

COLFAX CITY COUNCIL MEETING

AMENDED AGENDA

Special Meeting

City Council Chambers
33 S. Main Street, Colfax, CA.

Monday June 18, 2012

3:00 PM

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the building & safety director, (530) 346-2313. Notification 72 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibilities to this meeting.

1. OPENING:

- A. Call To Order
- B. Roll Call
- C. Pledge Of Allegiance
- D. Approval of Agenda Order

This is the time for changes to the agenda to be considered including removal, postponement or change to agenda sequence.

Recommended Action: By motion accept the agenda as presented or amended.

2. COUNCIL BUSINESS

- A. Consideration of Adoption of Resolution No. 24-2012: A Resolution Of The City Council Of The City Of Colfax Determining That Campbell Construction Is The Lowest Responsive, Responsible Bidder On The Pond 3 Liner Project And Authorizing The City Manager and Mayor To Execute All Necessary Documents And Take All Actions To Complete The Pond 3 Liner Project, And Appropriating Sufficient Funds To Pay For The Pond 3 Liner Project.

Recommended Action: Staff recommends the City Council adopt Resolution No. 24-2012 authorizing the City Manager to execute a Construction Contract with Campbell Construction Co., Inc., in the amount of \$2,395,000 for the Pond 3 liner project, and authorize the City Manager to take all actions necessary to complete the Project and appropriate sufficient funds to pay for the construction of the Project

3. CLOSED SESSION

Conference with Legal Counsel—Existing Litigation

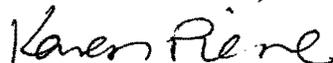
Pursuant to (Subdivision (a) of Section 54956.9)

Number of Cases: 1

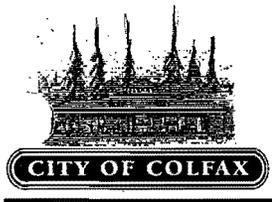
4. ADJOURNMENT

Administrative Remedies must be exhausted prior to action being initiated in a court of law. If you challenge City Council action in court, you may be limited to raising only those issues you or someone else raised at a public hearing described in this notice/agenda, or in written correspondence delivered to the City Clerk of the City of Colfax at, or prior to said public hearing.

AGENDA POSTED, June 15, 2012



Karen Pierce, City Clerk



**REPORT TO
COLFAX CITY COUNCIL**

**COUNCIL MEETING OF
June 18, 2012**

Agenda Item No.

2A

To: Honorable Mayor and Members of the City Council
From: Bruce Kranz, City Manager
Prepared By: Alan Mitchell, City Engineer
Date: June 18, 2012
Subject: Consideration of Adoption of Resolution No. 24-2012: A Resolution Of The City Council Of The City Of Colfax Determining That Campbell Construction Is The Lowest Responsive, Responsible Bidder On The Pond 3 Liner Project And Authorizing The City Manager and Mayor To Execute All Necessary Documents And Take All Actions To Complete The Pond 3 Liner Project, And Appropriating Sufficient Funds To Pay For The Pond 3 Liner Project.

Recommended Action: Staff recommends the City Council adopt Resolution No. 24-2012 authorizing the City Manager to execute a Construction Contract with Campbell Construction Co., Inc., in the amount of \$2,395,000 for the Pond 3 liner project, and authorize the City Manager to take all actions necessary to complete the Project and appropriate sufficient funds to pay for the construction of the Project

ISSUE STATEMENT AND DISCUSSION: The City is required to install a liner in Pond 3 at its wastewater treatment plant by November 30, 2012. The construction bid documents for installation of a geomembrane liner in Pond 3 and associated earthwork and fencing were completed in January, 2012 and competitive bids were solicited. The bid opening was held on March 14, 2012 with nine bidders responding. Due to irregularities with the low bid, and concerns with legal challenges that potentially could delay the project, the Council rejected all bids on April 30, 2012 and directed staff to re-advertise for bids.

The construction documents were re-posted for bids, in early May, and the bid opening was held on June 13, 2012. The City received proposals from three bidders. The bid results are attached as Exhibit A and range from a low of \$2,395,000.00 to a high of \$2,926,905.65. The Engineer's Construction Cost Estimate for the project was \$2,590,000.00.

The low bid was checked for responsiveness in accordance with the bidding instructions and State requirements related to UDBE. It is staff's opinion that Campbell Construction's bid is responsive and that the contract should be awarded to Campbell Construction.

Work should commence in early July and the Pond Liner will be substantially completed by mid-November 2012, in accordance with the mandate. Final completion of the whole project is slated for December 2012.

ALTERNATIVES: None recommended by staff.

FINANCIAL AND/OR POLICY IMPLICATIONS: Construction costs are funded from the Grant/Loan from the State Clean Water Revolving Fund and EPA funds associated with the Collection System I&I Repair/Replacement and WWTP Reservoir Pond Lining Project.

Attachment: Bid Results
Campbell Agreement

City of Colfax

Resolution No. 24 - 2012

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COLFAX DETERMINING THAT CAMPBELL CONSTRUCTION IS THE LOWEST RESPONSIVE, RESPONSIBLE BIDDER ON THE POND 3 LINER PROJECT AND AUTHORIZING THE CITY MANAGER AND MAYOR TO EXECUTE ALL NECESSARY DOCUMENTS AND TAKE ALL ACTIONS TO COMPLETE THE POND 3 LINER PROJECT, AND APPROPRIATING SUFFICIENT FUNDS TO PAY FOR THE POND 3 LINER PROJECT.

WHEREAS, the City of Colfax ("City") is required to install a geomembrane liner in Pond 3 at its wastewater treatment facility (the "Project"); and

WHEREAS, an engineer's estimate for the project was prepared and estimated that the Project would cost \$2,590,000; and

WHEREAS, on June 13, 2012, after due and proper notice, the City received three bid proposals for construction of the Project with Campbell Construction ostensibly being the lowest bidder at a stated bid of \$2,395,000.00 (the "Campbell Bid"); and

WHEREAS, City staff reviewed the bid documentation submitted by Campbell Construction and found them to be responsive and responsible; and

WHEREAS, City staff has recommended that the Project be awarded to Campbell Construction as the lowest responsive, responsible bidder.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Colfax as follows:

1. The foregoing recitals are true and correct statements of fact and are incorporated into this Resolution by this reference.
2. The City Manager and Mayor are hereby authorized to execute a construction contract for the Project with Campbell Construction on behalf of the City.
3. The City Manager is hereby authorized to execute all other documents necessary to facilitate construction of the Project, and appropriate, encumber and expend an amount not to exceed \$2, 395,000.00 to pay for construction of the Project.

The foregoing Resolution was duly and regularly adopted at a special meeting of the City Council of the City of Colfax held on the 18th day of June, 2012 by the following roll call vote of the Council:

AYES:

NOES:

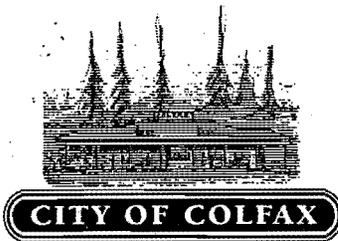
ABSENT:

ABSTAIN:

Stephen Harvey, Mayor

ATTEST:

Ken Pierce, City Clerk



**POND 3 LINER PROJECT WASTEWATER TREATMENT PLANT,
PROJECT NO. 11-01.02 ~ STATE PROJECT NO. C-06-7806-110
BID OPENING – WEDNESDAY, JUNE 13, 2012 AT 2:00 P.M.**

CONTRACTOR	TOTAL BASE BID
Nevada Campbell Construction Inc	\$2,395,000.00
K G Walters Construction Inc	\$2,681,500.00
Jason Abel Construction Inc	\$2,926,905.65
Engineer's Estimate	\$2,590,000.00

OPENED BY: K. Pierce, City Clerk

READ BY: K. Pierce, City Clerk

WITNESSED BY: Alan Mitchell

SECTION 00500
AGREEMENT
Contract No. 11-01.02

THIS AGREEMENT is by and between **City of Colfax**, hereinafter called OWNER, and **Campbell Construction Co., Inc.**, hereinafter called CONTRACTOR. OWNER and CONTRACTOR, in consideration of the mutual covenants hereinafter set forth, agree as follows:

Article 1. SCOPE OF WORK

- 1.1. CONTRACTOR agrees to furnish all work, labor, tools, materials, transportation, equipment, services and other means of construction necessary to perform and complete in a good and workmanlike manner, those certain improvements as called for, and in the manner designated in, and in strict conformity with Contract No. 11-01.02 entitled: POND 3 LINER PROJECT WASTEWATER TREATMENT PLANT UPGRADE, (hereinafter "PROJECT"), in compliance with the Contract Documents as described in Article 9.
- 1.2. CONTRACTOR understands and agrees that the work, labor, tools, materials, transportation, equipment, incidentals, services and other means of construction for the PROJECT shall be furnished and the work performed as required in the Contract Documents under the sole direction and control of CONTRACTOR, and subject to the inspection and approval of the CITY, or its representatives.

Article 2. PROJECT

The Project for which the Work under the Contract Documents may be the whole or only a part is generally described as follows:

Installation of a geomembrane liner in Pond No. 3 at the City of Colfax Wastewater Treatment Plant and Miscellaneous other improvements.

Article 3. ENGINEER

Engineer – The City Engineer, or the person designated by the City as its Engineering representative during the course of construction, acting either directly or through properly authorized agents, such agents acting within the scope of the particular duties delegated to them.

Article 4. CONTRACT TIMES

- 4.1. Time of the Essence.
 - 4.1.A. All time limits for Milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.
- 4.2. Days to Achieve Substantial Completion and Final Payment.
 - 4.2.A. The Work will be substantially completed, as defined, within **120 calendar days** after Notice to Proceed, and completed and ready for final payment within 180 calendar days.

4.3. Liquidated Damages.

- 4.3.A. OWNER and CONTRACTOR recognize that time is of the essence of this Agreement and that OWNER will suffer financial loss if the Work is not completed within the times specified in Paragraph 4.2. above, plus any extensions thereof allowed in accordance with Article 12 of the General Conditions. The parties also recognize the delays, expense and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by OWNER if the Work is not completed on time. Accordingly, instead of requiring any such proof, OWNER and CONTRACTOR agree that as liquidated damages for delay (but not as a penalty), CONTRACTOR shall pay OWNER three thousand dollars (\$3,000.00) for each day that expires after the time specified in Paragraph 4.2. for Substantial Completion until the Work is substantially complete. After Substantial Completion, if CONTRACTOR shall neglect, refuse or fail to complete the remaining Work within the time specified in Paragraph 4.2. for completion and readiness for final payment or any proper extension thereof granted by OWNER, CONTRACTOR shall pay OWNER three thousand dollars (\$3,000.00) for each day that expires after the time specified in Paragraph 4.2. for completion and readiness for final payment.

Article 5. CONTRACT PRICE

- 5.1. OWNER shall pay CONTRACTOR for completion of the Work in accordance with the Contract Documents an amount in current funds equal to the sum of the amounts determined pursuant to Paragraph 5.1.A. below:
- 5.1.A. The schedule of values approved by the OWNER equaling the total project Base Bid.
- 5.2. As provided in Paragraph 11.03 of the General Conditions, estimated quantities are not guaranteed, and determinations of actual quantities and classification are to be made by ENGINEER as provided in Paragraph 9.08 of the General Conditions. Unit prices have been computed as provided in Paragraph 11.03B. of the General Conditions.

Article 6. PAYMENT PROCEDURES

- 6.1. Submittal and Processing of Payments.
- 6.1.A. CONTRACTOR shall submit Applications for Payment in accordance with Article 14 of the General Conditions. Applications for Payment will be processed by ENGINEER as provided in the General Conditions.
- 6.2. Progress Payments; Retainage.
- 6.2.A. OWNER shall make monthly progress payments on account of the Contract Price on the basis of CONTRACTOR's Applications for Payment as recommended by ENGINEER, during construction as provided in Paragraphs 6.1.1 and 6.1.2 below. All such payments will be measured by the schedule of values established in Paragraph 2.07A. of the General Conditions (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no schedule of values, as provided in the General Requirements.
1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below, but, in each case, less the aggregate of payments previously made and less such amounts as accordance with Paragraphs 14.02B.5. and 14.02D.1. of the General Conditions.

- a. 90 percent of Work completed (with the balance being retainage). If Work has been 50 percent completed as determined by ENGINEER, and if the character and progress of the Work have been satisfactory to OWNER and ENGINEER, OWNER, on recommendation of ENGINEER, may determine that as long as the character and progress of the Work remain satisfactory to them, retainage will be reduced to 5 percent of all of the Work completed to date and for subsequent future progress payments until Substantial Completion.
 - b. 90 percent (with the balance being retainage) of materials and equipment not incorporated in the Work (but delivered, suitably stored and accompanied by documentation satisfactory to OWNER as provided in Paragraph 14.02 of the General Conditions).
2. Upon Substantial Completion, in an amount sufficient to increase total payments to CONTRACTOR to 95 percent of the Contract Price (with the balance being retainage), less such amounts as ENGINEER shall determine, or OWNER may withhold, in accordance with Paragraph 14.02B. of the General Conditions.

6.3. Final Payment.

- 6.3.A. Upon final completion and acceptance of the Work in accordance with Paragraph 14.07B. of the General Conditions, OWNER shall pay the remainder of the Contract Price as recommended by ENGINEER as provided in said Paragraph 14.07B.

Article 7. INTEREST

- 7.1 All moneys not paid when due as provided in Article 14 of the General Conditions shall bear interest at the prevailing 4 percent savings account rate of simple interest.

Article 8. CONTRACTOR'S REPRESENTATIONS

- 8.1. In order to induce OWNER to enter into this Agreement, CONTRACTOR makes the following representations:
 - 8.1.A. CONTRACTOR has thoroughly examined and carefully studied the Contract Documents (including the Addenda listed in Article 9.) and the other related data identified in the Bidding Documents.
 - 8.1.B. CONTRACTOR has visited the site and become familiar with and is satisfied as to the general, local and site conditions that may affect cost, progress, performance or furnishing of the Work.
 - 8.1.C. CONTRACTOR is familiar with and is satisfied as to all federal, state and local Laws and Regulations that may affect cost, progress, performance or furnishing of the Work.
 - 8.1.D. CONTRACTOR has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or contiguous to the Site and all Drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site (except Underground Facilities) which have been identified in the Supplementary Conditions as provided in Paragraph 4.02A. of the General Conditions and (2) reports and drawings of a Hazardous Environmental Condition, if any, at the Site which has been identified in the Supplementary Conditions as provided in Paragraph 4.06 of the General Conditions.

1. CONTRACTOR accepts the determination set forth in the General and Supplementary Conditions of the extent of the "technical data" contained in such reports and Drawings upon which CONTRACTOR is entitled to rely as provided in Paragraph 4.02 of the General Conditions.
 2. CONTRACTOR acknowledges that such reports and Drawings are not Contract Documents and may not be complete for CONTRACTOR's purposes.
 3. CONTRACTOR acknowledges that OWNER and ENGINEER do not assume responsibility for the accuracy or completeness of information and data shown or indicated in the Contract Documents with respect to Underground Facilities at or contiguous to the Site.
- 8.1.E. Contractor has obtained and carefully studied (or assumes responsibility for doing so) all additional or supplementary examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface, and Underground Facilities) at or contiguous to the Site which may affect cost, progress, or performance of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, including any specific means, methods, techniques, sequences, and procedures of construction expressly required by the Bidding Documents, and safety precautions and programs incident thereto.
- 8.1.F. CONTRACTOR does not consider that any additional examinations, investigations, explorations, tests, studies or data are necessary for the performance and furnishing of the Work at the Contract Price, within the Contract Times and in accordance with the other terms and conditions of the Contract Documents.
- 8.1.G. CONTRACTOR is aware of the general nature of work to be performed by OWNER and others at the site that relates to the Work as indicated in the Contract Documents.
- 8.1.H. CONTRACTOR has correlated the information known to CONTRACTOR, information and observations obtained from visits to the site, reports and drawings identified in the Contract Documents and all additional examinations, investigations, explorations, tests, studies and data with the Contract Documents.
- 8.1.I. CONTRACTOR has given ENGINEER written notice of all conflicts, errors, ambiguities or discrepancies in the Contract Documents and the written resolution thereof by ENGINEER through issued addendum or addenda is acceptable to CONTRACTOR, and the Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work. When said conflicts, etc., have not been resolved through interpretation or clarification by ENGINEER, because of insufficient time or otherwise, CONTRACTOR has included in the Bid the greater quantity or better quality of Work, or compliance with the more stringent requirement resulting in a greater cost; and said greater cost is included in the Contract Price.
- 8.1.J. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

Article 9. CONTRACT DOCUMENTS

9.1. Contents.

9.1.A. The Contract Documents which comprise the entire agreement between OWNER and CONTRACTOR concerning the Work consist of the following:

1. This Agreement.
2. Exhibits to this Agreement
3. Performance, Payment, and other Bonds
4. Notice to Proceed.
5. General Conditions.
6. Supplementary Conditions.
7. Specifications as listed in Table of Contents of the Project Manual.
8. Drawings consisting of a cover sheet and approximately 14 sheets inclusive with each sheet bearing the following general title: Pond No. 3 Liner Project
9. Addenda numbers 1 to 3, inclusive.
10. CONTRACTOR's Bid.
11. Documentation submitted by CONTRACTOR prior to Notice of Award.
12. The following which may be delivered or issued after the Effective Date of the Agreement and are not attached thereto:
 - a. All written amendments and other documents amending, modifying or supplementing the Contract Documents pursuant to Paragraph 3.04 of the General Conditions.
 - b. The documents listed in Paragraphs 9.1. et seq. above are attached to this Agreement (except as expressly noted otherwise above).
 - c. There are no Contract Documents other than those listed above in this Article 9. The Contract Documents may only be amended, modified or supplemented as provided in Paragraph 3.04. of the General Conditions.

Article 10. MISCELLANEOUS

10.1 Terms.

10.1.A. Terms used in this Agreement which are defined in Article 1 of the General Conditions will have the meanings indicated in the General Conditions.

10.2. Assignment of Contract.

10.2.A. No assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

10.3. Successors and Assigns.

10.3.A. OWNER and CONTRACTOR each binds itself, its partners, successors, assigns and legal representatives to the other party hereto, its partners, successors, assigns and legal representatives in respect to all covenants, agreements and obligations contained in the Contract Documents.

10.4. Severability.

10.4.A. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon OWNER and CONTRACTOR, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

Article 11. INDEMNITY & HOLD HARMLESS

11.1. The CITY and all officers, agents, employees, outside parties hired to inspect the work and volunteers thereof connected with the work, including but not limited to, the Director and the Engineer, shall not be answerable or accountable in any manner for the loss or damage to any of the materials or other things used or employed in performing the work; for injury to or death of any person, either worker or the public; or damage to property from any cause which may have been prevented by CONTRACTOR or his or her workers or anyone employed by him/her.

11.2. CONTRACTOR shall be responsible for any liability imposed by law and for injuries to or death of any person including, but not limited to, workers and the public, or damage to property resulting from defects or obstructions or from any cause whatsoever during the progress of the work or at any time prior to its acceptance.

11.3. The CONTRACTOR shall indemnify and hold harmless the CITY and all officers, employees, or outside parties hired to inspect the work and volunteers thereof connected with the work, including but not limited to, the Director and the Engineer, from all claims, suits, or actions of every name, kind, and description brought forth on or on account of injuries to or death of any person, including but not limited to, workers or the public or damage to property resulting from the performance of the contract except as otherwise provided by statute. The duty of CONTRACTOR to indemnify and save harmless include the duties to defend as set forth in Civil Code Section 2778.

11.4. With respect to third party claims against the CONTRACTOR, the CONTRACTOR waives any and all rights to any type of express or implied indemnity against the CITY, its officers or employees.

11.5. It is the intent of the parties that the CONTRACTOR will indemnify and hold harmless the CITY, its officers, employees, agents and volunteers, from any and all claims, suits, or actions as set forth above, regardless of the existence or degree of fault or negligence on the part of the CITY, the CONTRACTOR, the subcontractors or employees of any of these, other than the active negligence of the CITY, its officers and employees.

ARTICLE 12: INSURANCE

12.1. Throughout the period of this agreement, the CONTRACTOR shall provide the following minimum insurance coverage as listed below. CONTRACTOR shall file with CITY a certificate(s) of Insurance, in a form acceptable to CITY, at the time of execution of this agreement. The insurance company must be acceptable to CITY, with a Best's Rating of no less than A:VII. Documentation of such rating acceptable to the CITY shall be provided at the same time Insurance Certificates are submitted.

12.2. In the event any of the required policies are canceled prior to the completion of the project and the CONTRACTOR does not furnish a new certificate(s) of insurance prior to cancellation, the CITY may obtain the required insurance and deduct the premium(s) from Contract monies due the CONTRACTOR.

12.3. **WORKER'S COMPENSATION AND EMPLOYERS LIABILITY INSURANCE:**

12.3.A. The CONTRACTOR shall maintain adequate Workers' Compensation Insurance under the Laws of the State of California. CONTRACTOR shall fully comply with the provisions of Section 3700 of the Labor Code, which requires every employer to be insured against liability for Workers' Compensation or to undertake self insurance in accordance with the provisions of that Code, before commencing the performance of the work.

12.3.B. By CONTRACTOR's signature hereunder, CONTRACTOR certifies that he/she is 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 he/she will comply with such provisions before commencing the performance of this Contract.

12.3.C. If such insurance is underwritten by any agency other than State Compensation Fund, such agency shall be a company authorized to do business in the State of California.

12.3.D. CONTRACTOR shall require all subcontractors to maintain adequate Workers' Compensation Insurance. Certificates of such Workers' Compensation shall be filed forthwith with the CITY upon demand.

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

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

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

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

Cancellation Notice: "This policy shall not be canceled or materially changed without first giving thirty (30) days prior written notice to the City of Colfax."

12.3.H. Contractor shall require all Subcontractors to maintain adequate Worker's Compensation insurance. Certificates of Works' Compensation shall be filed forthwith with the City upon demand.

12.4. GENERAL LIABILITY INSURANCE:

12.4.A. Comprehensive General Liability or Commercial General Liability insurance covering all operations by or on behalf of CONTRACTOR, providing insurance for bodily injury liability and property damage liability for the limits of liability indicated below and including coverage for: premises, operations; products and completed operations; contractual liability insuring the obligations assumed by CONTRACTOR in this Agreement; broad form property damage (including completed operations); explosion, collapse, and underground hazards; personal injury liability.

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

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

- Two million dollars (\$2,000,000) each occurrence
- Two million dollars (\$2,000,000) aggregate

12.4.D. If CONTRACTOR carries a Commercial General Liability (Occurrence) policy:

1. The limits of liability shall not be less than:
 - Two million dollars (\$2,000,000) each occurrence (combined single limit for bodily injury and property damage)
 - Two million dollars (\$2,000,000) for Personal Injury Liability
 - Two million dollars (\$2,000,000) for Products-Completed Operations
 - Two million dollars (\$2,000,000) General Aggregate
2. If the policy does not have an endorsement providing that the General Aggregate Limit applies separately, or if defense costs are included in the aggregate limits, then the required aggregate limits shall be three million dollars (\$3,000,000).

12.4.E. SPECIAL CLAIMS MADE POLICY FORM PROVISIONS:

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

1. The limits of liability shall not be less than:
 - Two million dollars (\$2,000,000) each occurrence (combined single limit for bodily injury and property damage)
 - Two million dollars (\$2,000,000) for Personal Injury Liability
 - Two million dollars (\$2,000,000) aggregate for Products Completed Operations
 - Two million dollars (\$2,000,000) General Aggregate
2. The insurance coverage provided by CONTRACTOR shall contain language providing coverage up to twelve (12) months following the completion of the Contract in order to provide insurance coverage for the hold harmless provisions herein if the policy is a Claims Made Policy.

12.5. CONFORMITY OF COVERAGES:

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

12.6. ADDITIONAL REQUIREMENTS:

12.6.A. Premium Payments: The insurance companies shall have no recourse against the CITY and funding agencies, its officers and employees or any of them for payment of any premiums or assessments under any policy issued by a mutual insurance company.

12.6.B. Policy Deductibles: The CONTRACTOR shall be responsible for all deductibles in all of CONTRACTOR'S insurance policies. The amount of deductibles for insurance coverage required herein should be reasonable and subject to CITY'S approval.

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

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

12.7. ENDORSEMENTS:

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

"The City of Colfax, and additional insureds (including, State of California, California Regional Water Quality Control Board) and their officers, agents, outside parties hired to inspect and/or design the work, employees, and volunteers are to be covered as insured for all liability arising out of the operations by or on behalf of the named insured in the performance of this Agreement."

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

"This policy shall not be canceled or materially changed without first giving thirty (30) days prior written notice to the City of Colfax."

12.8. AUTOMOBILE LIABILITY INSURANCE:

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

12.8.B. Covered vehicles shall include owned, non-owned, and hired automobiles/trucks.

ARTICLE 13: PRECEDENCE IN CONFLICTING DOCUMENTS

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

ARTICLE 14: BOND REQUIREMENTS

- 14.1. CONTRACTOR shall furnish a Labor and Materials Bond and a Faithful Performance Bond, each in the full amount of the Contract, in the amount of 10% of the Contract, (hereinafter collectively referred to as "Bonds") on the forms provided by the CITY. CITY shall retain the Performance Bond until the date of the CITY'S acceptance of the work, and the Warranty for a one-year guarantee period from the date of the CITY'S acceptance of the work.
- 14.2. The bonds shall be obtained from a California admitted surety, that is licensed by the State of California to act as surety upon bonds and undertakings and which maintains in this State at least one office for the conduct of its business. The surety shall furnish reports as to its financial condition from time to time upon request by CITY.
- 14.3. In case of any conflict between the terms of the Contract and the terms of the Bonds, the terms of the Contract shall control and the Bonds shall be deemed to be amended thereby.
- 14.4. CONTRACTOR agrees to obtain the consent of the surety, if required, to any change, extension of time, alteration or addition to any of the terms of the Contract Documents.

ARTICLE 15: COMPLIANCE WITH LAWS

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

accessible place on the Project premises. CONTRACTOR is also required to insure (a) the proper labeling of any substance brought onto the PROJECT premises by CONTRACTOR or any subcontractors or material suppliers, and (b) that the person(s) working with the material, or within the general area of the material, are appropriately informed about the hazards of the substance and follow proper handling and protection procedures.

- 15.5. CONTRACTOR is required to comply Health & Safety Sections 25249 et seq. (Prop. 65), which requires the posting and giving of notice to persons who may be exposed to any chemical known to the State of California to cause cancer.
- 15.6. Contractor shall comply with Title VI of the Civil Right Act of 1964 (PL 88-352) and all regulations or other requirements issued pursuant to that Act, including, without limitation, United States Department of Agriculture nondiscrimination regulations found at 7 CFR Part 15.

ARTICLE 16: PROMPT PAYMENT PROVISIONS

- 16.1. Prompt payment provisions in accordance with Section 20104.50 of the Public Contract Code shall apply to this contract.

ARTICLE 17: ANTITRUST CLAIM ASSIGNMENT

- 17.1. In entering into a Public Works contract or a subcontract to supply goods, services, or materials pursuant this Contract, the CONTRACTOR and all subcontractors shall offer and agree to assign to CITY all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 [commencing with Section 16700] of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, services, or materials pursuant to the Contract or any subcontract. This assignment shall be made and become effective at the time the CITY tenders final payment to CONTRACTOR, without further acknowledgment by the parties.

ARTICLE 18: STATE PREVAILING WAGES/DAVIS BACON

- 18.1. CONTRACTOR acknowledges that he/she has examined the prevailing rate of per diem wages as established by the California Director of Industrial Relations (hereinafter "prevailing wages"). The CONTRACTOR agrees to pay workers not less than the applicable "prevailing wage," as set forth in these requirements and Labor Code section 1770 *et seq.* CONTRACTOR agrees specifically to comply with the provisions of Labor Code sections 1720, 1773.3, 1776, and 1777.5, as well as Section 7-1.01A of the Department of Transportation Standard Specifications and these Contract Documents.
- 18.2. *Refer to DIVISION 00-BIDDING REQUIREMENTS, CONTRACT FORMS, AND CONDITIONS OF THE CONTRACT DAVIS BACON & DAVIS BACON WAGE RATES*

ARTICLE 19: CONTRACT PRICES

(Items in Contract will be the same as those bid in SECTION 00301 BID FORM)

IN WITNESS WHEREOF, CITY and CONTRACTOR have signed this Agreement in triplicate. One counterpart each has been delivered to OWNER, CONTRACTOR, and ENGINEER. All portions of the Contract Documents have been signed, initialed or identified by CITY and CONTRACTOR or identified by ENGINEER on their behalf.

APPROVED AS TO PROCEDURE

By: _____
Bruce Kranz, City Manager

Date: _____

APPROVED AS TO FUNDS

By: _____
Finance Officer, City of Colfax

Date: _____

APPROVED AS TO FORM

By: _____
City Attorney, City of Colfax

Date: _____

**"CITY"
CITY OF COLFAX**

By: _____
Steve Harvey, Mayor
City of Colfax

Date: _____

**Award of Contract No. 11-01.02
By the City Council
On: June 18, 2012**

"CONTRACTOR"

(Type full legal name of contractor, entity type, state of organization here)

Campbell Construction Co., Inc.
dba Nevada Campbell Construction Co., Inc.
A Nevada Corporation

COMPANY NAME

By: _____
Officer Signature # 1
(Signature Notarized)

By: _____
Print Name and Title

Date: _____

By: _____
Signature # 2
(Signature Notarized)

By: _____
Print Name and Title

Date: _____

LICENSED IN ACCORDANCE WITH AN ACT
providing for the registration of Contractors,
Contractors License Number: _____

FEDERAL EMPLOYER IDENTIFICATION
NUMBER _____

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

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

CERTIFICATION

LABOR CODE SECTION 1861

STATE OF CALIFORNIA)
CITY OF COLFAX)

I, the undersigned, do hereby certify:

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

Executed at: _____

On: _____

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

CONTRACTOR - EMPLOYER

BY: _____

PRINT NAME: _____

TITLE: _____

LABOR AND MATERIALS BOND

KNOW ALL MEN BY THESE PRESENTS, THAT WHEREAS, CITY OF COLFAX, STATE OF CALIFORNIA, hereinafter called the "Owner" has awarded to _____, as Principal, hereinafter designated as the "Contractor," a contract for the work described as follows:

POND 3 LINER PROJECT WASTEWATER TREATMENT PLANT UPGRADE, CONTRACT NO. 11-01.02

AND, WHEREAS, the Contractor is required to furnish a bond in connection with said contract, to secure the payment of claims of laborers, mechanics, materialmen and other persons as provided by law;

NOW, THEREFORE, we, the undersigned Contractor and _____ Surety, are held and firmly bound unto the Owner in the amount required by law, in the sum of _____ Dollars (\$) for which payment well and truly to be made we bind ourselves, our heirs, executors and administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION of this obligation is such, that if the Contractor, his or its heirs, executors, administrators, successors or assigns, or subcontractors shall fail to pay any of the persons referred to in Civil Code 3181, amounts due under the Unemployment Insurance Code with respect to work or labor performed by any such claimant, or amount due the Franchise Tax Board as provided in Civil Code 3248, that the surety or sureties herein will pay for the same, in amount not exceeding the sum specified in this bond, otherwise the above obligation shall be void. In case suit is brought in this bond, the said surety will pay reasonable attorneys' fee to be fixed by the court.

This bond shall insure to the benefit of any of the persons referred to in Civil Code 3181 so as to give a right of action to such persons or their assigns in any suit brought upon this bond. Any such right of action shall be subject to the provisions of Civil Code 3267.

PROVIDED, FURTHER, that the said surety, for value received hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the contract or to the work to be performed thereunder or the specifications accompanying the same shall in any way affect its obligation on this bond, and it does hereby waive notice of any change, extension of time, alteration or addition to the terms of the contract or to the work or to the specifications.

PROVIDED, FURTHER, that no settlement between the Owner and the Contractor shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

PROVIDED, FURTHER, that surety covenants that it is an Admitted Surety Insurer in the State of California as defined by California Code of Civil Procedures, Section 995.120.

Approved as to form:

By _____
CITY ATTORNEY
CITY OF COLFAX

*SURETY Attorney-In-Fact
(Signature must be notarized)

Date _____

CONTRACTOR
(Signature must be notarized)

Date _____

Address _____ of _____ Surety: _____

*** ATTORNEY-IN-FACT MUST HAVE POWER OF ATTORNEY ON FILE WITH CITY CLERK OF THE CITY OF COLFAX OR INCLUDE A COPY OF POWER OF ATTORNEY WITH THIS BOND.**

FAITHFUL PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS THAT WE _____, The Contractor in the Contract hereto annexed, as principal, and _____ as surety are held and firmly bound unto the City of Colfax in the sum of _____ Dollars (\$ _____) lawful money of the United States, for which payment, well and truly to be made, we bind ourselves, jointly and severally, firmly by these presents

The condition of the above obligation is that if said principal as Contractor in the contract hereto annexed shall faithfully perform each and all of the conditions of said contract to be performed by him, and shall furnish all tools, equipment, apparatus, facilities, transportation, labor, and material, other than material, if any, agreed to be furnished by the City, necessary to perform and complete, and to perform and complete in a good workmanlike manner the work of the **POND 3 LINER PROJECT WASTEWATER TREATMENT PLANT UPGRADE, CONTRACT NO. 11-01.02** in strict conformity with the terms and conditions set forth in the contract hereto annexed, and after a period of one year following the acceptance of the project, then this obligation shall be null and void, otherwise to remain in full force and effect; and the said surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the contract or to the work to be performed thereunder or the specifications accompanying the same shall, in any wise, affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract or to the work or to the specifications.

Surety further agrees in case suit is brought upon this bond, that it will pay, in addition to the basic obligation herein, all court costs, expenses, and all reasonable attorney's fees to be awarded and fixed by the Court, and to be taxed as costs, and to be included in the judgment therein rendered.

Approved as to form:

By _____
CITY ATTORNEY
CITY OF COLFAX

*SURETY Attorney-In-Fact
(Signature must be notarized)

CONTRACTOR
(Signature must be notarized)

Date _____

Date _____

Address of Surety: _____

*** ATTORNEY-IN-FACT MUST HAVE POWER OF ATTORNEY ON FILE WITH CITY CLERK OF THE CITY OF COLFAX OR INCLUDE A COPY OF POWER OF ATTORNEY WITH THIS BOND.**

END OF SECTION