



Public Works Contract # 007E-PW-10/11-BOS

**EL DORADO COUNTY
ENVIRONMENTAL MANAGEMENT DEPARTMENT
CONSTRUCTION AGREEMENT**

**Union Mine Wastewater Treatment Plant
Construction and Renovation of the Existing Wastewater Treatment Plant**

This Public Works Contract #007E-PW-10/11-BOS is made and entered into by and between the County of El Dorado, a political subdivision of the State of California, hereinafter referred to as "Owner" or "County", acting by and through County Service Area No. 10, a lawfully established County Service Area as defined by Government Code Sections 25210 et seq., and Syblon Reid Construction, Inc., a Corporation, whose principal place of business is 1130 Sibley Street, Folsom, CA 95630, hereinafter referred to as "Contractor".

**Article 1
CONTRACT DOCUMENTS**

1.1 The complete Contract between the County and the Contractor shall consist of the following Contract Documents: The Notice to Bidders, the Bonds, the Accepted Bid Proposal, all Addenda, this Construction Contract, the General Conditions, the Drawings and Specifications, Notice of Award, Notice to Proceed, Change Orders, Notice of Substantial Completion, the completed Bid Proposal as accepted by the Owner, including but not limited to: Proposed Pay Items, Major Equipment Items, Subcontractors List, Public Contract Code Section 10285.1 Statement, Public Contract Code Section 10162 Questionnaire; Public Contract Code Section 10232 Statement; Persons Interested In Proposal, Non-Collusion Affidavit, Bidder Information Sheet, Certification of Bidder for Proposal; Bidder's Bond; Notice of Completion and modifications incorporated in those documents: Bidder's Bond; Withholding Exemption Certificate 590; Form W-9; Certificate of Insurance; Performance Bond; Payment Bond and Contractor's Guarantee.

1.2 The Contract, Drawings, and Specifications are intended to supplement one another. In the event of a conflict between the Drawings and Specifications, the Drawings shall generally prevail; provided, however, any such conflict shall be immediately brought to the notice of the Owner for interpretation and confirmation.

Article 2
THE WORK

2.1 The Contractor agrees to furnish as his own cost and expense, all tools, equipments, apparatus, labor, materials, mechanical workmanship, transportation, and services necessary to complete the construction and renovation of the existing Union Mine Wastewater Treatment Plant located in El Dorado County in strict accordance with the Contract Documents.

Article 3
TIME FOR COMPLETION

3.1 For the purpose of determining the Contract completion date, the date of commencement shall be on or about August 1, 2011, unless otherwise agreed to by both parties, no more than 10 calendar days after the date of the written Notice to Proceed Contractor shall commence the work under this contract.

3.2 The Work shall be commenced on the date provided for in Paragraph 3.1 and shall be diligently pursued by the Contractor. Construction work will be completed no later than August 31, 2012. This contract shall expire December 31, 2012.

Article 4
THE CONTRACT PAYMENT

4.1 In consideration of the covenants, agreements, and promises on the part of the Contractor contained in the Contract Documents, and the strict and literal fulfillment of each and every such covenant, agreement, and promise, and as compensation agreed upon for the erection, construction, and completion of the said Work described in Article 1 hereof in strict accordance with the Drawings and Specifications therefore, the County agrees to pay and cause to be paid to the Contractor the sum of **SIX HUNDRED SEVENTY TWO THOUSAND DOLLARS AND 00/100 (\$672,000)**, lawful money of the United States, subject to additions and deductions as provided in the Contract Documents.

Article 5
PROGRESS PAYMENTS

5.1 Every 30 days, the Contractor may submit to the County's Representative, or the Inspector, if one is appointed, an itemized Application for Payment for work completed to date. Such application shall be supported by such data substantiation the Contractor's right to payment as the County may require, such as copies of requisitions from subcontractors and material suppliers.

5.2 Progress Payments shall be made 45 days from receipt of the application for payment. The amount shall be based on the percent completion of each portion of Work completed. Payment of undisputed Contract amounts (progress payments) is contingent upon the Contractor furnishing the County with a release of all claims against the County arising by virtue of the Work relating to the amount so paid. The release may be on the form used for computing monthly progress payment.

5.3 The progress payment amount shall be adjusted as set forth in Article 6 of the General Conditions.

Article 6
FINAL PAYMENT

6.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the County to the Contractor when (1) the Contract has been fully performed by the Contractor except for the Contractor's responsibility to correct nonconforming work as provided in Article 9 of the General Conditions and to satisfy other requirements, if any, which necessarily survive final payment; and (2) a final Certificate for Payment has been issued by the Inspector; such final payment shall be made by the County not more than 45 days after the recording of the Notice of Completion.

6.2 Payment on contract with the County for the creation, construction, alteration, repair, or improvement of any public structure, building, road, or other improvement, of any kind which will exceed in cost a total of five thousand dollars (\$5,000), shall be made as the County prescribes upon estimates approved by the County, but progress payments shall not be made in excess of 95 percent of the percentage of actual work completed plus a like percentage of the value of material delivered on the ground or stored subject to, or under the control of, the County, and unused. The County shall withhold 10 percent of the contract price until final completion and acceptance of the work. However, at any time after 50 percent of the work has been completed, if the County finds that satisfactory progress is being made, it may make any of the remaining progress payments in full for actual work completed.

Article 7 MISCELLANEOUS

7.1 Liquidated Damages shall be imposed upon the Contractor should the Contractor fail to complete this Contract, and the work provided herein within the time fixed for such completion, the Contractor shall become liable to the County for all loss and damage which the latter may suffer on account thereof, and

7.2 IT IS HEREBY FURTHER AGREED, that in case the Contractor does not complete the construction work by August 31, 2012, for reasons or causes other than those provided for in the Contract Documents hereof, the County will be damaged. After considering such a breach and all aspects of the Work including, but not limited to, the type of installation, the current and future uses of facilities and premises, the disarrangement of the premises and facilities thereof during the Work, and the additional cost and difficulty of using the disarranged facilities during the Work, the parties agree that a reasonable daily damage for such a breach, if any, will be \$1,000 per work-day, and the payment of the same, if any, is payment of liquidating damages and not a penalty. It is understood that this Agreement for liquidated damages is entered into because the amount is manifestly reasonable under the circumstances existing at the time of this Agreement, and it would be extremely difficult or impossible to determine with any degree of accuracy the actual damages in case of any such breach. In case of such breach, it is agreed that the County may deduct the amount thereof from any money due or to become due said Contractor under this Contract.

7.3 Other Applicable Conditions: None

7.4 Terms used in the Agreement that are defined in the General Conditions of the Contract shall have the meanings designated in those Conditions.

7.5 Contractor is, and shall be at all times, deemed independent and shall be wholly responsible for the manner in which it performs services required by terms of this Contract. Contractor exclusively assumes responsibility for acts of its employees, associates, and sub consultants, if any are authorized herein, as they relate to services to be provided under this Contract during the course and scope of their employment.

7.6 Contractor shall be responsible for performing the work under this Contract in a safe, professional, skillful and a workmanlike manner and shall be liable for its own negligence and negligent acts of its employees. County shall have no right of control over the manner in which work is to be done and shall, therefore, not be charged with responsibility of preventing risk to Contractor or its employees.

Article 8
TERMINATION OR SUSPENSION

8.1 The Contract may be terminated by the County or the Contractor as provided in Article 10 of the General Conditions.

8.2 The Work may be suspended by the County as provided in Article 10 of the General Conditions.

Article 9
ADMINISTRATOR

9.1 The County Officer or employee with responsibility for administering this Contract is Greg Stanton, Deputy Director of Environmental Management, or his successor.

Article 10
CONTRACTOR'S GUARANTEE

10.1 Notwithstanding the required executed certifications and warranties included with the Contract Documents, as Contractor for the above project, we hereby agree to repair or replace any or all work provided hereunder which is defective due to faulty materials, poor workmanship, or defective equipment at no expense to the County, ordinary wear or tear and unusual abuse or neglect expected, during the term of the Contract and for a period of one (1) year from the date of final acceptance of the work.

10.2 We further agree to repair or replace any and all adjacent facilities or areas which have been damaged or displaced due to our work performed under this Contract at no expense to the County during the term of this Contract and for a period of one (1) year from the date of final acceptance of the work.

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

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

IN WITNESS WHEREOF, the County has caused this Agreement to be executed by the Chairman of the Board of Supervisors, and the Contractor has executed this Agreement on the day and year first above written.

**Article 11
INDEMNITY**

11.1 To the fullest extent allowed by law, the Contractor shall defend, indemnify, and hold the County harmless against and from any and all claims, suits, losses, damages and liability for damages of every name, kind and description, including attorneys fees and costs incurred, brought for, or on account of, injuries to or death of any person, including but not limited to workers, County employees, and the public, or damage to property, or any economic or consequential losses, which are claimed to or in any way arise out of or are connected with the Work, Contractor's services, operations, or performance of the Work, the Contractor, subcontractor(s) and employee(s) of any of these, except for the sole, or active negligence of the County, its officers and employees, or as expressly proscribed by statute. This duty of Contractor to indemnify and save County harmless includes the duties to defend set forth in California Civil Code Section 2778 and as provided in Article 3.10 of the General Conditions.

**Article 12
INSURANCE**

12.1 Contractor shall provide proof of policy(ies) of insurance satisfactory to the County of El Dorado Risk Manager and documentation evidencing that Contractor maintains insurance that meets all the requirements set forth in Article 8 of the General Conditions.

**Article 13
WORKERS COMPENSATION CERTIFICATION**

By my signature hereunder, as Contractor, I certify that I am aware of the provisions of Section 3700 of the California 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.

CERTIFICATE OF KNOWLEDGE - LABOR CODE SECTION 3700

I am aware of the provisions of Section 3700 of the Labor Code, which requires every employer to be insured against liability for the worker's compensation or 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: _____ Dated: _____

**Article 14
CANCELLATION OF CONTRACT**

14.1 The Owner reserves the right to terminate this Contract at any time for any reason by serving written notice to the Contractor as set forth in Article 10 of the General Conditions.

**Article 15
AUTHORIZED SIGNATURES**

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

COUNTY OF EL DORADO

Dated: _____

By: _____

**Raymond J. Nutting
Board of Supervisors
"County"**

**ATTEST:
Clerk of the Board of Supervisors**

By: _____ Date: _____
Deputy Clerk

CONTRACTOR

Dated: _____

By _____
Name
Title

Dated: _____

Corporate Secretary (If Corporation)

ADDRESS OF SURETY FOR SERVICE OF NOTICE

NOTE: If Contractor is a corporation, the legal name of the corporations 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 Department prior to signing this document.

