payment for the work above agreed to be done, the sum of THREE MILLION NINETY FIVE THOUSAND FIVE HUNDRED FORTY FIVE AND NINETY CENTS, \$3,095,545.90 subject to additions and deductions as provided in the Contract Documents.

ARTICLE 3: CONTRACT DOCUMENTS

- 3.1. The complete Contract consists of the following documents, to wit:
 - Notice to Bidders
 - Executed Bid, including the Bidder's Bond
 - Construction Contract
 - Project Plans for this Project
 - Special Provisions for this Project
 - Caltrans Standard Specifications, dated 2018
 - Revised Standard Specifications for this Project
 - Caltrans Standard Plans, dated 2018
 - Caltrans Traffic Manual, dated 1996, as effective May 19, 2004
 - California Manual on Uniform Traffic Control Devices, dated 2014
 - Equipment Rental Rates and General Prevailing Wage Rates of the State of California, Department of Transportation, and where applicable, Federal wage rates and Section 7-1.11 of the California Department of Transportation Standard Specifications, Federal Laws for Federal-aid Contracts
 - Executed Performance Bond
 - Executed Payment Bond

- 3.2. Any and all obligations of the COUNTY and the CONTRACTOR are fully set forth and described in the above documents. All of the above documents are intended to cooperate so that any work called for in one and not mentioned in the other or vice versa is to be executed the same as if mentioned in all said documents. The documents comprising the complete Contract are sometimes collectively referred to as the Contract Documents.

ARTICLE 4: CHANGED CONDITIONS

- 4.1. Differing Site Conditions
- 4.1.a During progress of the work, if subsurface or latent physical conditions are encountered at the site differing materially from those indicated in the contract or if unknown physical conditions of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in the work provided for in the contract, are encountered at the site, the party discovering such conditions shall promptly notify the other party in writing of the specific differing conditions before the site is disturbed and before the affected work is performed.
- 4.1.b Upon written notification, the engineer will investigate the conditions, and if it is determined that the conditions materially differ and cause an increase or decrease in the cost or time required for the performance of any work under the contract, an adjustment, excluding anticipated profits, will be made and the contract modified in writing accordingly. The engineer will notify the contractor of the determination whether or not an adjustment of the contract is warranted.
- 4.1.c No contract adjustment which results in a benefit to the contractor will be allowed unless the contractor has provided the required written notice.
- 4.1.d No contract adjustment will be allowed under this clause for any effects caused on unchanged work.
- 4.2. Suspensions of Work Ordered by the Engineer
- 4.2.a If the performance of all or any portion of the work is suspended or delayed by the Engineer in writing for an unreasonable period of time (not originally anticipated, customary, or inherent to the construction industry) and the Contractor believes that additional compensation and/or contract time is due as a result of such suspension or delay, the Contractor shall submit to the Engineer in writing a request for adjustment within 7 calendar days of receipt of the notice to resume work. The request shall set forth the reasons and support for such adjustment.
- 4.2.b Upon receipt, the Engineer will evaluate the Contractor's request. If the Engineer agrees that the cost and/or time required for the performance of the contract has increased as a result of such suspension and the suspension was caused by conditions beyond the control of and not the fault of the Contractor, its suppliers, or subcontractors at any approved tier, and not caused by weather, the Engineer will make an adjustment (excluding profit) and modify the contract in writing accordingly. The Contractor will be notified of the Engineer's determination whether or not an adjustment of the contract is warranted.
- 4.2.c No contract adjustment will be allowed unless the Contractor has submitted the request for adjustment within the time prescribed.
- 4.2.d No contract adjustment will be allowed under this clause to the extent that performance would have been suspended or delayed by any other cause, or for which an adjustment is provided or excluded under any other term or condition of this contract.
- 4.3. Significant Changes in the Character of Work

- 4.3.a The Engineer reserves the right to make, in writing, at any time during the work, such changes in quantities and such alterations in the work as are necessary to satisfactorily complete the project. Such changes in quantities and alterations shall not invalidate the contract nor release the surety, and the Contractor agrees to perform the work as altered.
- 4.3.b If the alterations of changes in quantities significantly change the character of the work under the contract, whether such alterations or changes are in themselves significant changes to the character of the work by affecting other work cause such other work to become significantly different in character, an adjustment, excluding anticipated profit, will be made to the contract. The basis for the adjustment shall be agreed upon prior to the performance of the work.
- 4.3.c If the alterations or changes in quantities do not significantly change the character of the work to be performed under the contract, the altered work will be paid for as provided elsewhere in the contract.
- 4.3.d The term "significant change" shall be construed to apply only to the following circumstances:

When the character of the work as lathered differs materially in kind or nature from that involved or included in the original proposed construction; or

When a major item of work, as defined elsewhere in the contract, is increased in excess of 125 percent or decreased below 75 percent of the original contract quantity. Any allowance for an increase in quality shall apply only to that portion in excess of 125 percent of original contract item quantity, or in case of a decrease below 75 percent, to the actual amount of work performed.

ARTICLE 5: BEGINNING OF WORK, TIME OF COMPLETION AND LIQUIDATED DAMAGES

- 5.1. The Contractor shall begin work within 15 calendar days after the contract has been approved by the attorney appointed and authorized to represent the County of Placer. This work shall be diligently prosecuted to completion before the expiration of **60 WORKING DAYS** beginning on the fifteenth calendar day after approval of the contract.
- 5.2 The Contractor shall pay to the County of PLACER the sum of **\$4,000 per day**, for each and every calendar day delay in finishing the work in excess of the number of working days prescribed above.

ARTICLE 6: INDEMNITY & HOLD HARMLESS

- 6.1. The COUNTY, and all officers, agents, employees, outside parties hired to inspect and/or design the work, and volunteers thereof connected with the work, including but not limited to, the Director and the Engineer, shall not be answerable or accountable in any manner: for the loss or damage to any of the materials or other things used or employed in performing the work; for injury to or death of any person, either worker or the public; or damage to property from any cause which may have been prevented by CONTRACTOR or his or her workers or anyone employed by him/her.
- 6.2. CONTRACTOR shall be responsible for any liability imposed by law and for injuries to or death of any person including, but not limited to, workmen and the public, or damage to property resulting from defects or obstructions or from any cause whatsoever during the progress of the work or at any time prior to its completion and final acceptance.
- 6.3. The CONTRACTOR shall indemnify and save harmless the COUNTY, and all officers, employees, or outside parties hired to inspect and/or design the work and volunteers thereof connected with the work, including but not limited to, the Director and the Engineer, from all claims, suits, or actions of every name, kind, and description brought forth on or on account of injuries to or death of any person, including but not limited to,

workmen and the public or damage to property resulting from the performance of the contract except as otherwise provided by statute. The duty of CONTRACTOR to indemnify and save harmless include the duties to defend as set forth in Civil Code Section 2778.

- 6.4. With respect to third party claims against the CONTRACTOR, the CONTRACTOR waives any and all rights to any type of express or implied indemnity against the COUNTY, its officers, or employees.
- 6.5. It is the intent of the parties that the CONTRACTOR shall indemnify and hold harmless the COUNTY, its officers, employees and agents, from any and all claims, suits, or actions as set forth above, regardless of the existence or degree of fault or negligence on the part of the COUNTY, the CONTRACTOR, the subcontractor or employee of any of these, other than the active negligence of the COUNTY, its officers and employees.

ARTICLE 7: INSURANCE

- 7.1. CONTRACTOR shall file with COUNTY concurrently herewith a Certificate of Insurance, in companies acceptable to COUNTY, with a Best's Rating of no less than A:VII.

- 7.2. Worker's Compensation and Employers Liability Insurance:

Worker's Compensation Insurance shall be provided as required by any applicable law or regulation. Employer's liability insurance shall be provided in amounts not less than the following:

One Million dollars (\$1,000,000) each accident for bodily injury by accident

One Million dollars (\$1,000,000) policy limit for bodily injury by disease

One Million dollars (\$1,000,000) each employee for bodily injury by disease

If there is an exposure of injury to PROVIDER's employees under the U.S. Longshoremen's and Harbor Worker's Compensation Act, the Jones Act, or under laws, regulations, or statutes applicable to maritime employees, coverage shall be included for such injuries or claims.

Each Worker's Compensation policy shall be endorsed with the following specific language:

Cancellation Notice: "This policy shall not be changed without first giving thirty (30) days prior written notice and ten (10) days prior written notice of cancellation for non-payment of premium to the County of Placer."

Waiver of Subrogation: The workers' compensation policy shall be endorsed to state that the workers' compensation carrier waives its right of subrogation against the County, its officers, directors, officials, employees, agents or volunteers, which might arise by reason of payment under such policy in connection with performance under this agreement by the CONTRACTOR.

CONTRACTOR shall require all SUBCONTRACTORS to maintain adequate Workers Compensation insurance. Certificates of Compensation shall be filed forthwith with the COUNTY upon demand.

- 7.3. General Liability Insurance:

- 7.3.a Comprehensive General Liability or Commercial General Liability insurance covering all operations by or on behalf of CONTRACTOR, providing insurance for bodily injury liability and property damage liability for the limits of liability indicated below and including coverage for: premises, operations; products and completed operations; contractual liability insuring the obligations assumed by PROVIDER in this Agreement; broad form

property damage (including completed operations); explosion, collapse, and underground hazards; personal injury liability and

7.3.b Except with respect to bodily injury and property damage included within the products and completed operations hazards, the aggregate limits, where applicable, shall apply separately to CONTRACTOR'S work under the Contract. One of the following forms is required: Comprehensive General Liability; Commercial General Liability (Occurrence); or Commercial General Liability (Claims Made).

7.3.c If CONTRACTOR carries a Comprehensive General Liability policy, the limits of liability shall not be less than a Combined Single Limit for Bodily Injury, Property Damage, and Personal Injury Liability of:

- \$2,000,000 each occurrence
- \$4,000,000 aggregate

7.3.d If CONTRACTOR carries a Commercial General Liability (Occurrence) policy:

1. The limits of liability shall not be less than:
 - \$2,000,000 each occurrence (combined single limit for bodily injury and property damage)
 - \$2,000,000 for Personal Injury Liability
 - \$2,000,000 for Products-Completed Operations
 - \$4,000,000 General Aggregate
2. If the policy does not have an endorsement providing that the General Aggregate Limit applies separately, or if defense costs are included in the aggregate limits, then the required aggregate limits shall be \$4,000,000.

7.3.e Special Claims Made Policy Form Provisions:

CONTRACTOR shall not provide a Commercial General Liability (Claims Made) policy without the express prior written consent of COUNTY, which consent, if given, shall be subject to the following conditions:

The limits of liability shall not be less than:

- \$2,000,000 each occurrence (combined single limit for bodily injury and property damage)
- \$2,000,000 for Personal Injury Liability
- \$4,000,000 aggregate for Products-Completed Operations
- \$4,000,000 General Aggregate

The insurance coverage provided by CONTRACTOR shall contain language providing coverage up to one (1) year following the completion of the Contract in order to provide insurance coverage for the hold harmless provisions herein if the policy is a Claims Made Policy.

7.4. Conformity of Coverages:

7.4.a If more than one policy is used to meet the required coverages, such as a separate umbrella policy, such policies shall be consistent with all other applicable policies used to meet these minimum requirements. For example, all policies shall be Occurrence Liability policies, or all shall be Claims Made Liability policies if approved by the COUNTY as noted above. In no case shall the types of coverages be different.

7.5. Additional Requirements:

7.5.a Premium Payments: The insurance companies shall have no recourse against the COUNTY and funding agencies, its officers and employees or any of them for payment

of any premiums or assessments under any policy issued by a mutual insurance company.

7.5.b Policy Deductibles: The CONTRACTOR shall be responsible for all deductibles in all of CONTRACTOR'S insurance policies. The maximum amount of allowable deductible for insurance coverage required herein shall be \$25,000.

7.5.c CONTRACTOR'S Obligations: CONTRACTOR'S indemnity and other obligations shall not be limited by the foregoing insurance requirements and shall survive the expiration of this agreement.

7.5.d Verification of Coverage: CONTRACTOR shall furnish the County with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the County before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the CONTRACTOR's obligation to provide them. The County reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

7.5.e Material Breach: Failure of the CONTRACTOR to maintain the insurance required by this agreement, or to comply with any of the requirements of this section, shall constitute a material breach of the entire agreement.

7.6. Endorsements:

7.6.a Each Comprehensive or Commercial General Liability policy shall be endorsed with the following specific language:

"The County of Placer, and its officers, agents, and volunteers are to be covered as insured for all liability arising out of the operations by or on behalf of the named insured in the performance of this Agreement."

"The insurance provided by the CONTRACTOR, including any excess liability or umbrella form coverage, is primary coverage to the County of Placer with respect to any insurance or self-insurance programs maintained by the County of Placer and no insurance held or owned by the County of Placer shall be called upon to contribute to a loss."

"This policy shall not be changed without first giving thirty (30) days prior written notice and ten (10) days prior written notice of cancellation for non-payment of premium to the County of Placer."

7.7. Automobile Liability Insurance:

7.7.a CONTRACTOR shall provide Automobile Liability insurance covering bodily injury and property damage in an amount no less than Two Million dollars (\$2,000,000) combined single limit for each occurrence.

7.7.b Covered vehicles shall include owned, non-owned, and hired automobiles/trucks.

7.8. Professional Liability Insurance (Errors & Omissions)

Professional Liability Insurance for Errors and Omissions coverage in the amount of not less than \$1,000,000.

7.9. Pollution Liability

Contractor shall purchase and thereafter maintain, so long as such insurance is available on a commercially reasonable basis, Pollution Liability insurance in the amount of

\$1,000,000 covering liability arising from the sudden and accidental release of pollution on the Facility Site.

ARTICLE 8: PRECEDENCE IN CONFLICTING DOCUMENTS

- 8.1. It is further expressly agreed by and between the parties hereto that should there be any conflict between the terms of this instrument and the bid or proposal of said CONTRACTOR, then this instrument shall control and nothing herein shall be considered as acceptance of the said terms of said proposal conflicting herewith.

ARTICLE 9: BOND REQUIREMENTS

- 9.1. CONTRACTOR shall furnish both a Faithful Performance Bond and a Payment Bond (hereinafter collectively "Bonds") in the full amount of the Contract on the forms provided by the COUNTY. COUNTY shall retain the Performance Bond for a one-year guarantee period from the date of the COUNTY'S acceptance of the work.
- 9.2. The bonds shall be obtained from a California admitted surety that is licensed by the State of California to act as surety upon bonds and undertakings and which maintains in this State at least one office for the conduct of its business. The surety shall furnish reports as to its financial condition from time to time upon request by COUNTY.
- 9.3. In case of any conflict between the terms of the Contract and the terms of the Bonds, the terms of the Contract shall control and the Bonds shall be deemed to be amended thereby.
- 9.4. CONTRACTOR agrees to obtain the consent of the surety, if required, to any change, extension of time, alteration, or addition to any of the terms of the Contract Documents.

ARTICLE 10: COMPLIANCE WITH LAWS

- 10.1. CONTRACTOR is an independent contractor and shall, at its sole cost and expense comply with all laws, rules, ordinances and regulations of all governing bodies having jurisdiction over the work, obtain all necessary permits (unless specifically stated elsewhere in the Contract Documents to be obtained by COUNTY) and licenses therefore, pay all manufacturers' taxes, sales taxes, use taxes, processing taxes, and all Federal and State taxes, insurance and contributions for social security and unemployment which are measured by wages, salaries or any remuneration paid to CONTRACTOR'S employees, whether levied under existing or subsequently enacted laws, rules or regulations. CONTRACTOR shall also pay all property tax assessments on materials or equipment used until acceptance by COUNTY. If any discrepancy or inconsistency is discovered in any of the Contract Documents in relation to any such law, rule, ordinance, regulation, order or decree, the CONTRACTOR shall forthwith report the same to the COUNTY in writing.
- 10.2. Without limitation, materials furnished and performance by CONTRACTOR hereunder shall comply with Safety Orders of the Division of Industrial Safety, State of California, Federal Safety regulations of the Bureau of Labor, Department of Labor; and any other applicable state or federal regulations.
- 10.3. CONTRACTOR, upon request, shall furnish evidence satisfactory to COUNTY that any or all of the foregoing obligations have been or are being fulfilled. CONTRACTOR warrants to COUNTY that it is licensed by all applicable governmental bodies to perform this Contract and will remain so licensed throughout the progress of the work, and that it has, or will have, throughout the progress of the work, the necessary experience, skill, and financial resources to enable it to perform this Contract.
- 10.4. CONTRACTOR is required to insure that material safety data sheets (MSDS's) for any material requiring a MSDS pursuant to any federal or state law are available in a readily accessible place on the Project premises. CONTRACTOR is also required to insure (a)

the proper labeling of any substance brought onto the Project premises by CONTRACTOR or any subcontractors or material suppliers, and (b) that the person(s) working with the material, or within the general area of the material, are appropriately informed about the hazards of the substance and follow proper handling and protection procedures.

10.5. CONTRACTOR is required to comply with Health & Safety Sections 25249 et seq. (Prop. 65), which requires the posting and giving of notice to persons who may be exposed to any chemical known to the State of California to cause cancer.

10.6. Title VI Assurances

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

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.

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.

Solicitations for Sub-agreements, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by CONTRACTOR for work to be performed under a 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.

Information and Reports: CONTRACTOR shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the California Department of Transportation 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 the California Department of Transportation or the FHWA as appropriate and shall set forth what efforts CONTRACTOR has made to obtain the information.

ARTICLE 11: PROGRESS SCHEDULE

11.1. The CONTRACTOR shall submit within ten (10) days (or as specified in the Special Provisions for this Project) after execution of the Contract a detailed work schedule or schedules that details the actions of the CONTRACTOR and Subcontractors working at the Site in accordance with the requirements specified in Special Provisions. This schedule(s) shall show the dates at which the CONTRACTOR will start and complete the several parts of the work and shall conform to the completion time specified in the Contract. The COUNTY may submit comments on the work schedule. Acceptance of the schedule by COUNTY shall not constitute approval of the Plan by CONTRACTOR for completion of the work.

- 11.2. The CONTRACTOR shall review and, if necessary, revise the progress schedule at least once a month or as specified in the Special Provisions for this Project. In any event, the CONTRACTOR shall submit a current schedule to the Engineer at the Engineer's request at any time during the Contract period.
- 11.3. No progress payments will be made for any work performed until a satisfactory schedule has been submitted and approved by the Engineer. An updated schedule shall be required from the CONTRACTOR if the project falls ten (10) working days behind schedule. For delays or portions of delays for which the CONTRACTOR is responsible, no payment will be made or time extension allowed for increase in work force, equipment, and working hours needed to put the Project on schedule.

ARTICLE 12: PROMPT PAYMENT PROVISIONS

- 12.1. Prompt payment provisions in accordance with Section 20104.50 of the Public Contract Code shall apply to this contract.
- 12.2. If COUNTY fails to make a progress payment within thirty (30) days after receipt of an undisputed and properly submitted payment request from CONTRACTOR, COUNTY shall pay interest to CONTRACTOR equivalent to 0.833% per month (10% per annum).
- 12.3. COUNTY shall review each payment request as soon as practicable after receipt to determine whether the payment request is proper. Any payment request determined to be an improper payment request shall be returned to CONTRACTOR as soon as practicable, but not later than seven (7) days, after receipt. A request returned pursuant to this paragraph shall be accompanied by a document setting forth in writing the reasons why the payment request is not proper.

- 12.4. Prompt Progress Payments to Subcontractors:

The prime contractor or subcontractor shall pay to any subcontractor, not later than seven days after receipt of each progress payment, unless otherwise agreed to in writing, the respective amounts allowed the contractor on account of the work performed by the subcontractors, to the extent of each subcontractor's interest therein. In the event that there is a good faith dispute over all or any portion of the amount due on a progress payment from the prime contractor or subcontractor to a subcontractor, the prime contractor or subcontractor may withhold no more than 150 percent of the disputed amount. Any violation of this requirement shall constitute a cause for disciplinary action and shall subject the licensee to a penalty, payable to the subcontractor, of 2 percent of the amount due per month for every month that payment is not made.

In any action for the collection of funds wrongfully withheld, the prevailing party shall be entitled to his or her attorney's fees and costs. The sanctions authorized under this requirement shall be separate from, and in addition to, all other remedies, either civil, administrative, or criminal. This clause applies to both DBE and non-DBE subcontractors.

- 12.5. Prompt Payment of Funds Withheld To Subcontractors:

No retainage will be held by the Agency from progress payments due to the prime contractor. Prime contractors and subcontractors are prohibited from holding retainage from subcontractors. Any delay or postponement of payment may take place only for good cause and with the Agency's prior written approval. Any violation of these provisions shall subject the violating contractor or subcontractor to the penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business and Professions Code and Section 10262 of the California Public Contract Code. 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.

Any violation of these provisions shall subject the violating prime contractor or subcontractor to the penalties, sanctions and other remedies specified therein. These requirements shall not be construed to limit or impair any contractual, administrative, or judicial remedies otherwise available to the prime contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the prime contractor, deficient subcontract performance, or noncompliance by a subcontractor.

ARTICLE 13: ANTITRUST CLAIM ASSIGNMENT

- 13.1. In entering into a Public Works contract or a subcontract to supply goods, services, or materials pursuant this Contract, the CONTRACTOR and all subcontractors shall offer and agree to assign to COUNTY 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 Contract or any subcontract. This assignment shall be made and become effective at the time the COUNTY tenders final payment to CONTRACTOR, without further acknowledgment by the parties.

ARTICLE 14: PREVAILING WAGES

- 14.1. The State general prevailing wage rates determined by the Director of Industrial Relations are hereby made a part of this contract. It is further expressly agreed by and between the parties hereto that should there be any conflict between the terms of this instrument and the bid or proposal of said Contractor, then this instrument shall control and nothing herein shall be considered as an acceptance of the said terms of said proposal conflicting herewith.
- 14.2. CONTRACTOR acknowledges that it has examined the prevailing rate of per diem wages as established by the California Director of Industrial Relations. The CONTRACTOR agrees to pay workers not less than the applicable prevailing rate of per diem wages, as set forth in these requirements and Labor Code section 1770 et seq. CONTRACTOR agrees specifically to comply with the provisions of Labor Code sections 1720, 1773.3, 1776, and 1777.5, as well as Section 7-1.02K of the Department of Transportation Standard Specifications and these Contract Documents.
- 14.3. A contractor or subcontractor shall not be qualified to bid on, be listed in a bid proposal, subject to the requirements of Section 4104 of the Public Contract Code or engage in the performance of any contract for public work, as defined in this chapter, unless currently registered and qualified to perform public work pursuant to Section 1725.5. It is not a violation of this section for an unregistered contractor to submit a bid that is authorized by Section 7029.1 of the Business and Professions Code or by Section 10164 or 20103.5 of the Public Contract Code, provided the contractor is registered to perform public work pursuant to Section 1725.5 at the time the contract is awarded.

ARTICLE 15: SEVERABILITY.

- 15.1. Nothing contained in the Contract Documents shall be construed to require the commission of any act contrary to law. Should a conflict arise between any provisions contained herein and any present or future statute, law, ordinance, or regulation contrary to which the parties have no legal right to contract or act, the latter shall be curtailed and limited but only to the extent necessary to bring it within the requirements of the law. If such curtailment or limitation is not possible, the affected provision shall be of no force and effect. Except as previously mentioned, such illegality shall not affect the validity of this Contract.

ARTICLE 16: COMPLETE AGREEMENT

- 16.1. These Contract Documents supersede any and all agreements, either oral or in writing, between the parties with respect to the subject matter herein. Each party to this Contract

acknowledges that no representation by any party, which is not embodied herein, or any other agreement, statement, or promise not contained in these Contract Documents shall be valid and binding.

ARTICLE 17: INTERPRETATION

- 17.1. The parties hereto acknowledge and agree that each has been given the opportunity to independently review this Contract with legal counsel, and/or has the requisite experience and sophistication to understand, interpret and agree to the particular language of the provisions of the Contract.
- 17.2. In case of a controversy or dispute between the parties concerning the provisions herein, this document shall be interpreted according to the provisions herein and no presumption shall arise concerning the draftsmanship of such provision.

ARTICLE 18: GOVERNING LAW

- 18.1. This Contract is subject to the laws and jurisdiction of the State of California. Venue for any legal proceeding brought in conjunction with this Contract shall be the Superior Court of the County of Placer, State of California. Contractor waives any federal court removal and/or original jurisdiction rights it may have pursuant to any applicable law.

ARTICLE 19: BID ITEMS

No.	P-F	BID ITEM No.	BID ITEM DESCRIPTION	UNIT OF MEASURE	ESTIMATED QUANTITY	UNIT PRICE	AMOUNT
			AREA 1: WESTERN PLACER COUNTY				
1		120100	TRAFFIC CONTROL SYSTEM (AREA 1)	LS	1		
2		128651	PORTABLE CHANGEABLE MESSAGE SIGN (AREA 1)	EA	3		
3		130200	WATER POLUTION CONTROL PROGRAM	LS	1		
4		398200	COLD PLANE ASPHALT CONCRETE PAVEMENT	SQYD	4,040		
5		393004	GEOSYNTHETIC PAVEMENT INTERLAYER (PAVING FABRIC)	SQYD	11,200		
6		390137	RUBBERIZED HOT MIX ASPHALT (1/2" PG 64-16)	TON	2,000		
7		012743	4" THERMOPLASTIC TRAFFIC STRIPE	LF	260		
8		846009	8" THERMOPLASTIC TRAFFIC STRIPE	LF	9,932		
9		840516	THERMOPLASTIC PAVEMENT MARKINGS	SQFT	858		
10		870111	INDUCTIVE LOOP DETECTOR	EA	6		
11		378000A	TYPE 2 MICROSURFACE	TON	483		
12		370000A	ASPHALT RUBBER CHIP SEAL	SY	89,190		
13		780258	ADJUST MANHOLE FRAME AND COVER (UTILITY)	EA	23		
14		710208	ADJUST VALVE FRAME AND COVER TO GRADE	EA	17		
15		999990	MOBILIZATION (AREA 1)	LS	1		
			AREA 1: EASTERN PLACER COUNTY				
16		120100	TRAFFIC CONTROL SYSTEM (AREA 2)	LS	1		
17		128651	PORTABLE CHANGEABLE MESSAGE SIGN (AREA 1)	EA	3		
18		130200	WATER POLUTION CONTROL PROGRAM	LS	1		
19		398200	COLD PLANE ASPHALT CONCRETE PAVEMENT	SQYD	2,400		
20		393004	GEOSYNTHETIC PAVEMENT INTERLAYER (PAVING FABRIC)	SQYD	57,000		

No.	P-F	BID ITEM No.	BID ITEM DESCRIPTION	UNIT OF MEASURE	ESTIMATED QUANTITY	UNIT PRICE	AMOUNT
21		390000A	RUBBERIZED HOT MIX ASPHALT (1/2" PG 64-16)	TON	7,420		
22		780258	ADJUST MANHOLE FRAME AND COVER (UTILITY)	EA	37		
23		710208	ADJUST VALVE FRAME AND COVER TO GRADE	EA	57		
24		710208	ADJUST DRAINAGE INLET / COM VAULT FRAME AND COVER TO GRADE	EA	3		
25		999990	MOBILIZATION (AREA 2)	LS	1		

TOTAL: 3,095,545.90

When an item of work is designated as (F) or (P-F) in the Engineer's Estimate, the estimate quantity shall be the final pay quantity. When an item of work is designated as (P) or (P-F) in the Engineer's Estimate, then that item is subject to partial payment as materials furnished but not incorporated in the work. The Department does not adjust the unit price for an increase or decrease in the bid item quantity of items indicated by a (W) in the bid list.

NAME OF CONTRACTOR
ALL AMERICAN CONSTRUCTION INC.

NAME OF COMPANY
ALL AMERICAN CONSTRUCTION INC.

ARTICLE 20: QUALITY ASSURANCE

Placer County uses a Quality Assurance Program (QAP) to ensure a material is produced to comply with the Contract. You may examine the records and reports of tests the Agency performs if they are available at the job site. Schedule work to allow time for QAP.

WITNESS WHEREOF, the parties have hereunto set their hands the year and date first above written.

APPROVED AS TO PROCEDURE

By: _____
Ken Grehm, Director
Department of Public Works

Date: _____

**“COUNTY”
COUNTY OF PLACER**

By: _____
Chair, Board of Supervisors

Date: _____

**“Contractor”
ALL AMERICAN CONSTRUCTION, INC.
A California Corporation**

By: _____
Officer Signature # 1
(Signature Notarized)

By: _____
Print Name and Title

Date: _____

APPROVED AS TO FORM

By: _____
County Counsel, Placer County

Date: _____

By: _____
Signature # 2
(Signature Notarized)

By: _____
Print Name and Title

Date: _____

**Licensed in accordance with an act providing for
the registration of Contractors,
Contractor’s License Number:**

"If Contractor is a corporation, contract must be signed by the following two corporate officers, one from each category: (1) Chairman of the Board, President or any Vice President, and (2), Corporate Secretary, any Assistant Corporate Secretary, Chief Financial Officer or any Treasurer or Assistant Treasurer, unless an authenticated copy of a resolution of the corporation which delegates to a single officer the authority to bind the corporation is attached to this contract.

If Contractor is another type of business entity, such as a partnership or limited liability company, contract must be signed by officer(s) possessing legal authority to bind the entity. An authenticated copy of a resolution, partnership agreement, operating agreement or other legal evidence of signature authority must be attached to this contract."

SAMPLE CERTIFICATION LABOR CODE SECTION 1861

STATE OF CALIFORNIA)
COUNTY OF PLACER)

I, the undersigned, do hereby certify:

That I am aware of the provisions of Section 3700 of the Labor Code of the State of California, which requires every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract.

Executed at: _____

On: _____

I certify under the penalty of perjury that the foregoing is true and correct.

CONTRACTOR - EMPLOYER

BY: _____

PRINT NAME: _____

TITLE: _____

BOND FOR LABOR AND MATERIALS

KNOW ALL PERSONS BY THESE PRESENTS, THAT WHEREAS, COUNTY OF PLACER, STATE OF CALIFORNIA, ("Owner") has awarded to ALL AMERICAN CONSTRUCTION INC. as Principal ("Contractor"), a contract for the work described as follows: 2022 ROADWAY HOT MIX ASPHALT OVERLAY & SURFACE TREATMENT PROJECT

AND, WHEREAS, pursuant to Public Contract Code section 10223, the Contractor is required to furnish a bond in connection with said contract, to secure the payment of claims of laborers, mechanics, and other persons as provided by law.

NOW, THEREFORE, we, the undersigned Contractor and [enter name of surety], licensed by the State of California to execute bonds and undertakings as sole surety, "Surety," are held and firmly bound unto the Owner in the sum of THREE MILLION NINETY FIVE THOUSAND FIVE HUNDRED FORTY FIVE DOLLARS AND NINETY CENTS (\$3,095,545.90) for the payment of which sum Contractor and Surety bind themselves, their successors, and assigns, jointly and severally, by this instrument.

THE CONDITION OF THIS OBLIGATION IS SUCH,

1. That if said Principal or its subcontractors shall fail to pay any of the persons named in Civil Code section 9100, or amounts due under the Unemployment Insurance Code with respect to work or labor performed under the contract, or for any amounts required to be deducted, withheld, and paid over to the Employment Development Department from the wages of employees of the Principal and subcontractors pursuant to Section 13020 of the Unemployment Insurance Code, with respect to such work and labor, that the surety herein will pay for the same, otherwise this obligation is to be void. In case suit is brought upon this bond, the Surety will pay a reasonable attorney's fee to be fixed by the court.
2. This bond shall inure to the benefit of any persons named in Civil Code section 9100 as to give a right of action to such persons or their assigned in any suit brought upon this bond.
3. The aggregate liability of the Surety hereunder, including costs and attorney fees, on all claims whatsoever, shall not exceed the penal sum of the bond in accordance with the provisions of Section 996.470(a) of the Code of Civil Procedure.
4. This bond is executed by the Surety, to comply with the provisions of Public Contract Code sections 7103, 10221, and 10222, of Chapter 5, Title 3, Part 6, Division 4 of the Civil Code and of Chapter 2, Title 14, Part 2 of the Code of Civil Procedure and said bond shall be subject to all of the terms and provisions thereof.
5. This bond may be cancelled by the Surety in accordance with the provisions of Section 996.310 et seq. of the Code of Civil Procedure.
6. This bond to become effective _____.

CONTRACTOR <i>*Signature must be notarized</i>
Signature: _____
Name: _____
Date: _____

SURETY, ATTORNEY-IN-FACT* [ADDRESS] <i>*Signature must be notarized</i>
Signature: _____
Name: _____
Date: _____

**Attorney-in-fact must have power of attorney on file with the Placer County Clerk or attached to this bond*

APPROVED AS TO FORM BY PLACER COUNTY COUNSEL

Signature

Date

BOND OF FAITHFUL PERFORMANCE

KNOW ALL PERSONS BY THESE PRESENTS, THAT WHEREAS, COUNTY OF PLACER, STATE OF CALIFORNIA, (“Owner”) has awarded to ALL AMERICAN CONSTRUCTION, INC. as Principal (“Contractor”), a contract for the work described as follows:

2022 ROADWAY HOT MIX ASPHALT OVERLAY & SURFACE TREATMENT PROJECT

AND, WHEREAS, pursuant to Public Contract Code 10224, the Contractor is required to furnish a bond in connection with said contract, guaranteeing the faithful performance thereof.

NOW, THEREFORE, the undersigned Contractor and [enter name of surety], licensed by the State of California to execute bonds and undertakings as sole surety, “Surety,” are held and firmly bound unto the Owner in the sum of THREE MILLION NINETY FIVE THOUSAND FIVE HUNDRED FORTY FIVE DOLLARS AND NINETY CENTS (\$3,095,545.90) for the payment of which sum Contractor and Surety bind themselves, their successors, and assigns, jointly and severally, by this instrument.

THE CONDITION OF THIS OBLIGATION IS SUCH,

1. Contractor will faithfully perform the work described in [CONTRACT NO.] and shall furnish all tools, equipment, apparatus, facilities, transportation, labor, and material, other than any material agreed to be furnished by the County, necessary to complete the work in a good workmanlike manner.
2. Contractor’s work will be done in accordance with all applicable law and completed on or before [completion date], or as otherwise provided by lawful extensions of time granted by the County. Should Contractor fail to complete all required work within the time allowed, County may, at its sole discretion, cause all required work to be completed and the Contractor and Surety will be firmly bound for the payment of all necessary costs therefore.
3. Contractor guarantees its work against any defective work, labor, or materials for a period of one (1) year following completion and acceptance by the County.
4. Surety, for value received, agrees no changes, time extensions, alteration, or modification of the contract documents or of the obligation to be performed will in any way affect its obligation on this bond, and it waives notice of any such change, extension of time, alteration, or modification of the contract documents or of the obligation to be performed.
5. This bond consists of this instrument, the Contract Documents, and the following two (2) exhibits, all of which are incorporated by this reference:
 - a. A certified copy of the appointment, power of attorney, bylaws, or other instrument entitling or authorizing the persons executing this person to do so; and
 - b. Current proof that the Surety is licensed to do business in the State of California for the type of insurance required by this bond.
6. This obligation will remain in effect for one (1) year following the County’s acceptance of work as complete. If at that time, Contractor has performed its obligation, the obligation will be null and void.
7. If suit is brought upon this bond, Surety agrees it will pay, in addition to the basic obligation herein, all court costs, expenses, and all reasonable attorneys’ fees awarded and fixed by the Court, and to be taxed as costs, and to be included in the judgment therein rendered.

CONTRACTOR <i>*Signature must be notarized</i>
Signature: _____
Name: _____
Date: _____

SURETY, ATTORNEY-IN-FACT* [ADDRESS] <i>*Signature must be notarized</i>
Signature: _____
Name: _____
Date: _____

**Attorney-in-fact must have power of attorney on file with the Placer County Clerk or attached to this bond*

APPROVED AS TO FORM BY PLACER COUNTY COUNSEL

Signature

Date