

## **CONTRACT**

This Agreement is made and entered into the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between the COUNTY OF ORANGE, a political subdivision of the State of California (“OWNER”), and R.J. Noble Company (“CONTRACTOR”).

OWNER and CONTRACTOR agree as follows:

### **1. CONTRACT DOCUMENTS**

Contract Documents, which together comprise the complete agreement between OWNER and CONTRACTOR, consist of the following: the Bid; this Agreement; the General Conditions; Supplementary General Conditions; the Non-collusion Declaration; Special Provisions; Addenda and Bulletins; Attachments; Appendices; Plans; Standard Plans; Standard Specifications; all Reference Specifications mentioned in any Contract Documents; and all modifications and amendments to the foregoing issued after the date of execution of the Agreement, including Amendments and Change Orders. The Contract Documents also include the Faithful Performance Bond and the Labor and Material Payment Bond unless such bonds are expressly not required for this Project by the Supplementary General Conditions or Special Provisions. The Contract Documents are complementary, and what is called for by any one shall be as binding as if called for by all.

### **2. SCOPE OF WORK**

CONTRACTOR shall perform all work as required by, and in strict accordance with, the Contract Documents (the “Project”), which consists of: widening a portion of the roadway shoulder to accommodate the installation of Type II bike lanes on both sides of the road. The project also includes grinding and overlay roadway pavement; removal and replacement of AC berms and AC sidewalks; installation of bike rack; soil remediation by removing and recompacting soils; installation of chain link fence and gate; removing conflicting and reconfiguring pavement striping and marking.

### **3. CONTRACT PRICE AND TIME**

#### **3.1. CONTRACT PRICE**

OWNER shall pay CONTRACTOR for all work required by the Contract Documents the Contract Price of Six Hundred Eighty-Three Thousand Two Hundred Thirty-Three Dollars and Twenty-Four Cents (\$683,233.24), as it may be adjusted pursuant to the “CHANGES” Section of the General Conditions, and in accordance with the “PAYMENTS” Section of the General Conditions.

#### **3.2. CONTRACT TIME**

Within 10 calendar days of the Board of Supervisors’ award of the Contract, CONTRACTOR shall submit to OWNER for its review: acceptable bonds; proof of insurance; initial job progress

schedule; and any additional documentation required prior to execution of this Contract by the Contract Documents, Supplementary General Conditions or Special Provisions. If OWNER rejects the submitted documents, CONTRACTOR will have 5 additional calendar days to resubmit. If CONTRACTOR fails to submit documents within the required time(s), the Contract Time (as defined below) will be reduced by the number of days which exceed the time for submittal. If CONTRACTOR fails to submit acceptable documents by the second submission, OWNER may, at its sole discretion, proceed to award the Contract to the next lowest responsive, responsible bidder or reduce the Contract Time by the number of days between OWNER's rejection of the second submission and OWNER's approval of the documents.

Upon OWNER's approval of the bonds, insurance, initial job progress schedule, and any other required submitted documents, OWNER will deliver to CONTRACTOR a signed copy of the Agreement and a Notice to Proceed with the work. CONTRACTOR shall not commence construction until OWNER issues the Notice to Proceed. CONTRACTOR shall complete all work required by the Contract Documents within **sixty (60)** working days of the effective date of the Notice to Proceed ("Contract Time"). The Contract Time includes 0 weather days of anticipated weather days necessitating stoppage of work, and a time extension due to rain or other adverse weather conditions will only be granted in accordance with the "DELAYS DUE TO WEATHER AND FORCE MAJEURE" Section of the General Conditions.

#### **4. LIQUIDATED DAMAGES**

In accordance with Government Code Section 53069.85, CONTRACTOR agrees to forfeit and pay to OWNER the sum of \$2,000 per day ("Liquidated Damages") for each calendar day that completion of all the work required by the Contract Documents is delayed beyond the Contract Time, as may be adjusted by Change Order. OWNER may deduct such sum from any payments due or to become due to CONTRACTOR. If the Liquidated Damages exceed the unpaid balance of the Contract Price otherwise owed to CONTRACTOR, then CONTRACTOR shall immediately pay OWNER the difference.

#### **5. CONTRACTOR SHALL PERFORM (51%) OR MORE OF THE WORK**

CONTRACTOR shall be capable of performing, and shall perform with its own organization, work amounting to at least 51% of the Base Bid Amount. However, any Bid Item designated as a Specialty Bid Item will be excluded from the Base Bid Amount for purposes of this Section only.

#### **6. ESCROWED DOCUMENTS (if needed)**

##### **6.1. STORAGE OF BID DOCUMENTS**

Within 3 working days after COUNTY opens the Bids, the apparent low Bidder shall submit to COUNTY in a sealed container all documents created, reviewed, or maintained by Bidder during the course of preparing its Bid for the Contract ("Escrowed Documents"). All Escrowed Documents shall be stamped "CONFIDENTIAL" and indicate the Project name. COUNTY shall maintain the Escrowed Documents in a separate double-locked storage cabinet. COUNTY and Bidder each shall have a separate key, requiring both to be present to access the Escrowed Documents.

**6.2. SCOPE OF THE ESCROWED DOCUMENTS**

The Escrowed Documents shall include, but not be limited to: a detailed breakdown of the Bid with a clear itemization of Bidder's estimated costs of performing the work in sufficient detail to allow COUNTY to analyze all costs included within Bidder's estimate for the work; the names of all persons who prepared or reviewed Bidder's estimate prior to submission of the Bid; all documents created, reviewed, or maintained by all subcontractors listed in Bidder's list of subcontractors submitted with its Bid; back-up calculations for each lump sum or unit cost Bid Item listed on the Bid Schedule; suppliers' quotes; quantity takeoffs; rate schedules for the direct costs and the time and non-time-related indirect costs for labor, by craft; plant and equipment ownership or rental and operation costs; cost of permanent and expendable materials; cost of small tools and other miscellaneous consumable items; cost of insurance and subcontracted work; estimated construction schedule, including sequence and duration of work and production rates; quotations from suppliers and subcontractors; estimates of field and home office overhead; contingency and margin for each item listed on the Bid Schedule; and other reports, calculations, and information used by Bidder to arrive at its Bid. The Escrowed Documents shall also include a declaration signed by an individual authorized by Bidder to execute the Bid Form stating that the Escrowed Documents are a true and complete representation of how the Bid was calculated.

**6.3. VERIFICATION OF COMPLETE BID DOCUMENT SUBMISSION**

Within 7 days after submitting its Escrowed Documents, Bidder shall meet separately with COUNTY to examine and catalog Bidder's Escrowed Documents to verify that Bidder has complied with the requirements of this Section. The verification will not include review, nor constitute approval, of proposed construction methods, estimating assumptions, or interpretations of the Contract Documents. If COUNTY determines that Bidder's Escrowed Documents are incomplete, illegible, or unreliable, Bidder shall submit the missing documents within 2 working days of COUNTY's request. Bidder's failure to submit Escrowed Documents for itself and its listed subcontractors in accordance with this Section shall constitute an improper withdrawal of Bidder's Bid and shall be grounds for Bidder forfeiting its bid security.

**6.4. SUBCONTRACTORS' ESCROWED DOCUMENTS**

If the apparent successful Bid is based on subcontracting any part of the work, each subcontractor whose total subcontract price exceeds five percent of the total Contract Price proposed by Bidder shall provide separate Escrowed Documents to be included with those of Bidder. The requirements and verification of subcontractors' documents will be the same as those for Bidder. If CONTRACTOR subcontracts any portion of the work after award, COUNTY retains the right to require CONTRACTOR to submit Escrowed Documents before such subcontract is approved.

**6.5. RETURN OF UNSUCCESSFUL BIDDERS' ESCROWED DOCUMENTS**

If the Contract is not awarded to the apparent successful Bidder, the Escrowed Documents will be returned to that Bidder and the next Bidder to be considered for award shall submit Escrowed Documents as provided by this Section.

**6.6. USE OF ESCROWED DOCUMENTS**

COUNTY and CONTRACTOR may use CONTRACTOR's Escrowed Documents during negotiations regarding Change Orders, claims, or disputes, or in connection with litigation arising

out of the Project. Nothing in the Escrowed Documents shall be construed to change or modify the terms or conditions of the Contract. CONTRACTOR shall be solely responsible for all errors made by CONTRACTOR during the preparation of its Bid. COUNTY will not use the Escrowed Documents to conduct a pre-award evaluation of any Bidder's methods of construction, qualifications, estimating assumptions, or interpretations of the Contract Documents. COUNTY reserves all rights to contest the reasonableness of CONTRACTOR's assumptions made during the preparation of its Bid.

#### **6.7. ACCESS TO ESCROWED DOCUMENTS**

At any time deemed necessary by COUNTY or CONTRACTOR, the Escrowed Documents may be reviewed by either of the Parties. Unless otherwise mutually agreed, the Party requesting to review the Escrowed Documents shall provide at least 3 days advance notice to the other Party regarding its intent to review the Escrowed Documents. A representative of both Parties shall be present during the other Party's review of the Bid Document. COUNTY shall notify CONTRACTOR of any request for disclosure of the Escrowed Documents in accordance with the "PUBLIC RECORDS ACT" Section of these General Conditions. Unless CONTRACTOR obtains a protective order issued by a court restricting disclosure of the Escrowed Documents, COUNTY may disclose the Escrowed Documents if COUNTY determines that the Public Records Act requires disclosure.

#### **6.8. RETURN OF CONTRACTOR'S ESCROWED DOCUMENTS**

COUNTY shall return to CONTRACTOR the Escrowed Documents held in secure storage after CONTRACTOR has completed all work required by the Contract Documents, COUNTY has recorded a Notice of Completion for the Project, and all disputes, claims, or lawsuits between COUNTY and CONTRACTOR arising out of the Project have been resolved, released, or otherwise waived.

### **7. EMPLOYEE ELIGIBILITY VERIFICATION**

CONTRACTOR hereby certifies that it complies with all applicable laws and regulations regarding the eligibility of its employees to work in the United States, and that all of its employees performing work under this Contract meet all citizenship or immigration status requirements to do so. CONTRACTOR shall obtain all documentation necessary to verify the employment eligibility status of covered employees as described by U.S. Citizenship and Immigration Services Form I-9. CONTRACTOR shall retain such documentation for the period prescribed by law. CONTRACTOR shall indemnify, defend with counsel approved in writing by OWNER, and hold harmless the OWNER, its agents, officers, and employees from any sanctions or liability that may be assessed in connection with any alleged violation of federal or State laws or regulations pertaining to the eligibility for employment of any persons performing work under this Contract.

### **8. SECURING WORKERS' COMPENSATION INSURANCE CERTIFICATION**

CONTRACTOR, by executing this Agreement, hereby certifies:

“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 the work of this contract.”

## **9. PARTIES’ REPRESENTATIVES**

### **9.1. OWNER’S REPRESENTATIVES**

9.1.1. OC Public Works. The Project is under the general direction of OWNER’s Board of Supervisors. The Board of Supervisors authorizes OC Public Works to be OWNER’s representative in connection with the Project.

9.1.2. OWNERS’s Project Manager: The Project Manager shall be Sam Tieu, unless OC Public Works Director designates in writing an alternate person who will act as OWNER’s representative during construction of the Project. Unless otherwise expressly stated in the Contract Documents, the Project Manager will issue and receive all written communications on behalf of OWNER for the Project. The Project Manager shall also coordinate any communications to or from OWNER’s Architect-Engineer ("A/E") in connection with the Project. The Project Manager shall manage the routine responsibilities of OWNER, but is not authorized to make decisions for OWNER that materially affect this Contract or create additional legal liabilities for OWNER.

### **9.2. OWNER’S AUTHORITY**

OWNER has the final authority in all matters affecting the work. OWNER has the authority to enforce CONTRACTOR’s compliance with the Contract Documents. OWNER’s decision is final and binding on all questions relating to: quantities; acceptability of material, equipment, or work; execution, progress, or sequence of work; and interpretation of the Contract Documents. All labor, materials, tools, equipment furnished by CONTRACTOR and all work performed by CONTRACTOR shall be subject to OWNER’s approval.

### **9.3. CONTRACTOR’S REPRESENTATIVES**

9.3.1. Representative and Alternate: Before starting work, CONTRACTOR shall designate in writing a representative who shall have complete authority to act for it. CONTRACTOR may also designate an alternate representative with complete authority to act for it. OWNER may rely on such representative or alternate as having the authority to execute Change Orders in any amount unless CONTRACTOR identifies to OWNER in writing the officer(s) or employee(s) with such authority. The representative or alternate shall be present at the work site whenever work is in progress or whenever weather conditions necessitate its presence to take measures necessary to protect the work, persons, or property. Any order or communication given to this representative shall be deemed delivered to CONTRACTOR. A joint venture shall designate only one representative and alternate. In the absence of CONTRACTOR’s representative, instructions or directions may be given by OWNER to the superintendent or person in charge of the specific work to which the order applies. Such order shall be complied with promptly and referred to CONTRACTOR or its representative. CONTRACTOR’s representative and alternate must be able to read, write, and speak English fluently.

9.3.2. Superintendent: Before starting work, CONTRACTOR shall submit to OWNER for its review and approval the name of the superintendent who will be employed full-time by CONTRACTOR and be present on site at all times while work is being performed. CONTRACTOR's superintendent must be well-qualified, and at OWNER's request CONTRACTOR shall provide documents or information to establish the superintendent's qualifications. CONTRACTOR's superintendent shall represent CONTRACTOR in the absence of CONTRACTOR's designated representative or alternate, and all directions given to the superintendent shall be binding as if given to CONTRACTOR. CONTRACTOR's representative or alternate designated in accordance with the preceding paragraph also may serve as CONTRACTOR's superintendent, provided that OWNER approves the selection of the superintendent. The superintendent must read, write, and speak English fluently. OWNER may require CONTRACTOR to replace a superintendent whose conduct or performance is unsatisfactory. CONTRACTOR shall not change its superintendent without OWNER's consent unless the superintendent is unsatisfactory to CONTRACTOR or ceases to be in CONTRACTOR's employ. If CONTRACTOR's superintendent leaves the Project, CONTRACTOR shall replace him or her within 24 hours with a new, well-qualified superintendent acceptable to OWNER.

9.3.3. Alternate Supervision Plan: For Projects on which the original Contract Price is \$50,000 or less, CONTRACTOR may propose for OWNER's consideration a plan for providing supervision on the site that does not involve the presence of a full-time superintendent, representative, or alternate, as required by the preceding paragraphs. Any such plan must ensure that CONTRACTOR's supervision of the work is adequate and effective for purposes of completing the work timely and in compliance with the Contract Documents. OWNER may approve or reject CONTRACTOR's proposed plan in its sole and absolute discretion.

9.3.4. Emergency Contacts: CONTRACTOR shall provide OWNER with a list of names and telephone numbers at which CONTRACTOR's representative, alternate, superintendent, and other key personnel can be reached during non-working hours in the case of an emergency.

## **10. SIGNATURE REQUIREMENTS**

The Agreement must be signed by officer(s) authorized to bind CONTRACTOR. If documentation demonstrating express authority is not provided, then the Agreement must be signed by those officers with apparent authority to bind CONTRACTOR. If CONTRACTOR is a corporation, such signatures must comply with Corporations Code Section 313, as follows:

- 1) One signature by the chairman of the board, the president, or any vice president; and
- 2) One signature by the secretary, any assistant secretary, the chief financial officer, or any assistant treasurer.

## **11. ENTIRE AGREEMENT**

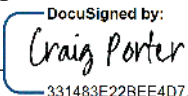
The Contract Documents represent the entire and integrated agreement between OWNER and CONTRACTOR and supersede all prior representations, statements, or agreements concerning the subject matter of this Contract, whether verbal or written.

\*\*\*SIGNATURE PAGE FOLLOWS\*\*\*

*County of Orange*  
*R.J. Noble Company*

**IN WITNESS WHEREOF**, the Parties hereto have executed this Contract on the dates opposite their respective signatures:

Date: 5/19/2017

*R.J. Noble Company*  
*a California Corporation*  
By \_\_\_\_\_  \_\_\_\_\_  
331483E22BEE4D7...  
**Craig Porter** **Vice President**  
\_\_\_\_\_  
Print Name & Title

*(If a corporation, the document must be signed by two corporate officers. The 1<sup>st</sup> must be either Chairman of the Board, President or any Vice President.)*

Date: 5/19/2017

By \_\_\_\_\_  \_\_\_\_\_  
8002F847325C470...  
**Steve Mendoza** **Secretary**  
\_\_\_\_\_  
Print Name & Title

*(If a corporation, the 2nd signature must be either the Secretary, an Assistant Secretary, the Chief Financial Officer, or any Assistant Treasurer.)*

COUNTY OF ORANGE,  
a political subdivision of the State of California

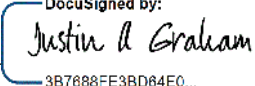
Date: \_\_\_\_\_

By \_\_\_\_\_

Print  
Name \_\_\_\_\_

Title \_\_\_\_\_

APPROVED AS TO FORM  
Office of the County Counsel  
Orange County, California

By: \_\_\_\_\_  5/22/2017  
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County of Orange  
R.J. Noble Company

**Attachment A**  
MA-080-17011883  
Lambert Road Bikeway

**BID SCHEDULE**

<b>Item</b>	<b>Description</b>	<b>Unit</b>	<b>Quantity</b>	<b>Unit Price (in figures)</b>	<b>Item Total (in figures)</b>
1	PROGRESS SCHEDULE	MO	3	\$1,500	\$4,500
2	MOBILIZATION	LS	1	\$63,000	\$63,000
3	STORM WATER POLLUTION PREVENTION PLAN (SWPPP)	LS	1	\$10,500	\$10,500
4	PERMIT REQUIREMENTS	LS	1	\$3,600	\$3,600
5	CLEARING AND GRUBBING	LS	1	\$38,000	\$38,000
6	PROJECT INFORMATION SIGN	EA	2	\$735	\$1,470
7	REMOVE ROADWAY STRUCTURAL SECTION	CY	790	\$18	\$14,220
8	ADJUST WATER VALVE CAN AND COVER TO GRADE	EA	3	\$975	\$2,925
9	ADJUST MANHOLE TO GRADE	EA	4	\$975	\$3,900
10	UNCLASSIFIED EXCAVATION	CY	260	\$78	\$20,280
11	UNCLASSIFIED EXCAVATION (OVER EXCAVATION)	CY	750	\$35	\$26,250
12	UNCLASSIFIED FILL	CY	140	\$56	\$7,840
13	UNCLASSIFIED FILL (OVER EXCAVATION)	CY	375	\$35	\$13,125
14	COLD MILL ASPHALT CONCRETE PAVEMENT	SF	131,643	\$0.13	\$17,113.59
15	ASPHALT CONCRETE PAVEMENT	TON	1,300	\$58	\$75,400
16	ASPHALT RUBBER HOT MIX (ARHM)	TON	2,283	\$74	\$168,942
17	CONSTRUCT AC DIKE TYPE D1-6(150)	LF	1,533	\$4.60	\$7,051.80
18	CONSTRUCT AC DIKE TYPE D1-8(200)	LF	1,350	\$4.60	\$6,210
19	CONSTRUCT POROUS ASPHALT CONCRETE SIDEWALK	SF	8,650	\$7.65	\$66,172.50
20	CONSTRUCT PCC CURB RAMP (INCLUDING DETECTABLE WARNING SURFACE)	SF	100	\$41	\$4,100



*County of Orange*  
*R.J. Noble Company*

**Attachment A**  
**MA-080-17011883**  
**Lambert Road Bikeway**

21	INSTALL CHAIN LINK FENCE	LF	1,140	\$26	\$29,640
22	INSTALL CHAIN LINK GATE (SINGLE LEAF)	EA	3	\$1,050	\$3,150
23	MODIFY PARKWAY CULVERT	EA	3	\$9,350	\$28,050
24	INSTALL BIKE RACK	EA	1	\$6,150	\$6,150
25	TEMPORARY TRAFFIC CONTROL	LS	1	\$26,000	\$26,000
26	REMOVE EXISTING STRIPING	LF	17,300	\$0.47	\$8,131
27	REMOVE EXISTING PAVEMENT MARKINGS	SF	186	\$2	\$372
28	REMOVE EXISTING PAVEMENT MARKERS	EA	541	\$1.10	\$595.10
29	TRAFFIC STRIPING – 6” SOLID WHITE (BIKE)	LF	8,400	\$0.38	\$3,192
30	TRAFFIC STRIPING – 6” DASHED WHITE (BIKE)	LF	400	\$0.38	\$152
31	TRAFFIC STRIPING – 4” DASHED WHITE	LF	6,180	\$0.27	\$1,668.60
32	TRAFFIC STRIPING – 4” SOLID WHITE	LF	350	\$0.27	\$94.50
33	TRAFFIC STRIPING – 8” SOLID WHITE	LF	350	\$0.55	\$192.50
34	TRAFFIC STRIPING – 4” SOILD DOUBLE YELLOW	LF	4,680	\$0.27	\$1,263.60
35	PAVEMENT MARKINGS	SF	452	\$1.95	\$881.40
36	THERMOPLASTIC TRAFFIC STRIPING – 6” SLID WHITE (BIKE)	LF	4,800	\$0.75	\$3,600
37	THERMOPLASTIC TRAFFIC STRIPING-6" DASHED WHITE (BIKE)	LF	400	\$0.75	\$300
38	THERMOPLASTIC TRAFFIC STRIPING-4" SOLID WHITE (CHEVRONS)	LF	450	\$0.55	\$247.50
39	THERMOPLASTIC TRAFFIC STRIPING-4" DASHED WHITE	LF	200	\$0.48	\$96
40	THERMOPLASTIC PAVEMENT MARKING	SF	140	\$5.25	\$735
41	RAISED PAVEMENT MARKERS	EA	541	\$3.15	\$1,704.15
42	REMOVE EXISTING SIGN PANEL	EA	26	\$58	\$1,508

*County of Orange*  
*R.J. Noble Company*

**Attachment A**  
*MA-080-17011883*  
*Lambert Road Bikeway*

43	REMOVE EXISTING SIGN POST	EA	1	\$105	\$105
44	INSTALL NEW SIGN POST	EA	7	\$160	\$1,120
45	INSTAL NEW SIGN PANEL	EA	44	\$70	\$3,080
46	REMOVE DETECTOR LOOPS	EA	13	\$110	\$1,430
47	INSTALL TYPE E LOOP DETECTOR	EA	8	\$350	\$2,800
48	INSTALL TYPE D LOOP DETECTOR	EA	5	\$475	\$2,375
				<b>TOTAL BID AMOUNT:</b>	\$683,233.24

**Abbreviations:**

(A) Additive Bid Item  
(D) Deletable Bid Item  
(F) Final Quantity Bid Item  
(NA) Non-Adjustable Bid Item  
(P) Partial Payment Bid Item  
(S) Specialty Bid Item

CF = Cubic Foot  
CY = Cubic Yard  
DAY = Working Day  
EA = Each  
GAL = Gallon  
LB = Pound

LF = Linear Foot  
LS = Lump Sum  
MO = Month  
TON = Ton (2,000 lbs)  
SF = Square Foot  
SY = Square Yard  
T&M = Time & Materials