



Contract No. 014-PW-09/10-BOS Between the  
County of El Dorado and  
STI Engineering

**THIS PUBLIC WORKS CONTRACT No. 014-PW-09/10-BOS** made and entered by and between the County of El Dorado, a political subdivision of the State of California (hereinafter referred to as "County"), acting by and through County Service Area No. 10, a lawfully established County Service Area as defined by Government Code Section 25210 et seq., and STI Engineering, a California Corporation duly qualified to conduct business in the State of California, with offices located at P.O. Box 792, Silverado, CA 92676 (hereinafter referred to as "Contractor").

**WITNESSETH**

That for and in consideration of the mutual promises, covenants, Contracts and conditions herein contained, the parties hereto agree with each other as follows:

**1. Contract Documents**

The complete Contract (hereafter "Contract") between the parties consists of and is set forth in the Contract Documents. The Contract Documents consist of: (a) this Contract; (b) an executed Certificate of Insurance form; (c) an executed California Form 590; (d) an executed Internal Revenue Service Form W-9; (e) payment bond; (f) performance bond; (g) a copy of the State Contractor's License; (h) a copy of El Dorado County Business License; and (i) Agreement for Funding of Consultant Services for Environmental Review for the Union Mine Disposal Site Gas to Energy Project. All obligations of the parties are contained in the Contract Documents and by acceptance of this Contract the parties hereto agree to be bound by the provisions of all of said documents. All of said 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 of them.

**2. The Work**

The Contractor agrees to furnish all tools, equipment, materials, transportation, labor, and incidentals associated with developing and operating a landfill gas-to-energy project for the Union Mine Disposal Site as described in Exhibit "A" marked "Scope of Work" incorporated herein and made by reference a part hereof (hereafter the "Work"). The Work shall be for the conversion of landfill gas to energy. The end product energy shall be a mix of gas to electricity conversion and gas to liquid hydrocarbon/petroleum conversion. Contractor shall provide a minimum of gas to electricity conversion required to meet the electrical uses specified herein below. Beyond the minimum electrical conversion, the mix selected shall be within the Contractor's sole discretion and may vary from time to time so as to maximize revenue return on the project.

Contractor also agrees to conduct and fund all permitting, licensing and regulatory compliance work, including cost of all permit category changes resulting directly from the work. The Work shall be performed in accordance with all terms and conditions of the Contract Documents.

**3. Location of Work**

The Work is to be performed at the Union Mine Disposal Site, 5700 Union Mine Road, El Dorado County, California.

**4. Covenants**

For and in consideration of the covenants, promises, and agreements as set forth herein, the Contractor promises and agrees with the County to do all the Work and to furnish at Contractor's own cost and expense, personnel, sub-contractors, all equipment, tools, materials, transportation, labor, and incidentals necessary to complete in a good, workmanlike and substantial manner, in strict accordance with the Contract Documents, the entire Work for the assigned project.

All of the Work assigned by the County is the responsibility of the Contractor, unless specifically described as an item of Work to be provided by the County. The Contractor shall be responsible for the supervision, administration, and Work performed by any sub-contractor.

**5. Conditions Precedent**

The parties hereto acknowledge that this Contract is being executed in conjunction with an Agreement for Funding of Consultant Services for Environmental Review for the Union Mine Disposal Site Gas to Energy Project. Until and unless the environmental analysis required under that agreement is complete and all conditions of that agreement have been satisfied, this contract shall have no force or effect.

This contract is further conditioned upon the approval of the project by the County Board of Supervisors who retain the discretion to approve the project as recommended, amend the project, modify the project, condition the project or deny the project as it sees fit. Contractor acknowledges that the Board of Supervisors retains such discretion and hereby waives any and all claims, rights or causes of action for costs, fees, actual damages, consequential damages or incidental damages of any kind in any way relating to the performance of Contractor's obligations under the Agreement for Funding of Consultant Services for Environmental Review for the Union Mine Disposal Site Gas to Energy Project.

In the event the County Board of Supervisors approves the project, modifies the project, amends the project or approves the project with conditions, the Contractor shall within twenty (20) days notify the County in writing of its intent to proceed with the project as approved, modified, amended or conditioned by the County Board of Supervisors and to

comply with any and all conditions for the completion of the project imposed by the County Board of Supervisors. The failure of the Contractor to notify the County in writing of its intent to proceed and comply with any and all conditions for the completion of the project within that time period shall at the discretion of the County be deemed a decision by Contractor to not proceed with the work under the contract. Upon such determination, the County shall be released from performing any conditions under the Contract and this contract shall become null and void.

If the work is commenced before all prerequisite conditions, including but not limited to those listed above, are satisfied, Contractor shall be wholly and solely responsible for all damages, losses, costs, and expenses, including attorney fees and disbursements, suffered or incurred by any person or entity including Contractor.

**6. No Implied Promise**

The execution of this Contract in no way limits the discretion of the County Board of Supervisors to approve the project, amend the project, condition the project or deny the project as it sees fit after the environmental assessment of the project has been completed. By entering into this Contract at this time, County does not make any promise either express or implied that the project will be approved after the environmental analysis to be performed under the Agreement for Funding of Consultant Services for Environmental Review for the Union Mine Disposal Site Gas to Energy Project.

Contractor further acknowledges that the County by entering into this contract at this time does so as a convenience to the Contractor to facilitate Contractor's ability to obtain the funding necessary to proceed with the work under this Contract and the Contractor's obligations to be performed under the Agreement for Funding of Consultant Services for Environmental Review for the Union Mine Disposal Site Gas to Energy Project. Contractor acknowledges that the execution of this contract creates no express or implied rights in the Contractor until such time as all conditions precedent are satisfied. If, after the environmental analysis under CEQA has been completed, the Board of Supervisors decides to not proceed with the project, Contractor hereby waives any and all claims, rights and causes of action against the County for any and all costs, expenses, losses or damages of any kind including incidental or consequential damages arising from or alleged to arise from any decision of the Board of Supervisors in regards to the project including but not limited to claims against the County for damages arising from or claimed to arise from the denial of the project, the amendment of the project, the modification of the project or the conditioning of the project.

**7. Commencements and Completion**

The Contract shall commence upon satisfaction of the conditions precedent and shall expire ten (10) years from the date of commencement thereof. The contract may be extended by two five year increments. The five year extensions will be by mutual consent. The Contractor must notify the County in writing at least 90 days prior to contract expiration to enact the five year extensions. Mutual consent of the five year extensions will be

agreed upon in writing within 90 days of the contract expiration. In any event, the contract shall not exceed twenty (20) years.

The Contractor will adhere to the following timelines.

- a. Within one year of contract commencement date, detailed engineered architectural drawings of the entire initial phase of the landfill gas to energy system shall be submitted to the County for review and approval. Plans shall clearly document design of steam injection, gas collection, energy generation of whatever type, electrical distribution, emission control and all related aspects of system.
- b. The County shall have 90 days to review and approve the plans.
- c. Within one year of plan review and approval, construction of improvements shall be completed.
- d. Within six month of construction completion, as built drawings shall be submitted to the County.
- e. Within one year of construction completion, energy generation shall commence

## **8. Project Plans**

Contractor shall provide design drawings, plans, specifications and estimates to County for review prior to any construction activities. County's review of the design drawings, plans, specifications and estimates shall be limited in scope and shall not preclude County from any rights that County may have against Contractor for any defects in the bid documents including the design, construction or operation of the landfill gas energy system. Contractor shall be solely responsible for the content, accuracy and clarity of the bid documents and for the design, construction and operation of the landfill gas energy system.

Contractor shall provide County with a set of as-built drawings. Contractor shall retain ownership rights to system plans and as-built drawings. County shall be provided with and retain rights to keep copies of plans and as-built drawings.

## **9. Financial Obligations, Royalty to County**

The County will provide Contractor with all available landfill gas generated from the Union Mine Landfill during the term of this agreement. For the exclusive gas rights provided herein, Contractor agrees to pay the County three percent (3.0%) of gross revenue before tax in the form of a Royalty paid quarterly in arrears and three percent (3.0%) of bundled Renewable Energy Credits (RECs) sold to electrical utility if applicable. Gross revenue will be all revenue derived from the operation of the landfill gas to energy facility. In addition to the three percent (3.0%) royalty, Contractor shall provide all electrical power required to operate the on site wastewater treatment plant free of charge and provide waste heat to enhance the evaporation of wastewater if applicable.

Contractor shall provide a quarterly production and sales report. The report shall be submitted to the County within 30 days after the end of the quarter. The report shall include quantities of gas produced, liquid hydrocarbon/petroleum generated, liquid hydrocarbon/petroleum sold, electricity generated, electricity sold and all revenue received.

The term “materials” in Section 2 **The Work** shall include all process chemicals, water for steam generation and all other consumable items required for system operation. County will determine quantity of water used by landfill gas energy project. Contractor will reimburse County for water usage at rates charged by water purveyor (El Dorado Irrigation District) and other costs as required by this Contract monthly in arrears. Contractor shall fund the purchase of all tools, equipment, materials, transportation, labor, and incidentals.

**10. Notification of Surety Company**

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

**11. Payment Bond**

Contractor shall upon approval of the project, provide the County with a reasonable good faith estimate of the cost of the Work to be performed hereunder. County shall have the right to review and approve such estimate as being reasonable. As a part of the execution of this Contract, the Contractor shall furnish, in triplicate, a bond of a surety company authorized to do business in the State of California, conditioned upon the payment in full of all claims for labor and materials in accordance with the provisions of the law of the State of California. The amount of this bond shall be one hundred percent (100%) of the reasonable good faith estimate of the cost of the Work. The bond shall be reviewed annually and remain in effect for the duration of the contract.

**12. Performance Bond**

As a part of the execution of this contract, the Contractor shall furnish in triplicate, a bond of a surety company authorized to do business in the State of California, conditioned upon the faithful performances of all covenants and stipulations under this contract. The amount of this bond shall be one hundred percent (100%) of the reasonable good faith estimate of the cost of the Work. The bond shall be reviewed annually and remain in effect for the duration of the contract.

**13. California Environmental Quality Act Compliance**

As the lead agency, the County shall conduct the California Environmental Quality Act (CEQA) process for the landfill gas energy project by preparing the initial study, appropriate environmental document (Environmental Impact Report, Mitigated Negative Declaration or Negative Declaration), findings and subsequent statement of overriding consideration, if required. Contractor will fund and assist the County with the CEQA process. Pursuant to CCR Title 27, Section 21665(c)(1) the environmental document, findings and any statement of overriding consideration will be submitted to the Local Enforcement Agent (LEA) for review along with the application for an amendment to the Report of Facility Information.

**14. Special Use Permit**

Contractor shall revise Special Use Permit S91-28 and incorporate any mitigation measures developed during the CEQA process. Contractor shall comply with revised Special Use Permit general conditions and mitigation measures as issued by the El Dorado County Planning Division. Contractor shall be liable for all erosion control, storm water management, hazardous material handling, dust control, noise monitoring, evaluation and control costs related to the Work.

Contractor shall be liable for and shall defend and indemnify the County for any fines, penalties, costs of remediation, incidental and consequential damages arising from failure to construct and operate the landfill gas energy system in compliance with Special Use Permit conditions and mitigation measures. Contractor shall be liable for and shall defend and indemnify the County for any fines, penalties, costs of remediation, incidental or consequential damages arising from failure to comply with Special Use Permit conditions. Additionally to the extent that any administrative proceeding is undertaken by any agency to enforce the conditions of Special Use Permit S91-28, Contractor shall defend, indemnify and hold County harmless in such proceeding.

**15. Report of Facility Information and Joint Technical Document Amendment**

As required by CCR Title 27 Section 21600(a) the County must submit to the Local Enforcement Agent (LEA) an amendment to the Report of Facility Information (RFI). Contractor shall fund and assist County with preparation, submittal and any required revisions to the RFI by submitting an RFI Amendment to the LEA. If after reviewing the RFI amendment the LEA and/or California Department of Resources Recycling and Recovery (Cal Recycle) determine the Solid Waste Facility Permit must be revised or modified based on changes resulting from the Work, Contractor will fund and assist the County with the Solid Waste Facility Permit revision or modification to the extent those revisions or modifications result from the Work. If required by the LEA, Contractor shall also fund and assist County with preparation of either a new or revised Joint Technical Document (JTD) in accordance with CCR Title 27 Section 21590. The applications for RFI and JTD amendments shall include a complete set of project plans stamped by a Civil Engineer registered to conduct business in the State of California. If the RFI and/or JTD amendments resulting from the work result in increased permitting costs, the contractor shall pay for the increased permitting cost.

**16. Compliance with all Applicable Laws, Regulations and Licensing**

Contractor shall conform to and abide by all Federal, State, Regional Water Board, California Department of Resources Recycling and Recovery and local building, labor and safety laws, ordinances, rules and regulations. All Work and materials shall be in full accordance with the latest rules and regulations of the State Fire Marshall, safety orders of the Division of Industrial Safety, National Electrical code, Uniform Building Code, Uniform Plumbing Code, and any/all other applicable laws and regulations. Nothing in the plans or specifications is to be construed to permit Work not conforming to these codes.

The Work including Contractor's landfill gas enhancement and extraction system operation shall not increase the volume of leachate generated nor degrade groundwater quality as determined by County staff and compliance with the Union Mine Disposal Facility Waste Discharge Requirements (WDRs). The Work including Contractor's landfill gas enhancement and extraction system operation shall not violate provisions of Union Mine Waste Water Treatment Plant WDRs No. R5-2006-0019 and Union Mine Landfill WDRs No. R5-2006-0020. Any additional condensate generated shall be managed in compliance with WDR No. R5-2006-0019 Discharge Prohibitions Sections 1,2,3,5 and 6. Condensate shall not degrade effluent constituent concentrations such that neither WDR No. R5-2006-0019 Section C. Effluent Limitations nor Section F. Groundwater Limitations are violated. The Work including Contractor's landfill gas to energy system construction and operation activities shall comply with WDR #R5-2006-0020 Section A. Discharge Prohibitions 1-12, general WMU Construction 13 and 19, Landfill Closure Specifications 22 and 23, Landfill-Postclosure Maintenance Specifications 24 and 25, and Protection from Storm Events 28, 29 and 30. Contractor's activities shall in no way contribute to any violations of the Water Quality Protection Standards by increasing concentrations of constituents of concern above concentration limits established pursuant to Monitoring and Reporting Program No. R5-2006-0020 and subsequent Monitoring and Reporting Programs. Contractor shall be liable for any additional sampling, analysis, evaluation and remediation costs relating to groundwater degradation caused in whole or in part or in any way related to or arising from the Work including the steam injection system or operation of the landfill gas to energy project. To the extent such groundwater degradation results in any administrative order, notice of violation, notice to comply, judgment, fines or penalties Contractor shall hold County harmless and defend and indemnify the County against and from such administrative order, notice of violation, notice to comply, judgment, fines or penalties or the threat of such administrative order, notice of violation, notice to comply, judgment, fines or penalties.

The Work including Contractor's landfill gas energy system installation and operation shall not violate provisions of the State Water Resources Control Board Water Quality Order No. 97-03-DWQ National Pollution Discharge Elimination System (NPDES) General Permit No. CAS1 (General Permit), the current Union Mine Disposal Site Storm Water Pollution Prevention Plan (SWPPP) Revision 8 and any additional or subsequent

storm water permits issued by the State Water Resources Control Board and SWPPPs drafted by County. The Work including Contractor's landfill gas energy system installation and operation shall not result in stormwater discharges that will violate the concentration limits determined by County for the Surface Water Monitoring Program Constituents of Concern in accordance with Monitoring and Reporting Program No. R5-2006-0020 Sections D.4. and E at point of compliance S-7. The Work including Contractor's landfill gas energy system installation and operation shall not create storm water discharges that contribute to violations of General Permit A. Discharge Prohibitions, B. Effluent Limitations, C. Receiving Water Limitations and storm water surface water samples Contractor shall participate as a member of Storm Water Pollution Prevention Plan Pollution Prevention team by attending annual meetings and providing County with information on significant materials, potential pollutant sources, industrial processes, material handling and storage, dust and particulate generating activities, significant spills and leaks, non-stormwater discharges and soil erosion. Contractor shall incorporate storm water best management practices (BMPs) and non-structural BMPs as described in the SWPPP. Contractor shall be liable for any additional sampling, analysis, evaluation and remediation costs relating to storm water degradation caused in whole or in part or in any way related to or arising from the Work including the steam injection system or the operation of the landfill gas to energy project. To the extent such storm water degradation results in any administrative order, notice of violation, notice to comply, judgment, fines or penalties Contractor shall hold County harmless and defend and indemnify the County against and from such administrative order, notice of violation, notice to comply, judgment, fines or penalties or the threat of such administrative order, notice of violation, notice to comply, judgment, fines or penalties.

The Work including Contractor's landfill gas enhancement and extraction system operation shall not violate provisions of the current Solid Waste Facility Permit No. 09-AA-0003 (SWFP) issued by the California Department of Resources Recycling and Recovery and any additional or subsequent permits issued by the Department of Resources, Recycling and Recovery. Contractor's activities shall not cause exceedance of perimeter or surface emissions monitoring levels specified in SWFP Self Monitoring Program. Contractor's activities shall not violate Prohibition against ponding of rainwater on landfill surface. In accordance with LEA Condition 1, Contractor shall control excessive dust from construction and operation activities. Contractor shall be liable for any additional sampling, analysis, evaluation and remediation costs relating to air quality degradation caused in whole or in part or in any way related to or arising from the Work including the construction, maintenance or operation of the landfill gas to energy project and the landfill gas enhancement and extraction system. To the extent such air quality degradation results in any administrative order, notice of violation, notice to comply, judgment, fines or penalties Contractor shall hold County harmless and defend and indemnify the County against and from such administrative order, notice of violation, notice to comply, judgment, fines or penalties or the threat of such administrative order, notice of violation, notice to comply, judgment, fines or penalties.



The Work, including Contractor's landfill gas enhancement, extraction and conversion systems, shall be operated in compliance with El Dorado County Air Quality Management District rules, current permits (#10-625, 10-1400 and 13-1395) and additional or subsequent permits that may be required as a result of this contract and issued during the contract term. The Work including the landfill gas to energy system shall be designed, constructed and operated in compliance with El Dorado County Air Quality Management District Rule 523 – New Source Review sections 523.3A, 523.3B and 523.3C, thereby complying with requirements for Best Available Control Technology. Contractor shall be liable for all energy generation exhaust gas sampling, analysis, evaluation and control costs associated with the Work including the steam injection system. Contractor shall be liable for any additional fugitive landfill gas emissions sampling, monitoring, analysis, evaluation and control costs associated with the Work including the steam injection system. Contractor shall be liable for any fines and penalties arising from failure to comply with air quality regulations.

Contractor warrants and represents that he/she holds all necessary licenses to perform the Work described herein and that his/her license(s) is in good standing. Contractor further agrees to keep all such necessary licenses in good standing throughout the term of this agreement.

Contractor warrants and represents he/she holds a valid California license pursuant to the State Contractors License Act [Business and Profession Code Section 7000, et seq.], that his/her license is in good standing and that he/she possesses a Class B License (No. 440233) as required by the categories and type of the Work. Copies of the Contractor's State Contractor license(s) must be provided with this Contract.

The protections afforded the County under this Article are in addition to and in no way limit or modify the protections provided the County under any other provision of the Contract.

**17. Reporting Accidents**

The Contractor shall prepare and submit (within 24 hours of such incidents) reports of accidents at the site and anywhere else the Work is in progress in which bodily injury is sustained or property loss in excess of FIVE HUNDRED DOLLARS AND NO/100 (\$500.00) occurs.

**18. Payment of all Federal, State, or City Taxes**

Any federal, state or city tax payable on the articles furnished by the Contractor under the Contract shall be included in the Contract price and paid by the Contractor except as otherwise stated in paragraph 4.

**19. State Labor Requirements**

Hours of Work:

- A. Eight hours of labor shall constitute a legal day's Work upon all Work done hereunder, and it is expressly stipulated that no workman employed at any time by the Contractor, or by any subcontractor under this Contract, upon the Work, shall be required or permitted to Work thereon more than 8 hours in any 1 calendar day and/or more than 40 hours in any 1 calendar week except as provided in Section 1815 of the Labor Code of California, and it is further expressly stipulated that for each and every violation of said last named stipulation, said Contractor shall forfeit, as penalty to the said County, \$50.00 for each workman employed in the execution of this Contract, or by any sub-contractor under this Contract, for each calendar day during which said workman is required or permitted to labor more than 8 hours in any 1 calendar day or more than 40 hours in any 1 calendar week in violation of the provisions of said Labor Code.
- B. In accordance with the provisions of the Labor Code of the State of California, the Contractor, and each sub-contractor, shall also keep an accurate record showing the names and actual hours worked for all workers employed by him in connection with the Work contemplated by the Contract, which record shall be open at all reasonable hours to the inspection of the County or its officers or agents, and to the Chief of the Division of Labor Statistics and Law Enforcement or the Department of Industrial Relations, his deputies or agents.

**20. Travel and Subsistence Pay**

Pursuant to the provisions of Section 1773.8 of the Labor Code of the State of California, the Contractor shall pay travel and subsistence payments to each workman needed to execute the Work, as such Travel and Subsistence payments are defined in the applicable collective bargaining agreements filed with the Department of Industrial Relations in accordance with said Section 1773.8.

**21. Apprentice Employment**

- A. Pursuant to the provisions of Section 1777.5 as amended, the Contractor or subcontractor employing tradesmen in any apprenticeable occupation shall apply to the joint apprenticeship committee nearest the site of the public works project and which administers the apprenticeship program in that trade for a Certificate of Approval. The certificate will also fix the ratio of apprentices to journeymen that will be used in the performance of the Contract. All requirements and exceptions to those requirements set forth herein for Apprenticeship Employment are contained in Labor Code Section 1777.5 and are available from the applicable Joint Apprenticeship Committee.

- B. The administration of the apprenticeship programs if he employs registered apprentices or journeymen in any apprenticeable trade on such contracts and if other contractors on the public works site are making such contributions.
- C. The Contractor and any sub-contractor under him shall comply with the requirements of Sections 1777.5 and 1777.6 in the employment of apprentices. Information relative to apprenticeship standards, wage schedules, and other requirements may be obtained from the Director of Industrial Relations, ex officio the Administrator of Apprenticeship, San Francisco, California, or from the Division of Apprenticeship Standards and its branch offices.

**22. Wage Rates**

- A. Pursuant to Labor Code Section 1770 et seq., each laborer or mechanic of Contractor or any sub-contractor engaged in Work on the Project under this Contract shall be paid not less than the hourly wage rate of per diem wages set forth in the prevailing wage rate schedule published by the Director of Industrial Relations regardless of any contractual relationship which may be alleged to exist between Contractor or any sub-contractor and such laborers and mechanics.
- B. Any laborer or mechanic employed to perform Work on the Project under this Contract, which Work is not covered by any of the foregoing classifications, shall be paid not less than the prevailing rate of per diem wages specified herein for the classification, which most nearly corresponds to the Work to be performed by him.
- C. The foregoing specified prevailing wage rates are minimum rates only, and the Contractor may pay any wage rate in excess of the applicable rate contained in this Contract.
- D. Pursuant to Labor Code Section 1775, the Contractor as a penalty to the County shall forfeit \$50.00 for each calendar day, or portion thereof for each worker paid less than prevailing rate established by the Department of Industrial Relations for such Work or craft in which such worker is employed. The difference between such prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which the worker was paid less than the prevailing wage rate shall be paid to each worker by the Contractor.
- E. An error on the part of an awarding body does not relieve the Contractor from responsibility for payment of the prevailing rate of per diem wages and penalties pursuant to Labor Code Sections 1770 - 1775.
- F. All Contractors and sub-contractors are subject to the provisions of Sections 1810-1814 of the California Labor Code which provide that the maximum hours a worker is to be employed is limited to eight hours a day and 40 hours a week and the Contractor or sub-contractor shall forfeit, as a penalty, \$25 for each worker employed in the execution of the Contract for each calendar day during which a

worker is required or permitted to labor more than eight hours in any calendar day or more than 40 hours in any calendar week and is not paid overtime.

- G. Section 1815 of the California Labor Code requires that notwithstanding the provisions of Sections 1810-1814, employees of Contractors who Work in excess of eight hours per day and 40 hours per week shall be compensated for all hours worked in excess of eight hours per day at not less than 1-1/2 times the basic rate of pay.
- H. Copies of the applicable prevailing wage rates are on file with the El Dorado County Department of General Services, Facilities Division at 3000 Fairlane Court, Suite 2, Placerville, California 95667, and they are available to any interested party on request.

### **23. Certified Payroll**

As required under the provisions of Labor Code Section 1776 Contractor and sub-contractors shall keep accurate payroll records:

- A. The payroll records shall show the name, address, social security number, Work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee by him or her in connection with the Work.
- B. A certified copy of all payroll records enumerated above shall be available for inspection at all reasonable hours at the principal office of the Contractor as follows:
- C. Make available or furnish to the employee or his or her authorized representative on request.
- D. Make available for inspection or furnished upon request to a representative of the County, the Division of Labor Standards Enforcement, and the Division of Apprenticeship Standards of the Department of Industrial Relations.
- E. Make available upon request by the public for inspection or copies thereof made; provided, however, that a request by the public shall be made through either the County, the Division of Labor Standards Enforcement, or the Division of Apprenticeship Standards. The requesting party shall, prior to being provided the records, reimburse the costs of preparation by the Contractor, sub-contractor, and the entity through which the request was made. The public shall not be given access to the records at the principal office of the Contractor.

### **24. Discrimination in Employment**

No discrimination shall occur in the employment of persons upon the Work because of race, color, sex, national origin, or ancestry or religion of such persons.

**25. Convict-Made Materials**

Except as may be provided by law, the Contractor agrees that no materials manufactured or produced in a penal or correctional institution shall be incorporated in the construction under this Contract.

**26. 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: \_\_\_\_\_

**27. Relocation of Utilities**

As required by Section 4215 of the California Government Code, the County will assume responsibility for the removal, relocation, and protection of main or trunk-line utility facilities existing on the construction site, if such facilities are not shown to the Contractor and/or as not identified on any plans and specifications and the County shall compensate the Contractor for the costs of locating and repairing damage to such facilities not due to the failure of the Contractor to exercise reasonable care.

Nothing herein shall be deemed to require the County to indicate the presence of existing service laterals or appurtenances whenever the presence of such utilities on the site of the construction Work can be inferred from the presence of other visible facilities, such as buildings, meter and junction boxes, on or adjacent to the site of the construction.

If the Contractor, while performing Work under this Contract, discovers utility facilities not identified in the contract plans or specifications, he shall immediately notify the Contract Administrator. The County shall not be liable for the Contractor's performance of unauthorized Work.

**28. Notice of Discovery of Hazardous Waste or Unusual Conditions**

- A. The Contractor shall promptly, and before the following conditions are disturbed, notify the County in writing, in the event the Contractor encounters, after excavating to a depth of greater than four (4) feet, any of the following:
  - a. Material that the Contractor believes may be hazardous waste, as defined in section 25117 of the Health and Safety Code, that is required to be removed to a Class I, Class II, or Class III disposal site in accordance with provisions of existing law.
  - b. Subsurface or latent physical conditions at the site differing from those indicated in the Plan or in any Special Provisions as stated in the Specifications.
  - c. Unknown physical conditions at the site of any unusual nature, different materially from those ordinarily encountered and generally recognized as inherent in the Work of the character provided for in the Contract.
- B. The County shall promptly investigate the conditions, and if it finds that the conditions do materially so differ, or cause a decrease or increase in the Contractor's cost of, or time required for, performance of any part of the Work shall issue a change order under the procedures described herein.
- C. In the event a dispute arises between the County and the Contractor whether the conditions materially differ, or cause a decrease or increase in the Contractor's cost of, or time required for, performance of any part of the Work, the Contractor shall not be excused from any scheduled completion date provided for in the Contract, but shall proceed with all Work to be performed under the Contract. The Contractor shall retain any and all rights provided either by contract or by law, which pertain to the resolution of disputes and protests between the Contractor and the County.

**29. Shoring Plans**

Excavation for any trench five (5) feet or more in depth shall not begin until Contractor has received approval, from the Contract Administrator, of Contractor's detailed shoring plan for worker protection from the hazards of caving ground during the excavation of that trench, and any design calculations used in the preparation of the detailed plan. The detailed plan shall show the details of the design of shoring, bracing, sloping or other provisions to be made for worker protection during the excavation. No plan shall allow the use of shoring, sloping or a protective system less effective than that required by the Construction Safety Orders of the California Division of Occupational Safety and Health. If the plan complies with the shoring system standards established by the Construction Safety Orders, the plan shall be submitted at least five (5) days before Contractor intends

to begin excavation for the trench. If the plan varies from the shoring system standards established by the Construction Safety Orders, the plan shall be prepared and signed by an engineer who is registered as a Civil Engineer in the State of California, and the plan and design calculations shall be submitted at least three (3) weeks before Contractor intends to begin excavation for the trench. Nothing in this Article shall be deemed to allow the use of a shoring, sloping or protective system less effective than that required by the Construction Safety Orders.

**30. Sub-contracting**

The provisions of Sections 4100-4114, inclusive, of the Public Contract Code regarding sub-contracting shall apply to this Contract and Contractor represents that he/she will comply with all provisions therein. At no time shall County be obligated to pay separately for sub-contractor services.

**31. Additional Work**

County reserves the right to make such alterations, deviations, additions to or deletions from the Scope of Work, including the right to increase or decrease the quantity of any item or portion of Work or to delete any items or portion of Work, as may be deemed by the Contract Administrator to be necessary or advisable, and to require such additional Work to be required for the proper completion of the whole Work contemplated.

Any such changes will be set forth in a contract change order (Change Order) which will specify the additional Work, adjustment of performance time, if any, and basis for additional compensation, if any. Any Change Order shall not become effective until approved in writing by the Director of Environmental Management.

If Change Orders are given in accordance with the provisions of this Contract, such Work shall be considered a part hereof and subject to each and all of its terms and requirements.

**32. Changes in the Work**

This Contract may be amended by mutual consent of the parties hereto. Said amendment shall become effective only when in writing and fully executed by duly authorized officers of the parties hereto. There shall be no changes in the Contractor's Contract Administrator or sub-contractors without prior written approval by the County's Project Administrator.

**33. Successors and Assigns**

This Contract shall bind and inure to the heirs, devisees, assignees, and successors in interest of the Contractor and to the successors in interest of the County in the same manner as if such parties had been expressly named herein. The Contractor shall not assign the Contract or sublet it as a whole without the written consent of the County, nor

shall the Contractor assign any monies due or to become due to him hereunder without the previous written consent of the County and surety.

**34. Assignment and Delegation of Contract**

Neither this Contract, nor any part thereof, or any monies due or to become due hereunder, may be assigned by the Contractor without the approval of the County. County may assign this Contract to a lender, or any third party that assumes the obligations of the County hereunder.

**35. Separate Contracts**

The County reserves the right to let other contracts in connection with this Work. The Contractor shall afford all other such contractors reasonable opportunity for storage of their materials, shall provide that the execution of his Work properly connects and coordinates with theirs, and shall cooperate with them to the end of facilitating the Work.

**36. Default, Termination and Cancellation**

A. Default: Upon the occurrence of any default of the provisions of this Contract, a party shall give written notice of said default to the party in default (notice). If the party in default does not cure the default within ten (10) days of the date of notice (time to cure), then such party shall be in default. The time to cure may be extended in the discretion of the party giving notice. Any extension of time to cure must be in writing, prepared by the party in default for signature by the party giving notice and must specify the reasons(s) for the extension and the date in which the extension of time to cure expires.

Notice given under this section shall specify the alleged default and the applicable Contract provision and shall demand that the party in default perform the provisions of this Contract within the applicable period of time. No such notice shall be deemed a termination of this Contract unless the party giving notice so elects in this notice, or the party giving notice so elects in a subsequent written notice after the time to cure has expired.

B. Bankruptcy: This Contract, at the option of the County, shall be terminable in the case of bankruptcy, voluntary or involuntary, or insolvency of Contractor.

C. Ceasing Performance: County may terminate this Contract in the event Contractor ceases to operate as a business, or otherwise becomes unable to substantially perform any term or condition of the Contract.

D. In the event of termination for Default, Bankruptcy, or Contractor Ceasing Performance, County reserves the right to take over and complete the Work by Contract or by other means. At no time does this contract give any rights or license to the County to use the steam injection process at this or any landfill.



- E Permit Compliance: County may terminate this Contract in the event Contractor fails to maintain compliance with California State Water Resources Control Board, California Regional Water Quality Control Board, California Department of Resources, Recycling and Recovery, California Department of Resources Recycling and Recovery, El Dorado County Planning Division, El Dorado County Air Quality Management District operating permits or any other Local, State or federal permits that may be required.
- F If contract is terminated for whatever reason; all hardware remains the property of Contractor. If still in possession of the County, the three micro-turbines will be restored by the Contractor to their original condition at the time of contract execution. Contractor will pay for removal of the equipment offsite and the restoration of the site to its pre-contract condition within 6 months of contract termination.
- G At the end of the production life of the landfill gas field the operations will cease and the power plant will be decommissioned. All hardware related to the steam process and the power plant remains the property of Contractor. Contractor will pay for removal of the equipment offsite and the restoration of the site to its pre-contract condition within 6 months of contract termination.
- H The County reserves the right to cancel this contract as specified in paragraph 36.D. above by notifying the Contractor in writing. In the event of such cancellation, Contractor will pay for removal of the equipment offsite and the restoration of the site to its pre-contract condition within 6 months of contract termination.
- I If upon contract termination, the contractor fails to pay for removal of the equipment offsite and the restoration of the site to its pre-contract condition within 6 months, the County can undertake the work and the Contractor shall be liable for all costs and damages associated with that work.
- J Contractor shall comply with any changes, modifications, additions or amendments to the federal, state and local laws and regulations related to the project including but not limited to those specified in Article 16.

**37. Liquidated Damages**

County and Contractor recognize that time is of the essence of this Contract and that County will suffer financial loss if the Work is not completed within the time specified in Section 7, “Commencements and Completion” above, plus any extensions thereof allowed in accordance with the Specifications. They also recognize the delays, expense, and difficulties involved in proving the actual loss suffered by County if the Work is not completed on time. Accordingly, instead of requiring any such proof, County and Contractor agree that as liquidated damages for delay (but not as a penalty), Contractor shall pay County one thousand dollars (\$1,000.00) for each day that expires after the time specified in Section 7 above until the Work is complete.

**38. Guarantee**

- A. Final Guarantee** The Contractor shall guarantee all materials, equipment furnished, and work performed for a period of 1 year. Contractor warrants and guarantees for a period of one year from the date of Notice of Substantial Completion that the Work is free from all defects due to faulty materials or workmanship and Contractor shall promptly make such corrections as may be necessary, including repairs of any damage to other parts of the Work resulting from such defects. County will give notice of observed defects with reasonable promptness. In the event that Contractor should fail to make such repairs, adjustments, or other work that may be made necessary by such defects, County may do so and charge Contractor the cost thereby incurred.
- B. Extended Guarantees** If a guaranty exceeding one year is provided by the supplier or manufacturer of any equipment used in this Project, then the guarantee for such materials shall be extended for such term. Contractor expressly agrees to act as co-guarantor of such equipment and materials, and Contractor shall supply County with all warranty and guaranty documents relative to equipment and materials incorporated in the job and guaranteed by their suppliers or manufacturers.
- C. Warranty** The Contractor warrants to the County that materials and equipment furnished under the Contract will be of good quality and new, unless otherwise required or permitted by the Contract, that the Work will be free from defects or flaws and is of the highest quality of workmanship and that the Work will conform to the requirements of the Contract. Work not conforming to these requirements, including substitutions not properly approved and authorized, shall be considered defective.

**39. County Not Liable for Damages**

The County or its authorized representative shall not in any way or manner be answerable or suffer loss, damage, expense, or liability for any loss or damage that may happen to said Work, or part thereof, or in or about the same during its construction and before acceptance and the said Contractor shall assume all liabilities of every kind or nature arising from said Work, either by accident, negligence, theft, vandalism, or any cause whatever; and shall hold the County and its authorized representatives harmless from all liability of every kind and nature arising from accident, negligence, or any cause whatever, other than for the active negligence of the County, its officers, agents and employees.

**40. County Not Liable for Debts**

Indebtedness incurred for any cause in connection with this Work must be paid by the Contractor, and the County is hereby at all times from any indebtedness or claim.

#### 41. **Indemnity**

The Contractor shall defend, indemnify, and hold the County harmless against and from any and all hazards, claims, suits, losses, penalties, fines, additional permit compliance costs, 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 Contractor's services, operations, or performance hereunder, including any such claims brought by or on behalf of any investors regardless of the existence or degree of fault or negligence on the part of the County, the Contractor, sub contractor(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 prohibited by statute. This duty of Contractor to indemnify and save the County harmless includes the duties to defend set forth in California Civil Code Section 2778.

The Contractor shall protect, defend, indemnify, and hold harmless County, its Board members, officers, directors, employees, agents, consultants, successors and assigns (hereinafter County) from and against any and all claims, demands, liabilities, causes of action, suits, legal or administrative proceedings for actual damages (including but not limited to special and consequential damages), natural resource damages, restitution, injuries, costs, losses, debts, liens, interest, fines, penalties, charges and expenses (including but not limited to attorneys' and expert witness fees and costs incurred in connection with defending against any of the foregoing or in enforcing this indemnity provision) of any kind whatsoever paid, incurred, suffered by, or asserted against County which are claimed to or in any way arise out of or result from the Contractor's services, operations, or in performance of this Contract including but not limited to the design, construction or operation of a landfill gas to energy project for the Union Mine Disposal Site as set forth in Exhibit A hereto, which may result in the release or threatened release of hazardous waste or hazardous substance to the environment, regardless of the existence or degree of fault or negligence on the part of the County, except for the sole or active negligence of the County. As used herein, the terms "hazardous waste" and "hazardous substance" shall coincide with the broadest definition thereof contained in any present or future federal or state law. The foregoing indemnity is intended to operate as an agreement pursuant to the Comprehensive Environmental Response and Liability Act (CERCLA), 42 U.S.C. Section 9607(e) and the California Health and Safety Code Section 25364, to defend, protect and hold harmless and indemnify the County from liability. This provision shall survive the termination of any other agreement between the parties; the foregoing indemnity shall not have any dollar limitation. The foregoing indemnity is for the exclusive benefit of the County and in no event shall the indemnity rights hereunder inure to the benefit of any third party.

Furthermore, in the event, the project is approved, Contractor shall defend, indemnify and hold harmless the County from and against any and all claims, actions, causes of action, lawsuits, proceedings, losses and liability of any kind including attorney's fees and costs incurred by the County and attorneys fees and costs claimed by any prevailing

party arising from or related to a claim or claims challenging the validity of any provision of the approval of the project including but not limited to such claims arising under the California Environmental Quality Act (CEQA), the National Environmental Protection Act (NEPA) or the Comprehensive Environmental Response and Liability Act (CERCLA).

In the event, Contractor refuses or fails to provide defense or indemnification to the County as provided above, the County shall have the right to withdraw its approval of the project if such approval has been given or to choose to not defend any such claim, lawsuit or action. The decision of the County to not defend any such claim, lawsuit or action does not relieve Contractor of its obligation to indemnify County for any attorneys' fees or costs incurred by the County or claimed by the party bringing the claim, lawsuit or action.

Contractor shall retain counsel acceptable to the County for purposes of fulfilling Contractor's defense obligations under this provision. County's approval of counsel shall not be unreasonably withheld.

**42. Environmental Indemnification**

To the fullest extent allowed by law, from and after recording of Notice of Completion, Contractor shall indemnify, defend, and save harmless County from all losses or damages resulting from injury to or death of any person and damage to property, and any fine, which is occasioned by or arises out of any breach of Environmental and Toxics Warranty, representations, or covenants of Contractor under this Contract. Contractor further agrees to indemnify and hold harmless County, its officers, employees, and agents, from and against any and all liability as follows:

- A. Including all foreseeable and all unforeseeable consequential damages, directly or indirectly arising out of the use, generation, storage, or disposal of hazardous materials in any location by Contractor, and
- B. Including, without limitation, the cost of any required or necessary remediation, repair, cleanup, or detoxification and the preparation of any closure or other required plans, whether such action is required or necessary prior to or following filing of the Notice of Substantial Completion to the full extent that such action is attributable, directly or indirectly, to the presence or use, generation, storage, release, threatened release, or disposal of hazardous materials by any person on the Work prior to filing of the Notice of Substantial Completion. Contractor's obligations pursuant to the foregoing indemnity shall survive the filing of Notice of Completion of the Work.
- C. This Contract as to indemnity and reimbursement as above set forth to be undertaken by the Contractor shall survive the performance of the remainder of said Contract and shall remain in full force and effect notwithstanding such performance.

- D. The foregoing duties of indemnity shall not apply to loss, damage, expense, or liability caused solely by the active negligence of the County or the County's agents, servants or independent contractors.

**43. Insurance**

THIS CONTRACT/AGREEMENT MAY BE EXECUTED BY COUNTY however CONTRACTOR is not entitled to any rights, unless certificates of insurance are received and approved by the County and a formal Notice to Proceed is issued by the COUNTY, or other sufficient proof that the following provisions have been complied with, and such certificate(s) are filed with the COUNTY.

Without limiting Contractor's indemnification provided herein, Contractor shall procure and maintain for the duration of the contract insurance providing coverage against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by the Contractor, his agents, representatives, employees or subcontractors. The following policies of insurance shall be placed with insurers with a current A.M. Best's rating of no less than A:VII. Coverage shall be at least as broad as:

- A. Commercial General Liability (CGL): Insurance Services Office (ISO) Form CG 00 01 covering CGL on an "occurrence" basis, including pollution coverage, products-completed operations, personal & advertising injury, with limits no less than \$10,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
1. The COUNTY, its officers, officials, employees, and volunteers are to be covered as additional insured on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Contractor's insurance (at least as broad as ISO Form CG 20 10 11 85 or both CG 20 10 and CG 20 37 forms if later revisions used).
  2. The inclusion of more than one insured shall not operate to impair the rights of one insured against another insured, and the coverage afforded shall apply as though separate policies had been issued to each insured, but the inclusion of more than one insured shall not operate to increase the limits of the insurer's liability.
  3. For any claims related to this contract, the Contractor's insurance coverage shall be primary insurance as respects COUNTY, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the County, its officers, officials, employees, or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.

4. Any failure to comply with reporting or other provisions of the parties, including breach of warranties, shall not affect coverage provided to COUNTY, its officers, employees, and agents.
- B. Automobile Liability: ISO Form Number CA 00 01 covering any auto (Code 1), or if Contractor has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limit no less than \$1,000,000 per accident for bodily injury and property damage.
- C. Workers' Compensation as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.
- D. Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the COUNTY.
- E. Any deductibles or self-insured retentions must be declared to and approved by the COUNTY. COUNTY may require the Contractor to purchase coverage with a lower deductible or retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.
- F. Contractor shall furnish 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. COUNTY reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.
- G. If Contractor does not keep all required policies in full force and effect, COUNTY may, in addition to other remedies under this Agreement, take out the necessary insurance, and Contractor agrees to pay the cost of said insurance.
- H. In the event, Contractor is a licensed professional, and is performing services under this Contract; professional liability (for example, malpractice insurance) is required with a limit of liability of not less than Five Million Dollars (\$5,000,000) per occurrence.
- I. The insurance companies shall have no recourse against the County of El Dorado, its officers and employees or any of them for payment of any premiums or assessments under any policy issued by any insurance company.
- J. In addition to the foregoing obligations of Contractor, Contractor shall require any of its subcontractors to procure and maintain for the duration of the contract insurance in the amount of \$1,000,000 against claims for injuries to persons or

damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by the Contractor, his agents, representatives, employees or subcontractors."

**44. Cleaning Up**

The Contractor shall not allow the site of the Work to become littered with trash, rubbish and waste material, but shall maintain the site in a neat and orderly condition throughout the Contract period.

**45. Access to the Work**

The County, and any state or local authorities having jurisdiction over the Work shall at all times have access to the Work.

**46. Suspension of Work**

County may at any time by notice to the Contractor suspend further performance of all or any portion of the Work by the Contractor. The notice shall specify the date and estimated duration of the suspension. Upon receiving any such notice, the Contractor shall promptly suspend further performance of the Work to the extent specified in the notice, and during the period of such suspension shall properly care for and protect all work in progress and materials, supplies, and equipment that the Contractor has on hand to perform the Work. County may at any time withdraw the suspension of performance of the Work as to all or part of the suspended work by notice to the Contractor specifying the effective date and scope of the withdrawal, and the Contractor shall resume diligent performance of the Work for which the suspension is withdrawn, as soon thereafter as is reasonably possible but in no later than ten (10) days after the notice of withdrawal of the suspension of Work. The required completion times shall be extended by the amount of time of any suspension issued pursuant to this paragraph.

**47. Acceptance of Work**

Acceptance of the Work and the filing of a notice of completion shall not constitute an acceptance of latent defects nor relieve the Contractor of responsibility for any act or omission, which is a violation of the Contract.

**48. Resolution of Claims**

Contractor's attention is invited to Public Contract Code, Section 20104, et seq., for resolution of construction claims, and specifically 20104.2. The provisions of the aforementioned sections shall govern claims pertaining to this Contract.

**49. Environmental and Toxic Warranty**

Contractor warrants that its operations concerning the Work are and were not in violation of any applicable environmental federal, state, or local statute, law, or regulation dealing with hazardous materials substances or toxic substances.

**50. Notice**

Any notice or other correspondence required to be given under this Contract by either party to the other may be affected by personal delivery in writing or by mail, postage prepaid. Notice personally delivered during normal business hours deemed received on the actual date of delivery; mailed notices shall be deemed received one (1) day after affixed postmark. Notices and correspondence to County shall be delivered to it as follows:

Environmental Management Department  
Attn.: Gerri Silva, Director  
2850 Fairlane Ct., Bldg C  
Placerville, CA 95667

Or to such other location as the County directs.

Notices and correspondence to Contractor shall be delivered when personally delivered to, or if mailed addressed to Contractor at:

STI Engineering  
Attn.: Reg Renaud  
P.O. Box 792  
Silverado, CA 92676  
regsti@msn.com

Or to such other location as Contractor directs.

Each party may change their address for notices by giving written notice pursuant to this paragraph.

**51. Independent Contractor/Liability**

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 contractors, if any are authorized herein, as they relate to services to be provided under this Contract during the course and scope of their employment.

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. Other than those operations related to or incidental to the development, construction and operation of the landfill gas to energy project as set forth in Exhibit A, the County shall maintain control of the operation related to the landfill and the wastewater treatment plant.

**52. Fiscal Considerations**

The parties to this Contract recognize and acknowledge that County is a political subdivision of the State of California. As such, El Dorado County is subject to the provisions of Article XVI, Section 18 of the California Constitution and other similar fiscal and procurement laws and regulations and may not expend funds for products, equipment or services not budgeted in a given fiscal year. It is further understood that in the normal course of County business, County will adopt a proposed budget prior to a given fiscal year, but that the final adoption of a budget does not occur until after the beginning of the fiscal year.

Notwithstanding any other provision of this Contract to the contrary, County shall give notice of cancellation of this Contract in the event of adoption of a proposed budget that does not provide for funds for the services, products, or equipment subject herein. Such notice shall become effective upon the adoption of a final budget, which does not provide funding for this Contract. Upon the effective date of such notice, this Contract shall be automatically terminated and County released from any further liability hereunder.

In addition to the above, should the Board of Supervisors during the course of a given year for financial reasons reduce, or order a reduction, in the budget for any County department for which services were contracted to be performed, pursuant to this paragraph in the sole discretion of the County, this Contract may be deemed to be canceled in its entirety subject to payment for services performed prior to cancellation.

**53. Independent Investigation**

Contractor has made an independent investigation of the job site, the soil conditions, permit conditions and all other conditions which may affect the progress or success of the Work and has satisfied itself as to those conditions. The contract contemplates that Contractor shall bear the expense of all work done by the Contractor in order to overcome unanticipated underground conditions. Any information that County may have provided to Contractor regarding the Work including but not limited to any characterization of the conditions of the site, the nature of the waste material contained in the site, the amount of waste material at the site, groundwater conditions, soils conditions, permit conditions or feasibility of the project is for Contractor's convenience only and County does not warrant that the conditions are as thus indicated. Contractor has satisfied itself as to all job conditions including but not limited to soils conditions, the nature and amount of waste material at the site, groundwater conditions, permit conditions with which contractor must comply and the feasibility of the project and has not relied on information provided by the County.

**54. No Third Party Beneficiary**

This Contract is entered into for the mutual benefit of the County and Contractor. Nothing herein shall create a contractual relationship with or a cause of action in favor of a third party against either contractor or County. Specifically, but without limitation to the foregoing, by entering into this Contract, County does not intend to benefit or create any rights against the County in any investor Contractor may engage.

**55. Withholding (Form 730)**

In accordance with changes in Internal Revenue Law, OASDI (Old Age, Survivors & Disability Insurance) income taxes may be withheld from any payments made under terms of this Contract if Contractor falls under “Contract-Employee” category as determined by County prior to execution of the Contract.

**56. California Residency (Form 590)**

All independent Contractors providing services to the County must file a State of California Form 590, certifying their California residency or, in the case of a corporation, certifying that they have a permanent place of business in California. The Contractor will be required to submit a Form 590 prior to execution of a contract or County shall withhold seven (7) percent of each payment made to the Contractor during the term of this Contract. This requirement applies to any Contract/contract exceeding \$1,500.00.

**57. Tax Payer Identification Number (Form W-9)**

All independent Contractors or Corporations providing services to the County must file a Department of the Treasury Internal Revenue Service Form W-9, certifying their Taxpayer Identification Number.

**58. Venue**

The laws of the State of California thereto shall govern the Contract Documents and all provisions. Any litigation arising herein shall be brought in the County of El Dorado, and Contractor hereby waives the removal provisions of the California Code of Civil Procedure, Section 394.

**59. Authorized Signatures**

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.

**60. Partial Invalidity**

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

**61. Entire Contract**

This document and the documents referred to herein or exhibits hereto are the entire Contract between the parties and they incorporate or supersede all prior written or oral Contracts or understandings.

**62. Administrator**

The County Officer or employee with responsibility for administering this Project is Greg Stanton, Deputy Director, or his successor.

**63. County Business License**

It is unlawful for any person to furnish supplies or services, or transact any kind of business in the unincorporated territory of El Dorado County without possessing a County business license unless exempt under County Code Section 5.08.070.

**64. Anti-Trust**

In entering into this contract, Contractor agrees to assign to the 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 this contract. This assignment shall be made and become effective at the time the awarding body tenders final payment to the contractor, without further acknowledgment by the parties.

**65. Time is of the Essence**

It is understood that for Contractor's performance under this Agreement, time is of the essence. The parties reasonably anticipate that Contractor will, to the reasonable satisfaction of the County, complete all activities provided herein within the time schedule outlined in the Proposals to this Agreement.

**66. Changes to Contract**

This Contract may be amended by mutual consent of the parties hereto. Said amendments shall become effective only when in writing and fully executed by duly authorized officers of the parties hereto.

**67. Interest of Public Official**

No official or employee of County who exercises any functions or responsibilities in review or approval of services to be provided by Contractor under this Contract shall participate in or attempt to influence any decision relating to this Contract which affects personal interest or interest of any corporation, partnership, or association in which he/she is directly or indirectly interested; nor shall any such official or employee of County have any interest, direct or indirect, in this Contract or the proceeds thereof.

**68. Interest of Contractor**

Contractor covenants that Contractor presently has no personal interest or financial interest, and shall not acquire same in any manner or degree in either: 1) any other Contract connected with or directly affected by the services to be performed by this Contract; or, 2) any other entities connected with or directly affected by the services to be performed by this Contract. Contractor further covenants that in the performance of this Contract no person having any such interest shall be employed by Contractor. Notwithstanding the foregoing, the parties agree that Contractor may enter into such contracts as necessary to sell the energy generated from landfill gas to energy project as contemplated by Article III and Exhibit A to the Agreement.

**69. No Waiver**

Waiver by one party of the performance of any covenant, condition or promise of the other party shall not invalidate this contract, nor shall it be considered to be a waiver by such party of any other covenant, condition or promise contained therein. The waiver of either or both parties of the time for performing any act shall not be construed as a waiver of any other required to be performed at a later date. The waiver of a covenant, condition or promise by any party on one occasion does not constitute a waiver of that or any other condition, covenant or promise at a later time.

**70. Authorized Signatures**

The parties to this Contract 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 to the obligations set forth herein.

**Requesting Contract Administrator Concurrence:**

By: \_\_\_\_\_ Dated: \_\_\_\_\_  
Greg Stanton, Deputy Director  
Environmental Management Department

**Requesting Department Head Concurrence:**

By: \_\_\_\_\_ Dated: \_\_\_\_\_  
Geri Silva, Director  
Environmental Management Department

**IN WITNESS WHEREOF**, the parties hereto have executed this Contract the day and year first below written.

**-- COUNTY OF EL DORADO --**

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
\_\_\_\_\_, Chair  
"County" Board of Supervisors

**ATTEST:**

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
\_\_\_\_\_, Clerk of the Board of Supervisors

**-- STI Engineering --**

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
Reg Renaud  
President

By: \_\_\_\_\_  
Corporate Secretary

Dated: \_\_\_\_\_

