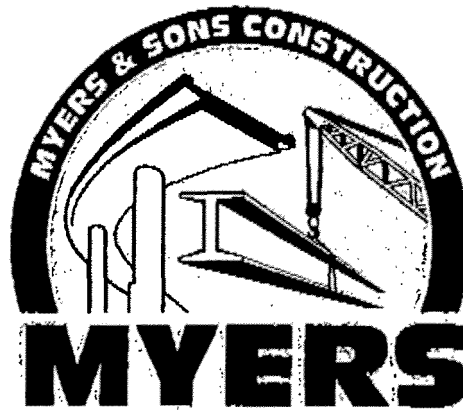


RECEIVED  
BOARD OF SUPERVISORS  
EL DORADO COUNTY  
2:10 pm, Aug 05, 2011



**LATE DISTRIBUTION**  
Date 2:10 pm, Aug 05, 2011

July 29, 2011

Janel Gifford  
Department of Transportation  
El Dorado County  
2850 Fair Lane Court  
Placerville, CA 95667

**RE: BID PROTEST OF VICTORY ENGINEERS, INC ON CONTRACT NO. PW 09-30469, CIP NO.77121 ICE HOUSE ROAD BRIDGES MAINTENANCE**

Ms. Gifford

Myers and Sons Construction, LP ("Myers") is protesting the bid submitted by Victory Engineers, Inc. ("Victory") based on the following evidence.


On page P-13 of Victory Engineers, Inc. bid, under important notice Victory failed to fill out the required information. It states as follows "state legal name of corporation and place of incorporation", Victory did not provide this information.

On page P-14 of Victory's bid proposal they did not list the total claimed UDBE Participation dollars, and did not perform a good faith effort to meet the requirements. In addition, Victory did not properly list "Sam's Equip" due to the fact that there is no expiration date on the UDBE Certification and there was no address or phone number listed for "Sam's Equip".

The bidders bond that Victory submitted was not for the bid that took place on July 25<sup>th</sup>, 2011 and therefore is invalid. The date on the bid bond was prior to the date that this project was advertised and therefore it could not have been contemplated that this bid bond was for this bid.

Myers and Sons Construction, LP asked the Department of Transportation and the Board of Supervisors to reject Victory Engineers, Inc. bid and award the project to Myers and Sons Construction, LP.

Sincerely,

  
Clinton W. Myers  
Vice President

Accompanying this proposal is Bidder's Bond  
(NOTICE: INSERT THE WORDS "CASH(\$\_\_\_)", "CASHIER'S CHECK," "CERTIFIED CHECK," OR "BIDDERS BOND," AS THE CASE MAY BE)

in amount equal to at least ten percent of the total of the bid.

The names of all persons interested in the forgoing Proposal as principals are as follows:

**IMPORTANT NOTICE:** If the Bidder or other interested person is a corporation, state legal name of corporation and place of incorporation; also names of the president, secretary, treasurer, and executive officer thereof; if a partnership, state name of partnership, also names of all individual partners; if Bidder or other interested person is an individual, state first and last names in full.

Jonathan Reid - All Offices

Licensed in accordance with an act providing for the registration of Contractors,

License No. 897348 Classification(s) A

**(A Copy of the afore-referenced license must be attached hereto.)**

**ADDENDA:** This Proposal is submitted with respect to the changes to the Contract included in addenda number (s) 1

(Fill in addenda numbers if addenda have been received and insert, in this Proposal, any Proposal Pay Items and Bid Price Schedules that were received as part of the addenda)

By my signature on this Proposal I certify, under penalty of perjury under the laws of the State of California, that the foregoing questionnaire and statements of Public Contract Code Sections 10162, 10232, and 10285.1 are true and correct and that the Bidder has complied with the requirements of Sections 4104 of the Subletting and Subcontracting Fair Practices Act and of Section 8103 of the Fair Employment and Housing Commission Regulations (Chapter 5 of Division 4 of Title 2 of the California Code of Regulations). By my signature on this Proposal I further certify, under penalty of perjury under the laws of the State of California and the United States of America, that the Noncollusion Affidavit required by Title 23 United States Code, Section 112 and Public Contract Code Section 7106; and the Equal Employment Opportunity Certification; and the Title 49, Code of Federal Regulations, Part 29 Debarment, Suspension, Ineligibility, and Voluntary Exclusion Certification; and the Non-lobbying Certification for Federal-Aid Contracts and the Disclosure of Lobbying Activities (Standard Form LLL); are true and correct.

The person or persons executing this Proposal on behalf of a corporation or partnership shall be prepared to demonstrate by resolution, article, or otherwise, that such person is or that such persons are appropriately authorized to act in these regards for such corporation or partnership. Such authority shall be demonstrated to the satisfaction of the County of El Dorado.


If the signature is by an agent other than an officer of a corporation or a member of a partnership, a power of attorney authorizing said act by the agent on behalf of his principal shall be submitted with the bid forms; otherwise, the bid may be disregarded as irregular and unauthorized.

The Bidder's execution on the signature portion of this Proposal shall constitute an endorsement and execution of those affidavits, declarations and certifications which are part of this Proposal.

Executed this 25 day of July, 2008-2011

at Madera County, State of California

Date: 7-25-11

Sign  Here [Signature]

Name and Title of Bidder Jonathan Reid, president

Name of Firm Victory Engineers, Inc.

**END OF PROPOSAL**

EXHIBIT 15-G1 LOCAL AGENCY BIDDER UDBE COMMITMENT (CONSTRUCTION CONTRACTS)

NOTE: PLEASE REFER TO INSTRUCTIONS ON THE NEXT PAGE OF THIS FORM

LOCAL AGENCY: EL DORADO COUNTY LOCATION: ICE HOUSE ROAD AT (5) BRIDGE LOCATIONS

PROJECT DESCRIPTION: BRIDGE DECK MAINTENANCE

TOTAL CONTRACT AMOUNT: \$ 351,350.00

BID DATE: 7-25-11

BIDDER'S NAME: Victory Engineers, Inc.

CONTRACT UDBE GOAL: 1.73 %

CONTRACT ITEM NO.	ITEM OF WORK AND DESCRIPTION OR SERVICES TO BE SUBCONTRACTED OR MATERIALS TO BE PROVIDED (or contracted if the bidder is a UDBE)	UDBE CERT NO. AND EXPIRATION DATE	NAME OF EACH UDBE (Must be certified on the date bids are opened - include UDBE address and phone number)	DOLLAR AMOUNT UDBE
7 6	materials equipment	27563	Sam's Equip	11,096.88 <sup>gr</sup>

For Local Agency to Complete:

Local Agency Contract Number: PW 09-30469, CIP No. 77121

Federal-aid Project Number: BRLO 5925 (064)

Federal Share: 88.53%

Contract Award Date:

Local Agency certifies that all UDBE certifications have been verified and information is complete and accurate.

Janel Gifford  
Print Name Signature Date  
Local Agency Representative

(Area Code) Telephone Number: (530) 621-5974

Total Claimed UDBE Participation \$  
1.9%  
OF TOTAL AMOUNT BID

Signature of Bidder

7-25-11 559-439-7700  
Date (Area Code) Tel. No.

Jonathan Reid  
Person to Contact (Please Type or Print)

Local Agency Bidder UDBE Commitment (Construction Contracts)  
(Rev 6/26/07)

**UDBE Information – Good Faith Efforts, Exhibit 15-H**

Federal-aid Project No. BAL0 5925 Bid Opening Date 25 Jul 11

The County of El Dorado established an Under-utilized Disadvantaged Business Enterprise (UDBE) goal of 1.73% for this project. The information provided herein shows that a good faith effort was made.

Lowest, second lowest and third lowest bidders shall submit the following information to document adequate good faith efforts. Bidders should submit the following information even if the "Local Agency Bidder – UDBE Commitment" form indicates that the bidder has met the UDBE goal. This will protect the bidder's eligibility for award of the contract if the administering agency determines that the bidder failed to meet the goal for various reasons, e.g., a UDBE firm was not certified at bid opening, or the bidder made a mathematical error.

Submittal of only the "Local Agency Bidder – UDBE Commitment" form may not provide sufficient documentation to demonstrate that adequate good faith efforts were made.

The following items are listed in the Section entitled "Submission of UDBE Commitment" of the Special Provisions:

- A. The names and dates of each publication in which a request for UDBE participation for this project was placed by the bidder (please attach copies of advertisements or proofs of publication):

Publications	Dates of Advertisement
<u>MET REQUIREMENTS</u>	

- B. The names and dates of written notices sent to certified UDBEs soliciting bids for this project and the dates and methods used for following up initial solicitations to determine with certainty whether the UDBEs were interested (please attach copies of solicitations, telephone records, fax confirmations, etc.):

Names of UDBEs Solicited	Date of Initial Solicitation	Follow Up Methods and Dates
<u>MET REQUIREMENTS</u>		

- C. The items of work which the bidder made available to UDBE firms, including, where appropriate, any breaking down of the contract work items (including those items normally performed by the bidder

with its own forces) into economically feasible units to facilitate UDBE participation. It is the bidder's responsibility to demonstrate that sufficient work to facilitate UDBE participation was made available to UDBE firms.

Items of Work	Bidder Normally Performs Item (Y/N)	Breakdown of Items	Amount (\$)	Percentage of Contract
<u>MET REQUIREMENTS</u>				

D. The names, addresses and phone numbers of rejected UDBE firms, the reasons for the bidder's rejection of the UDBEs, the firms selected for that work (please attach copies of quotes from the firms involved), and the price difference for each UDBE if the selected firm is not a UDBE:

Names, addresses and phone numbers of rejected UDBEs and the reasons for the bidder's rejection of the UDBEs:

Met Requirements

Names, addresses and phone numbers of firms selected for the work above:

Met Requirements

E. Efforts made to assist interested UDBEs in obtaining bonding, lines of credit or insurance, and any technical assistance or information related to the specifications and requirements for the work which was provided to UDBEs:

Met Requirements

F. Efforts made to assist interested UDBEs in obtaining necessary equipment, supplies, materials, or related assistance or services, excluding supplies and equipment the UDBE subcontractor purchases or leases from the prime contractor or its affiliate:

Met Requirements

G. The names of agencies, organizations or groups contacted to provide assistance in contacting, recruiting and using UDBE firms (please attach copies of requests to agencies and any responses received, i.e., lists, Internet page download, etc.):

Name of Agency/Organization	Method/Date of Contact	Results
<i>Met Requirements</i>		

H. Any additional data to support a demonstration of good faith efforts (use additional sheets if necessary):

NOTE: USE ADDITIONAL SHEETS OF PAPER IF NECESSARY.

RECEIVED  
JUN 09 2011

COUNTY OF EL DORADO  
BIDDER'S BOND

Bond No. 101780-99

BY: .....

this form MUST be used

KNOW ALL PEOPLE BY THESE PRESENTS, THAT WE

Victory Engineers Inc., 10266 Highway 41, Madera, CA 93636 as PRINCIPAL, and  
Upper Hudson National Insurance Company, 4446 State Route 42, Suite B, Monticello, NY 12701

as Surety are held and firmly bound unto the County of El Dorado, a political subdivision of the State of California (hereinafter referred to as "Obligee"), in the penal sum of TEN (10) PERCENT OF THE AMOUNT OF THE TOTAL BID PRICE of the Principal above named, submitted by said Principal to the Obligee for the work described below, for the payment of which sum in lawful money of the United States, well and truly to be made to the Obligee, we the Principal and Surety bind ourselves, our heirs, executors, administrators and associates, jointly and severally, firmly by these presents. In no case shall the liability of the Surety hereunder exceed the sum of

TEN PERCENT (10%) OF THE AMOUNT OF THE TOTAL BID PRICE

THE CONDITION OF THIS OBLIGATION IS SUCH, THAT:

WHEREAS, the Principal has submitted the above-mentioned Bid to the Obligee, as aforesaid, for certain construction specifically described as follows, for which bids are to be opened at Placerville, El Dorado County, California, for the construction of the

ICE HOUSE ROAD BRIDGES MAINTENANCE PROJECT  
CONTRACT No. PW 09-30469 / CIP No. 77121

NOW, THEREFORE, if the aforesaid Principal is awarded the Contract and, within the time and manner required under the Contract Documents, after the prescribed forms are presented to it for signature, enters into a written contract, in the prescribed form, in accordance with the Bid, and files two bonds with the Obligee, one to guarantee faithful performance and the other to guarantee payment for labor and materials, as required by law, then this obligation shall be null and void; otherwise, it shall remain in full force and virtue.

In the event suit is brought upon this bond by the Obligee and judgment is recovered, the Surety shall pay all costs incurred by the Obligee in such suit, including a reasonable attorney's fee to be fixed by the Court.

IN WITNESS WHEREOF, we have set our hands and seals on this 6th day of June, 2011

(seal)

Principal

(seal)

Donald Appel

Surety

Address:

4446 State Route 42, Suite B

Monticello, NY 12701

(NOTE: Signature of those executing for the Surety shall be properly acknowledged, and accompanied by a Certificate of Acknowledgment.)

**SURETY**

**ACKNOWLEDGMENT**

State of ~~California~~ New York  
County of Sullivan

On 6/6/11 before me, Sonia Mullen, Notary Public,  
(here insert name and title of the officer)

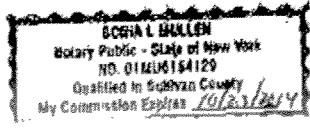
personally appeared Donald Appel

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature *Sonia Mullen*



(Seal)

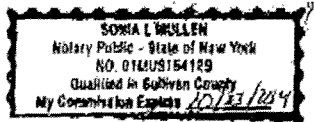


**SURETY ACKNOWLEDGEMENT**

STATE OF NEW YORK )  
 ) ss:  
COUNT OF SULLIVAN )

On the 6th day of June, 2011, before me, the undersigned, a Notary Public in and for said state, personally appeared Donald Appel, personally known to me, who being by me duly sworn, did depose and say that he resides in Thompsonville, NY; that he is the Attorney-in-Fact of the Upper Hudson National Insurance Company; the corporation described in and which executed the within instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation; and that he signed his name thereto by like order.

*Sonia L. Wullen*  
Notary Public



# UPPER HUDSON NATIONAL INSURANCE COMPANY

## Power of Attorney

*Know All Men by These Presents*

That Upper Hudson National Insurance Company, a New York Domiciled Insurance Company, having its home office located in the City of Monticello, State of New York, does make, constitute, and appoint:

**AUTHORIZED INDIVIDUALS:**

**Donald Appel**  
*Attorney-in-Fact*

In the City of Monticello, State of New York, with limited authority, its true and lawful Attorney(s)-in-Fact with full power and authority hereby conferred, to sign, execute, seal and deliver for and on its behalf, as attorney and in its act and deed, any and all bonds, both admitted and non-admitted, letters of credit, undertakings, and contents of suretyship provided that no bond or contract of suretyship executed under this authority shall exceed in penalty the amount the sum of:

-----ALL WRITTEN INSTRUMENTS IN AN AMOUNT NOT TO EXCEED \$500,000-----  
FIVE HUNDRED THOUSAND DOLLARS

The acknowledgement and execution of such bond by the said Attorney-in-Fact shall be a binding upon this Company as if such bond had been executed and acknowledged by the regularly elected officers of this Company.

All authority hereby conferred shall expire and terminate without notice, unless used before midnight of June 30, 2011, but until such time shall be irrevocable and in full force and effect.

Upper Hudson National Insurance Company further certifies that the following is a true and accurate copy of the Section in the Corporate By-Laws that pertain to bond undertakings:

**Article IX-Policies and Underwriting Undertakings**

All policies and underwriting undertakings shall be valid when signed by the President, a Vice President, an Attorney-in-Fact or any other authorized official or agent of the Company, and where required by law, such policies and undertakings may be attested and sealed with a seal of the company.

The President or Vice President or any person designated by either of them may appoint and authorize Attorneys-in-Fact, officials and agents of the Company to accomplish the purposes set forth in this Article.

IN WITNESS WHEREOF, we have caused these presents to be executed by its President, Robert Wong, this 6th day of June, 2011



UPPER HUDSON NATIONAL INSURANCE COMPANY  
*Robert Wong*  
President  
Robert Wong

NOTICE: The background shading of this document is BLUE. If it is not, this is not a Certified Copy. Call 1-845-791-6700

Please Direct All Correspondence To:

Upper Hudson National Insurance Company  
4446 State Route 42, Suite B  
Monticello, New York 12701  
Tel: 845-791-6700

80904  
Bond #: 1B1780-99  
County of El Dorado (CA)

WARNING: THE RED "PROTECTED" LOGO BELOW CONTAINS HEAT SENSITIVE SECURITY INK WHICH SHOULD TEMPORARILY DISAPPEAR WHEN RUBBED

