

**AMENDMENT NO. 1 TO AGREEMENT
BETWEEN OWNER AND CONSTRUCTION MANAGER AS CONSTRUCTOR
(GUARANTEED MAXIMUM PRICE)**

ARTICLE 1 – PURPOSE

- 1.01 Pursuant to Paragraph 4.02.K of the Agreement dated April 1, 2025 between the City of Olathe, Kansas (“Owner”) and Garney Companies, Inc. (“Construction Manager”) for construction of the Cedar Creek WWTP Expansion Phase II and Cedar Creek WWTP Solids Handling Expansion (1-C-013-25 and 1-C-025-25), the Owner and Construction Manager establish a Guaranteed Maximum Price (“GMP”) for the Work as set forth below.
- 1.02 For the purposes of this Amendment No. 1 the Work is defined as all work identified in GMP #1 and described in the Contract Documents.

ARTICLE 2 – GENERAL PROVISIONS

2.01 *Contents*

- A. Pursuant to Paragraph 3.01.A.7 of the Agreement, the following are identified as Contract Documents under the Agreement.
1. Technical Specifications and General Requirements (not attached but incorporated by reference) as included in the Request for Proposals bearing the following general title: Cedar Creek WWTP GMP #1 – Long Lead Electrical Equipment.
 2. Drawings (not attached but incorporated by reference) consisting of __ sheets total between two plan sets with each sheet bearing the following general title: Cedar Creek WWTP GMP #1 – Long Lead Electrical Equipment.
 3. Addenda (not attached but incorporated by reference) issued for development of the Guaranteed Maximum Price (numbers 1 to 2, inclusive).
 4. Exhibits to this Amendment (enumerated as follows):
 - a. Exhibit A – Construction Manager’s Guaranteed Maximum Price Proposal prepared in accordance with Paragraph 4.02.K of the Agreement.
 - b. Exhibit B – Performance & Maintenance bond (pages __ to __, inclusive).
 - c. Exhibit C – Statutory bond (pages __ to __, inclusive).
- B. Pursuant to Paragraph 2.02.A of the Agreement, Supplementary Conditions for the Construction Phase have been further negotiated by the Parties and the agreed Supplementary Conditions are attached as Exhibit D to this Amendment. These Supplementary Conditions amend EJCDC C-700, Standard General Conditions of the Construction Contract, for the Construction Phase.
- C. The documents listed in Paragraphs 2.01.A and 2.01.B are attached to this Agreement (except as expressly noted otherwise above).

- D. The Contract Documents may only be amended, modified, or supplemented by Amendment to this Agreement during the Preconstruction Phase or through a Change Order as provided in the General Conditions during the Construction Phase.

ARTICLE 3 – CONTRACT TIMES

3.01 *Time of the Essence*

- 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.

3.02 *Contract Times: Milestones*

- A. The Work will be substantially completed by the milestones identified below. Contract Times commence to run as provided in Paragraph SC 4.01 of the Supplementary Conditions, and completed and ready for final payment in accordance with Paragraph SC 15.06 of the Supplementary Conditions within 30 days after the specified milestones below. Work and milestones associated with previous GMPs remain unchanged unless specifically noted otherwise below.

1. GMP #1 – Long Lead Electrical Equipment

3.03 *Liquidated Damages*

- A. Construction Manager and Owner recognize that time is of the essence as stated in Paragraph 3.01 above and that Owner will suffer financial and other losses if the Work is not completed and Milestones not achieved within the times specified in Paragraph 3.02 above, plus any extensions thereof allowed in accordance with the Contract. The parties also recognize the delays, expense, and difficulties involved in proving in a legal proceeding the actual loss suffered by Owner if the Work is not completed on time. Accordingly, instead of requiring any such proof, Owner and Construction Manager agree that as liquidated damages for delay (but not as a penalty):
1. Substantial Completion: Owner shall have the right to assess and recover up to \$500.00 for each day that expires after the time (as duly adjusted pursuant to the Contract) specified in Paragraph 3.02.A above for Substantial Completion until the Work is substantially complete, to the extent such delays were caused by or attributable to Construction Manager.
 2. Completion of Remaining Work: After Substantial Completion, if Construction Manager shall neglect, refuse, or fail to complete the remaining Work within the Contract Time (as duly adjusted pursuant to the Contract) for completion and readiness for final payment, Owner shall have the right to assess and recover up to \$500.00 for each day that expires after such time until the Work is completed and ready for final payment, to the extent such delays were caused by or attributable to Construction Manager.
 3. Liquidated damages for failing to timely attain Substantial Completion and Final Completion are not additive and will not be imposed concurrently. Further, liquidated damages for failing to timely attain Substantial Completion and Final Completion (as modified in accordance with the Contract) are the Owner's sole and exclusive remedy and are in lieu of all other liability to the Owner for extra costs, losses, expenses, claims, penalties and any other damages of whatever nature for such unexcused delays.

ARTICLE 4 – GUARANTEED MAXIMUM PRICE

- 4.01 The total cost for Work provided pursuant to this Amendment is \$ 256,089. Owner shall pay Construction Manager for completion of the Work in accordance with the Contract Documents in current funds the Total GMP amount as shown below:

| | | |
|-------------------|------------|----------------------------------|
| Preconstruction\$ | 480,000.00 | |
| GMP #1: \$ | 256,089.00 | Amendment No. 1 (this amendment) |
| Total GMP: \$ | 736,089.00 | |

- 4.02 A list of clarifications and assumptions made by the Construction Manager in the preparation of the Guaranteed Maximum Price, pursuant to Paragraph 4.02.K.6 of the Agreement, is set forth in Exhibit A attached hereto.

ARTICLE 5 – CONSTRUCTION MANAGER’S REPRESENTATIONS

- 5.01 In order to induce Owner to enter into this Contract, Contractor makes the following representations:
- A. Construction Manager has examined and carefully studied the Contract Documents, and any data and reference items identified in the Contract Documents.
 - B. Construction Manager has visited the Site, conducted a thorough, alert visual examination of the Site and adjacent areas, and become familiar with and is satisfied as to the general, local, and visible and readily apparent Site conditions that may affect cost, progress, and performance of the Work.
 - C. Construction Manager is familiar with and is satisfied as to all Laws and Regulations that may affect cost, progress, and performance of the Work.
 - D. Construction Manager has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or adjacent to the Site and all drawings of physical conditions relating to existing surface or subsurface structures at the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings, and (2) reports and drawings relating to Hazardous Environmental Conditions, if any, at or adjacent to the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings, if any.
 - E. Construction Manager has considered the information known to Construction Manager itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Contract Documents; and the Site-related reports and drawings identified in the Contract Documents, with respect to the effect of such information, observations, and documents on (1) the cost, progress, and performance of the Work; (2) the means, methods, techniques, sequences, and procedures of construction to be employed by Construction Manager; and (3) Construction Manager’s safety precautions and programs, if any such reports and drawings are so identified.
 - F. Not used.
 - G. Construction Manager 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.

- H. Construction Manager has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Construction Manager has discovered in the Contract Documents, and the written resolution thereof by Engineer is acceptable to Construction Manager.
- I. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.
- J. Construction Manager's entry into this Contract constitutes an incontrovertible representation by Construction Manager that without exception all prices in the Agreement are premised upon performing and furnishing the Work required by the Contract Documents.

IN WITNESS WHEREOF, Owner and Construction Manager have signed this Amendment to the Agreement.

OWNER:

City of Olathe, Kansas

By: _____

Title: Mayor

Attest: _____

Title: _____

Address for giving notices:

P.O. Box 768

Olathe, KS 66051

CONSTRUCTION MANAGER:

Garney Companies, Inc.

By: _____

Title: Director

(If Construction Manager is a corporation, a partnership, or a joint venture, attach evidence of authority to sign.)

Attest: _____

Title: _____

Address for giving notices:

License No.: _____

(where applicable)

Agent for service of process:

If Owner is a public body, attach evidence of authority to sign and resolution or other documents authorizing execution of this Agreement.)

Approved as to form:

City Attorney or Deputy/Assistant City Attorney



CITY OF OLATHE

Cedar Creek WWTP Improvements

GUARANTEED MAXIMUM PRICE NO. 1 (GMP 1)

SUBMITTED BY:

GARNEY COMPANIES, INC.

1700 SWIFT STREET

NORTH KANSAS CITY, MO 64118



Sabrina Parker, P.E.
Water and Sewer Manager
City of Olathe

December 19, 2025

Reference: Cedar Creek WWTP Expansion, PN 1-C-013-25 and 1-C-025-25

Subject: Written Statement of Basis (Article 4.02) – Guaranteed Maximum Price (GMP 1) No.1

Dear Sabrina Parker,

By the Agreement between Garney Companies, Inc. and the City of Olathe, KS; Garney is pleased to provide the below information and attached documentation to support the issuance of “Guaranteed Maximum Price (GMP 1) No.1” to the Construction Management at Risk Services Agreement, “Agreement Paragraph 4.02” in the amount of **\$256,089.00** for the Cedar Creek WWTP Improvements Expansion Project. “Guaranteed Maximum Price (GMP 1) No.1” is the first of at least three (3) Guaranteed Maximum Price Proposals for the Cedar Creek WWTP Expansion Project.

The attached proposal is broken out into the following Sections for your review:

- Section 1 – Bidding Documents Summary and Cost Summary Sheet
 - Bidding Documents List
 - Table that lists the CMAR General Conditions, CMAR Fees, CMAR Bonds, CMAR Insurance, Cost of work by bid package, and Owner/CMAR Contingency (if necessary) for “Guaranteed Maximum Price (GMP 1) No. 1”.
- Section 2 – Proposal Documents
 - Technical and Price Proposal for Davin Electric (including 00 42 23.02 Schedule of Values)
 - Garney Companies Letter of Recommendation of Award
 - City of Olathe, KS Letter of Authorization of Award
 - Garney Companies Letter of Notice of Award to Successful Proposer
- Attachment A – Solicitation Set 1 Bidding Documents
- Attachment B – CMAR General Conditions Covered by Fees

Garney Construction and the City of Olathe will establish a **Project Contingency Fund** as a part of the final GMP in an amount agreed upon by the project team. These funds will be utilized as described in Article 4.02 of the Agreement Between Owner and Construction Manager as Constructor.

Garney Companies, Inc. is requesting approval of “Guaranteed Maximum Price (GMP) No.1” by **January 9, 2026**. Please contact Garney directly if there are any questions regarding the Bid Package Procurement Information, Cost of Work, or associated Construction Manager at Risk Fees included in this proposal.

You may contact me at (816) 654-2623 or bill.morehead@garney.com with any questions.

Sincerely
GARNEY COMPANIES, INC.



Bill Morehead
Project Manager

Cc: File



SECTION 1

BIDDING DOCUMENTS SUMMARY SHEET AND COST SUMMARY SHEET



**“Guaranteed Maximum Price (GMP 1) No.1
Article 11 GMP Document List
December 19, 2025**

Dear Sabrina Parker,

The list below outlines the documents that were advertised on Garney Companies, Inc. Procurement SharePoint Site during the procurement phase of Solicitation Set 01. Portions of these documents and subsequent scoring sheets are contained in the body of the “Guaranteed Maximum Price (GMP 1) No.01” Proposal.

Solicitation Set 01 Public Bidding Documents

1. Contract Documents
 - a. Cedar Creek WWTP Issued for GMP 1 – Long Lead Electrical Equipment Drawings – E010 & E101 Issued with Addendum 1
 - b. Cedar Creek WWTP Issued for GMP 1 – Long Lead Electrical Equipment Specification Sections as follows.
 - i. Section 26 22 16 – Pad Mounted Transformers
 - ii. Section 26 24 13 – Switchboards
2. Bidding Documents
 - a. Cedar Creek WWTP Solicitation Set 01 – Bidding Documents Dated October 27th, 2025
 - b. Cedar Creek WWTP Solicitation Set 01 – Addendum #01 Dated November 17th, 2025
 - c. Cedar Creek WWTP Solicitation Set 01 – Addendum #02 Dated November 25th, 2025

Please notify me if you have any questions regarding these documents or if you would like a full copy of them provided to you to aid in your review of “Guaranteed Maximum Price (GMP) No.01” Proposal.

Respectfully,

A handwritten signature in blue ink that reads "Bill Morehead".

Bill Morehead
Project Manager
Garney Construction



Cedar Creek WWTP Improvements, PN 1-C-013-25 and 1-C-025-25
GMP No. 01
City of Olathe, KS

| Garney CMAR General Conditions | | |
|---|-----------|------------------|
| CMAR General Conditions (7.5% of COW) | \$ | 16,645.00 |
| Solicitation Set 01 General Conditions | \$ | 16,645.00 |

| Cost of Work - Solicitation Set 01 | | |
|---|-----------|-------------------|
| Bid Package 1.1 - Long Lead Electrical Equipment - Davin Electric | \$ | 221,939.00 |
| Solicitation Set 01 Cost of Work Subtotal | \$ | 221,939.00 |

| Contingency | | |
|--------------------------------------|-----------|----------|
| Contingency (Finalized in final GMP) | \$ | - |
| Contingency Subtotal | \$ | - |

| CMAR Fees, Bonds, and Insurance | | |
|---|-----------|------------------|
| CMAR Construction Management Fee (5.75% of COW) | \$ | 13,719.00 |
| CMAR Construction Management Bond (0.80%) | \$ | 2,019.00 |
| CMAR Construction Management Insurance (0.70%) | \$ | 1,767.00 |
| CMAR Fees, Bonds, and Insurance Subtotal | \$ | 17,505.00 |

| | | |
|--------------------|-----------|----------------|
| GMP 1 Total | \$ | 256,089 |
|--------------------|-----------|----------------|



SECTION 2

PROPOSAL DOCUMENTS



Technical Proposal
Bid Package 1.1
Long Lead Electrical Equipment
City of Olathe
Cedar Creek Wastewater Treatment
Plant Expansion Projects

SUBMITTED BY:
DAVIN ELECTRIC, INC.
2131 NE GRANTVILLE ROAD
TOPEKA, KANSAS 66608





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BID PACKAGE 1.1

A. Bid Form

1. Corporation Signature Page
2. Article 3: Bidder's Representation-Addendums

B. Experience & Qualifications

1. Company Questionnaire
 - a. Table #1
 - b. General Company Information
2. Company's Past Performance
 - a. Table #2- Project Experience and Key Personnel
 - b. Project Organizational Chart
 - c. Resumes
 - a. Brett Conley
 - b. Kellen Wilhelm
 - c. Amber Darveaux
 - d. Jacob Miller
 - d. Table #2 Continued-Project Experience-attachment

C. See attached previously agreed upon Terms

- a. (DEI agrees to all previous Terms and would agree to them in the future)

On Performance and Lead times included on price proposal





If Bidder is a corporation:

Corporation Name: Davin Electric, Inc.
(typed or printed)

State of Incorporation: Kansas

Type: Electrical Contractor
(General Business, Professional, Service, Limited Liability)

Date of Qualification to do business in Kansas is: 1967

By: 
(Signature -- attach evidence of authority to sign)

Name: Kellen J. Wilhelm
(typed or printed)

Title: Vice President

Attest: 
(Signature of Corporate Secretary)

Business address: 2131 NE Grantville Road

Topeka, KS 66608

Phone: 785-234-2350 Facsimile: 785-234-1513 E-mail: davin@davinelectric.com



Bid Submitted on the following Date: 12/04/2025



ARTICLE 3: BIDDER'S REPRESENTATIONS

3.01 In submitting this Proposal, Bidder represents, as set forth in the Agreement, that:

- A. Bidder has examined and carefully studied the Bidding Documents, the other related data identified in the Bidding Documents, and the following Addenda, receipt of all of which is hereby acknowledged.

| Addendum No. | Addendum Date | Signature Acknowledging Receipt |
|--------------|---------------|--|
| 1 | 11/17/2025 |  |
| 2 | 11/25/2025 |  |
| | | |
| | | |

- B. Bidder has visited the Site, if desired, and become familiar with and is satisfied as to the general, local and Site conditions that may affect cost, progress, and performance of the Work.
- C. Bidder is familiar with and is satisfied as to all federal, state and local Laws and Regulations that may affect cost, progress and the furnishing of Goods and Special Services.
- D. Not used
- E. Bidder has obtained and carefully studied all additional or supplementary examinations, investigations, explorations, tests, studies and data concerning conditions including 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 Bidder, including applying the specific means, methods, techniques, sequences, and procedures of construction expressly required by the Bidding Documents to be employed by Bidder, and safety precautions and programs incident thereto or accepts the consequences for not doing so.
- F. Bidder does not consider that any further examinations, investigations, explorations, tests, studies, or data are necessary for the determination of this Bid for performance of the Work at the prices bid and within the times and in accordance with the other terms and conditions of the Bidding Documents.
- G. Bidder is aware of the general nature of work to be performed by Owner, CMAR, and others at the Site that relates to the Work as indicated in the Bidding Documents.
- H. Bidder has correlated the information known to Bidder, information and observations obtained from visits to the Site, reports and drawings identified in the Bidding Documents, and all additional examinations, investigations, explorations, tests, studies, and data with the Bidding Documents.
- I. Bidder has given CMAR written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder has discovered in the Bidding Documents, and the written resolution thereof by Engineer and CMAR is acceptable to Bidder.
- J. The Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for the performance of the Work for which this Bid is submitted.



Table #1 - Company Questionnaire

| | | | |
|--|---|--|--|
| Organization doing business as: | Davin Electric, Inc. | | |
| Business address of principle office | 2131 NE Grantville Road | | |
| | Topeka, KS 66608 | | |
| Telephone numbers | 785-234-2350 | | |
| Main number | 785-234-2350 | | |
| Fax number | 785-234-1513 | | |
| Website address | N/A | | |
| Form of business (check one) | <input checked="" type="checkbox"/> A corporation | <input type="checkbox"/> A partnership | <input type="checkbox"/> An individual |
| If a corporation | | | |
| Date of incorporation | 1988 | | |
| State of incorporation | Kansas | | |
| Chief Executive Manager's name | Brett K. Conley | | |
| President's name | Brett K. Conley | | |
| Vice President's name(s) | Kellen Wilhelm | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| Secretary's name | Calley Conley | | |
| Treasurer's name | Calley Conley | | |
| If a Partnership | | | |
| Name of Partners | N/A | | |
| | | | |
| | | | |
| | | | |
| Date of organization | | | |
| State whether partnership is general or limited | | | |
| If an Individual | | | |
| Individual's name | N/A | | |
| Date founded | | | |
| State whether organization is general or limited | | | |

Table #1 - Company Questionnaire continued

| | |
|--|----------------------|
| Organization doing business as: | Davin Electric, Inc. |
| Construction/Industry Experience | |
| Years of experience in projects similar to the proposed project: | 50 |
| Has this or a predecessor organization ever defaulted on a project or failed to complete any work awarded to it? | NO |
| If yes provide full details in a separate attachment. | N/A |
| Has this or a predecessor organization been released from a bid or proposal in the past ten years? | NO |
| If yes provide full details in a separate attachment. | N/A |
| Has this or a predecessor organization ever been disqualification as a bidder or proposer by any local, state, or federal agency within the last five years? | NO |
| If yes provide full details in a separate attachment. | N/A |
| Is this organization or your proposed surety currently in any litigation or contemplating litigation? | NO |
| If yes provide full details in a separate attachment. | N/A |
| Has this or a predecessor organization ever refused to construct or refused to provide materials defined in the contract documents? | NO |
| If yes provide full details in a separate attachment. | N/A |



GENERAL INFORMATION

Davin Electric has been in business since 1967. The business was started by Larry Davin. In 1988 Randy Davin, Larry's brother bought into the company which at that time was then incorporated. 1994 Randy became 100% owner. In 2020 Brett Conley, Randy's nephew who has worked for the company for 20 years at that time, bought out Randy and became owner/president. Davin Electric, Inc. has experience doing a variety of projects, in the role of electrical subcontractor as well as prime contractor, concentrating our efforts on commercial and industrial projects of all sizes. Our work force typically averages 38 employees, 18 of which have been with the company for 15 years or more, up to 30+ years. Several of the others have been here for over 9 years. We take pride in the stability of our employees and feel that our low turnover rate reflects the family atmosphere that the company was founded on.

Since Brett purchased the company, we have broadened our business and added an Excavating side(DBA Davin Excavating) which has allowed us to do most all our own excavating on our projects. 6 of our employees are Operators of the company. Also have an in-house mechanic, that inspects and services all our company owned vehicles and equipment.

Our office is located at 2131 NE Grantville Road, Topeka, Kansas 66608 which has been our headquarters since 1993.

Davin Electric, Inc. is licensed in Kansas, Oklahoma, Texas and Wyoming. In Kansas we are licensed in multiple Cities and Counties such as City of Topeka, Lawrence, Lenexa, Manhattan, Bonner Springs, Johnson County & Wyandotte County just to name a few. (Licenses available upon request)

EMR(Insurance letter available upon request)

9/2025 .76

9/2024 1.00

9/2023 1.00

9/2022 1.02

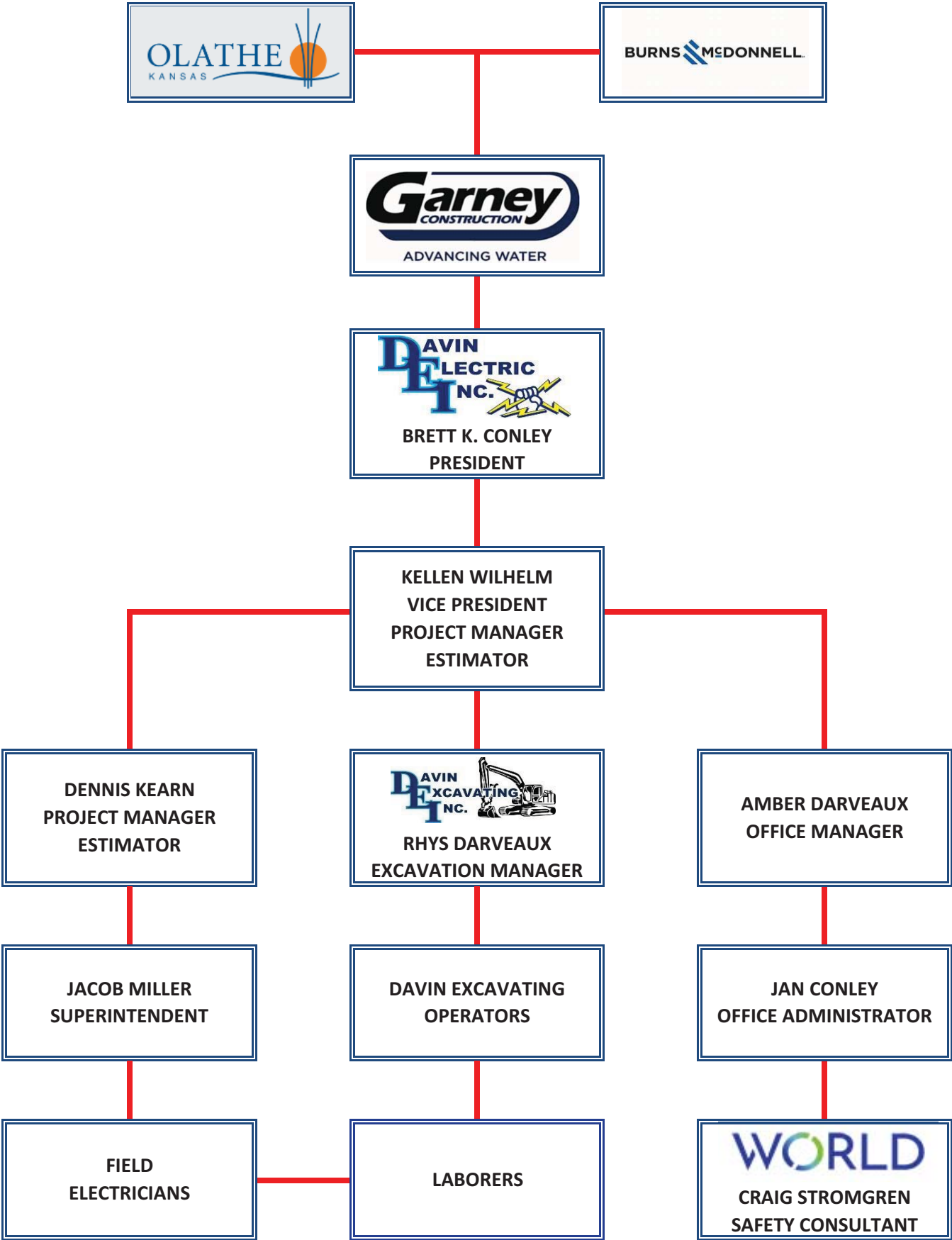
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Table #2 - Project Experience and Key Personnel

| | | | |
|---|----------------------|---------------------------|---------------------------|
| Organization doing business as: | Davin Electric, Inc. | | |
| Projects | | | |
| Provide an attachment to the proposal that includes all necessary information required to determine proposer meets the qualifications required by the specification section. see attached | | | |
| | | | |
| Key Personnel | | | |
| Provide contact information for key personal involved on this project. | | | |
| Role | Name | Email | Phone Number |
| President | Brett K. Conley | bconley@davinelectric.com | 785-234-2350/785-224-8148 |
| Vice President/Project Manager | Kellen Wilhelm | kellen@davinelectric.com | 785-234-2350/785-925-1772 |
| Office Manager | Amber Darveaux | amber@davinelectric.com | 785-234-2350 |
| | | | |

PROJECT ORGANIZATIONAL CHART





Brett Conley

President/Project
Manager

Davin Experience: 29 years

Education

Johnson County
Community College-
Electrical

Certifications & Training

Master Electrician
License- Kansas

Master Electrician
License- Oklahoma

First Aid & CPR

OSHA 10

Professional Summary

Brett started with Davin in 1998 working as an apprentice electrician. He gained 2 years experience in the field before moving into the office to become a project assistant. Later in 2008 Brett became project manager and estimator for the company. He became Vice President in January 2018 and has since purchased Davin Electric and is now 100% Owner and President, he still assists in estimating and remains a project manager.

PROJECT EXPERIENCE

JCW ELECTRICAL IMPROVEMENTS

Johnson County Wastewater, Mission, KS / \$3,380,541

WOLCOTT CMAR CONSTRUCTION

Unified Government Wyandotte County, Kansas City, KS/
\$2,085,232

HANSEN WATER TREATMENT PLANT CONTROLS

Water District No. 1 of Johnson County, KS / \$2,334,438

SOUTHWEST CLEAN WATER BIOSOLIDS TREATMENT PLANT

City of Springfield, MO/ \$5,483,343

HANSEN WATER TREATMENT PLANT OZONE FACILITIES

Water District No. 1 of Johnson County, KS / \$4,078,561

HANSEN F2S SWITCH GEAR

Water District No. 1 of Johnson County, KS / \$3,929,746

WAKARUSA WASTEWATER TREATMENT PLANT IMPROVEMENTS

City of Lawrence, Kansas / \$4,112, 053

MANHATTAN WATER TREATMENT PLANT EXPANSION

City of Manhattan, KS / \$3,008,158





Kellen Wilhelm

Project Manager

Estimator

Davin Experience: 21 years

Education

Johnson County
Community College
Associates in Applied
Science-Emphasis
Electrical Technology

Certifications & Training

Journeyman Electrician
License-2008

Project Management
Training-2010

First Aid & CPR

OSHA 10

Scaffold Safety Training

Professional Summary

Kellen started out as an apprentice electrician with Davin Electric right out of college. Through hard work and experience he moved into a superintendent role and has become a Project Manager. He has been an integral part of some of the largest most complex projects Davin has been involved in, in the field and as the estimator and project manager

PROJECT EXPERIENCE

KANSAS RIVER WWTP IMPROVEMENTS

City of Lawrence, Kansas/ \$8,382,565

OLATHE VERTICAL WELLS PHASE 2

City Of Olathe, KS/\$991,468

DE SOTO WWTP UPGRADES

City Of De Soto, KS/ \$4,462,968

OLATHE WTP CHEM FEED & ELECTRICAL IMPROVEMENTS

City of Olathe, KS/ \$5,270,615

PUMP STATION SCADA IMPROVEMENTS

Unified Government of Wyandotte County, KS/ \$4,011,000

KAW POINT/PLANT 20 WWTP ELECTRICAL IMPROV. PROJECT

Unified Government of Wyandotte County, KS \$3,005,196

VERTICAL WELLS IMPROV. PHASE 1

City of Olathe, KS/\$1,521,717

HILLSDALE WTP EXPANSION,

City of Gardner, KS/ \$1,949,714

OLATHE WTP PLANT IMPROVEMENTS #2

City of Olathe, KS/ \$1,228,564

OAKLAND BIOSOLIDS IMPROVEMENTS

City of Topeka, KS / \$1,121,455





Amber Darveaux
Office Manager

Davin Experience: 17 years
Industry : 20 years

Education

Johnson County
Community College-
General

Washburn University-
Computer Classes

Highland Community
College- Accounting

Certifications & Training

Sales & Use Tax for
Construction

First Aid & CPR

Advanced QuickBooks Pro

Notary Public-State of
Kansas

Professional Summary

Amber started with Davin as part time Administrative Assistant she quickly became a trusted assistant to the company President, Office Manager, Project Managers and earned reputation for maintaining a positive attitude and production of high-quality work. She then moved up to Office Manager with increased responsibility and is an asset to the company.

Experience

Fully manages company-wide accounting and reporting functions. Liaison between senior management, employees, and contractors to ensure proper lines of communication critical to addressing problems and issues requiring immediate attention and resolve.

Manages Accounts Payable/Receivables including bank and account reconciliation, cash receipts, disbursements, billings, invoicing, purchase orders, inventory verification and preparation of daily bank deposits. Collaborates extensively with external auditors, providing in-depth assistance with periodic corporate audits. Following through on timely and accurate month-end closings and financial reporting activities.

Establishes and maintains Human Resources-related employee files exercising a high level of confidentiality. Administer employee benefits to include health and life insurance options, retirement, and workers compensation. Organizes special employee activities and company events. Assist estimators with qualification proposals, project managers and project superintendents with shop drawings and operation & maintenance manuals. Does all pay request and lien releases.





Jacob Miller

Project Superintendent

Davin Experience: 17 years

Education

Kansas State Technical
School-Aviation

Certifications & Training

Journeyman Electrician
License

First Aid & CPR

OSHA 10

Eaton VFD

OSHA Competent Person-
Excavation

Professional Summary

Jake started out with Davin Electric as an apprentice electrician. However very quickly ascended into a project superintendent role. Since then, Jake has been a superintendent on some of the larger projects Davin Electric has completed to date. Jake thrives in communication not only with Davin staff but in working with owners and engineers.

PROJECT EXPERIENCE

KANSAS RIVER WWTP IMPROVEMENTS

City of Lawrence, Kansas/ \$8,403,912

WOLCOTT CMAR CONSTRUCTION

Unified Government Wyandotte County, Kansas City, KS/
\$2,085,232

HANSEN WATER TREATMENT PLANT CONTROLS

Water District No. 1 of Johnson County, KS / \$2,334,438

HANSEN WATER TREATMENT PLANT OZONE FACILITIES

Water District No. 1 of Johnson County, KS / \$4,078,561

HANSEN F2S SWITCH GEAR

Water District No. 1 of Johnson County, KS / \$3,929,746

WAKARUSA WASTEWATER TREATMENT PLANT IMPROVEMENTS

City of Lawrence, Kansas / \$4,112,053

MANHATTAN WATER TREATMENT PLANT EXPANSION

City of Manhattan, KS / \$3,008,158



CURRENT & COMPLETED PROJECTS



| PROJECT NAME AND LOCATION | CLIENT | Owner | ARCHITECT/ENGINEER | CONTRACT AMOUNT | COMPLETION DATE |
|---|--------------------------------------|--|----------------------------|-----------------|-----------------|
| Wolcott Horizontal Collection Well | Crossland Heavy Contractors | Water District No. 1 of Johnson County, KS | Black & Veatch Corporation | \$ 3,995,762.00 | December-27 |
| Junction City Wastewater Treatment Plant | Crossland Heavy Contractors | City of Junction City, KS | HDR | \$ 9,285,777.00 | Dec-26 |
| DeSoto Wastewater Treatment Plant | CAS Constructors, LLC | City of DeSoto, KS | Burns & McDonnell | \$ 4,462,968.64 | January-26 |
| Kansas River Wastewater Treatment Plant Improvements | McCarthy Builing Companies | City of Lawrence, KS | Black & Veatch Corporation | \$ 8,403,912.03 | Dec-25 |
| Kaw Point & Plant 20 Electrical Improvements | Unified District of Wyandotte County | Unified Government of WYCO/KCK | Black & Veatch Corporation | \$ 3,005,196.00 | Aug-22 |
| Wolcott CMAR Construction | Garney Companies, Inc. | Unified Government of WYCO/KCK | HDR Engineering, Inc. | \$ 2,123,086.09 | Mar-22 |
| Wakarusa Wastewater Treatment Plant & Conveyance Corridor, Lawrence, Kansas | Garney Construction | City of Lawrence, KS | Black & Veatch Corporation | \$ 4,112,053.35 | March-18 |

ConsensusDocs 750
STANDARD AGREEMENT BETWEEN CONSTRUCTOR AND SUBCONTRACTOR
(As Modified)



TABLE OF ARTICLES

1. AGREEMENT
2. SCOPE OF WORK
3. SUBCONTRACTOR'S RESPONSIBILITIES
4. CONSTRUCTOR'S RESPONSIBILITIES
5. PROGRESS SCHEDULE
6. SUBCONTRACT AMOUNT *(Summary from 6.a. which is either the fixed price or an estimated contract amount)*
\$1,485,615.00
7. CHANGES
8. PAYMENT
9. INDEMNITY, INSURANCE, AND BONDS
10. SUSPENSION, NOTICE TO CURE, AND TERMINATION
11. DISPUTE MITIGATION AND RESOLUTION
12. MISCELLANEOUS
13. SUBCONTRACT DOCUMENTS

ARTICLE 1 AGREEMENT

Job Number: **0667** Subcontract Number: **0667S001**

Cost Code: **16000150**

This Agreement is made this **December 21, 2023**, by and between the

CONSTRUCTOR, Garney Companies, Inc.

and the

SUBCONTRACTOR, Davin Electric, Inc.

Tax identification number (TIN)

Subcontractor License No., if applicable

Subcontractors full address and correct contact number

2131 NE Grantville Road

Topeka, KS 66608

Subcontractors Representative Name and contact number Brett Conley Tel 785-234-2350

for services in connection with the SUBCONTRACT WORK for the following

PROJECT JCW Mill Creek Wet Weather Storage Facility

Notice to the Parties shall be given at the above addresses. The Date of Commencement is the date of this Agreement above.

The OWNER is Johnson County Ww District, and the DESIGN PROFESSIONAL for the Project is Burns & McDonnell.

12.2 ASSIGNMENT OF SUBCONTRACT WORK Except as provided in Article 8.10, the Subcontractor shall neither assign the whole nor any part of the Subcontract Work without prior written approval of the Constructor.

12.3 GOVERNING LAW This Agreement shall be governed by the Law in effect at the location of the Project.

12.4 SEVERABILITY The partial or complete invalidity of any one or more provisions of this Agreement shall not affect the validity or continuing force and effect of any other provision.

12.5 NO WAIVER OF PERFORMANCE The failure of either Party to insist, in any one or more instances, upon the performance of any of the terms, covenants, or conditions of this Agreement, or to exercise any of its rights, shall not be construed as a waiver or relinquishment of term, covenant, condition, or right with respect to further performance.

12.6 TITLES The titles given to the articles and Articles of this Agreement are for ease of reference only and shall not be relied upon or cited for any other purpose.

12.7 JOINT DRAFTING The Parties expressly agree that this Agreement was jointly drafted, and that they both had opportunity to negotiate its terms and to obtain the assistance of counsel in reviewing its terms prior to execution. Therefore, this Agreement shall be construed neither against nor in favor of either Party, but shall be construed in a neutral manner.

ARTICLE 13 SUBCONTRACT DOCUMENTS

13.1 INTERPRETATION OF SUBCONTRACT DOCUMENTS

13.1.1 The drawings and specifications are complementary. If Work is shown only on one but not on the other, the Subcontractor shall perform the Subcontract Work as though fully described on both consistent with the Subcontract Documents and reasonably inferable from them.


13.1.2 In any case of omissions or errors in figures, drawings, or specifications, the Subcontractor shall immediately submit the matter to the Constructor for clarification by the Owner. The Owner's clarifications are final and binding on all Parties, subject to an equitable adjustment in Subcontract Time or Subcontract Amount pursuant to dispute mitigation and resolution.

13.1.3 Where figures are given, they shall be preferred to scaled dimensions.

13.1.4 Unless otherwise specifically defined in this Agreement, any terms that have well-known technical or trade meanings shall be interpreted in accordance with their well-known meanings.

13.1.5 In case of any inconsistency, conflict or ambiguity among the Subcontract Documents, the documents shall govern in the following order: (a) Subcontract Change Orders and written amendments to this Agreement; (b) this Agreement as modified by the Parties including without limitation all Exhibits excluding Exhibit G; (c) Contract Documents, including, without limitation, drawings (large scale governing over small scale), specifications and addenda issued before the execution of this Agreement; (d) information furnished by Owner that is intended as a Subcontract Document; (e) other documents listed in this Agreement. Among categories of documents having the same order of precedence, the term or provision that includes the latest date shall control. Information identified in one Contract Document and not identified in another shall not be considered a conflict or inconsistency.

CONSTRUCTOR Garney Companies, Inc.

BY:  Digitally signed by Scott Reuter
Reason: I am approving this document
Date: 2024.01.31 13:52:47-05'00' DATE: 1/31/24

PRINT NAME: Scott J Reuter PRINT TITLE: Executive Vice President

SUBCONTRACTOR: Davin Electric, Inc.

BY:  DATE: 1-3-24
PRINT NAME: Brett Conley PRINT TITLE: President



PRICE PROPOSAL
Bid Package 1.1
Long Lead Electrical Equipment
City of Olathe
Cedar Creek Wastewater Treatment
Plant Expansion Projects

SUBMITTED BY:
DAVIN ELECTRIC, INC.
2131 NE GRANTVILLE ROAD
TOPEKA, KANSAS 66608



| | |
|----------------------|---|
| Bid Packages: | 1.1 - Long Lead Electrical Equipment |
|----------------------|---|

Fill out all EXTENSION items with N/A if not placing bid on that particular item.

| ITEM NUMBER | SPEC SECTION | DESCRIPTION | QUANTITY | UNIT | MANUFACTURER | LUMP SUM COST | SUBMITTAL LEAD TIME | EQUIPMENT LEAD TIME |
|----------------|-----------------|--------------|----------|------|------------------------------|------------------|------------------------|------------------------|
| 1.00 | 26 24 13 | Switchboards | 1.00 | LS | Eaton Corporation | \$68,092.00 | 1 Week | 30 Weeks |
| 2.00 | 27 24 13 | Switchboards | 1.00 | LS | ABB, Inc. | n/a | n/a | n/a |
| 3.00 | 28 24 13 | Switchboards | 1.00 | LS | Siemens Corporation | \$69,830.00 | 2 Weeks | 30 Weeks |
| 4.00 | 29 24 13 | Switchboards | 1.00 | LS | Schneider Electric, Square D | \$143,150.00 | 3-5 Weeks | 12 Weeks |
| 5.00 | 26 24 13 | Transformer | 1.00 | LS | General Electric Company | n/a | n/a | n/a |
| 6.00 | 27 24 13 | Transformer | 1.00 | LS | Schneider Electric, Square D | \$154,230.00 | 3-5 Weeks | 34 weeks |
| 7.00 | 28 24 13 | Transformer | 1.00 | LS | Howard Industries | n/a | n/a | n/a |
| 8.00 | 29 24 13 | Transformer | 1.00 | LS | ABB, Inc. | \$151,649.00 | 4 Weeks | 24 Weeks |
| 9.00 | 30 24 13 | Transformer | 1.00 | LS | Cooper Industry | \$130,003.00 | 7 Weeks | 70 Weeks |
| 10.00 | | | 1.00 | | | | | |

| ALTERNATE BID ITEMS | | QUANTITY | UNIT | Bond Rate % |
|---------------------|---------------------|----------|------|-------------|
| 1.00 | Material Bond Adder | 1.00 | LS | % 1 (one) |

Contract Milestone Dates

| Milestone: | Description | Date | |
|------------|--|---------------------|--|
| 1 | Bid Package Proposal Due Date | December 4th, 2025 | |
| 2 | Notice of Letter of Intent to Award Delivered to Supplier / Contractor | December 18th, 2025 | |
| 3 | Contracts Delivered to Supplier / Contractor | January 20th, 2026 | |
| 4 | Notice to Proceed | January 7th, 2026 | |
| 5 | Item 1.00 through 12.00 Equipment Delivery Date No Later than | May 15th, 2027 | |
| 6 | Anticipated Project Substantial Completion | January 1st, 2028 | |
| 7 | Anticipated Project Final Completion | March 1st, 2028 | |

| | |
|--|-------------------------------------|
| Notes: Prime Agreement & General Conditions All Div 00 Specifications All IFB Drawings, Specifications, and Details | Inclusions/Exclusions: Sales Tax |
|--|-------------------------------------|

00 42 23.02 Bid Package Scope of Work/Supply

Measurement and Payment

Bid Packages: 1.1 - Long Lead Electrical Equipment

| ITEM NUMBER | DESCRIPTION | APPROVED MANUFACTURERS | MEASUREMENT AND PAYMENT |
|-------------|--------------|---|--|
| 1 through 4 | Switchboards | per Specification 26 24 13 - Switchboards | These bid items are to include the procurement of Switchboards and all appurtenances as required in specification 26 24 13 - Switchboards complete. Proposer shall be responsible for submittals, O&M's, performance requirements, warranties, quality assurance, spare parts, training and start up. Please provided pricing and lead times for each listed manufacturer. |
| 5 through 9 | Transformers | per Specification 26 22 16 - Transformers | These bid items are to include the procurement of Transformers and all appurtenances as required in specification 26 22 16 - Transformerscomplete. Proposer shall be responsible for submittals, O&M's, performance requirements, warranties, quality assurance, spare parts, training and start up. Please provided pricing and lead times for each listed manufacturer. |
| | | | |

| ALTERNATIVE ITEM NUMBER | ALTERNATIVE BID ITEM DESCRIPTION | ALTERNATIVE BID ITEM MEASUREMENT AND PAYMENT |
|----------------------------|----------------------------------|---|
| 1.00 | Material Bond Adder | Proposer shall provide bond percentage to be added to the selected bid items. |



2131 NE GRANTVILLE RD. TOPEKA, KANSAS 66608
PHONE 785-234-2350 FAX 785-234-1513

BID FORM

Any prices specifically included or excluded in our bid price are outlined below.

Company Name: Garney Construction
Estimator: Bill Morehead

BID DATE: 12/4/2025 BID TIME: 2pm
Project Name: Cedar Creek WWTP Long Lead Electrical Equipment

ALL PRICING ON SEPARATE DETAILED BREAKDOWN

Inclusions:

- Acknowledgment of addendums 1 & 2
- Storage of equipment until site is ready
- Delivery of equipment to site
- Sq D has startup services, spare parts and arc flash/coordination study
- Siemens/Cooper have startup services (no spare parts or study)
- Eaton/ABB have startup services and spare parts (no study as none is mentioned in the specs)

Exclusions:

- Sales tax
- Prevailing wages
- Offloading of equipment onsite
- Pouring of pads for equipment

Supply House:

Rensenhouse – Supplying all of the Sq D quotes, inclusions and exclusions listed above, did not provide an on time performance or Lifecycle information because of too many variables.

City Electric – Supplying the Siemens switchboard and Cooper transformers, inclusions and exclusions listed above, did not provide an on time performance or lifecycle information because of too many variables

Border States – Providing the Eaton Switchboard and ABB transformers, inclusions and exclusions listed above. Did provide information on timing performance and lifecycle information although it is limited. Responses below.

Statement of Qualifications –

2.01 B.1

- a. Submittal and manufacturing leadtimes provided.
- b. Eaton doesn't foresee any schedule risks with the current published leadtimes and the job schedule being out in May of 2027
- c. The prepurchase of the equipment at the current published leadtimes will allow for the equipment to be delivered well ahead of the May 2027 time line.

2.01.B.2

- a. Estimated energy usage is unavailable. We have no idea what the energy uses will be or the utility rates.
- b.1. Periodic maintenance is recommended per the Operation and Maintenance manuals which would be provided.
- b.2. Expected wear is unknown. Electrical distribution with regular maintenance is approx 30+ years. There are main factors that make it challenging to accurately predict lifespan.
- b.3 Spare part replacement is minimal for the padmounts and switchboards is minimal.
- c.1.a Eaton Electrical Services is located at 11305 Strang Line Road, Lenexa, KS.
- c.1.b. Eaton Electrical Services is located at 11305 Strang Line Road, Lenexa, KS.
- c.1.c. Startup is included in the pricing. Typical startup time is assumed 1 day per each piece of equipment.

Thank you for your interest in our quote on the above-mentioned project. If you have any questions, please contact our office at your convenience.



Kellen J. Wilhelm, Vice President

Sabrina Parker, P.E.
Water and Sewer Manager
City of Olathe

12/12/2025

Reference: Cedar Creek Wastewater Treatment Plant Expansions
Subject: Solicitation Set 01 Bid Package 1.1 – Long Lead Electrical Equipment

Dear Sabrina Parker,

Garney Companies, Inc has evaluated all the competitive sealed proposals received for the above referenced bid package. It has been determined to select **Davin Electric Inc.** for **Bid Package 1. 1 – Long Lead Electrical Equipment** as the best value to the Project. The final scoring chart used in the selection process for Bid Package 1.1 is as follows:

| | Switch Board | | Transformer | | Combined Best Value |
|---------|--------------|------------|--------------|------------|---------------------|
| | Manufacturer | Best Value | Manufacturer | Best Value | |
| Davin | Eaton | 82.73 | ABB, Inc | 86.54 | 169.27 |
| Shelley | Eaton | 78.04 | ABB, Inc | 86.80 | 164.84 |
| WITEC | Eaton | 70.93 | ABB, Inc | 76.04 | 146.98 |

The Garney CMAR team is currently requesting authorization to proceed with Bid Package 1. 1 – Long Lead Electrical Equipment listed above and send proper notifications to begin the Contract process with Davin Electric Inc. Upon approval by the City of Olathe, Garney will proceed with issuing a Letter of Intent and set up a pre-construction conference.

If you have any questions, please feel free to call me at (816) 654-2623 or email me at bill.morehead@garney.com .

Sincerely,

GARNEY COMPANIES, INC.



Bill Morehead
Project Manager

CC: File



December 17, 2025

Garney Construction
1700 Swift Street, Suite 200
Kansas City, MO 64116

RE: City of Olathe, KS – Cedar Creek Solids Handling Expansion Project Authorization to Award –
Solicitation Set 01 Bid Package 1.1 –Long Lead Electrical Equipment

Mr. Morehead:

The City of Olathe, KS, upon review and in consultation with its design consultants of the bid package selection you sent, concur with your recommendations to award the following Bid Packages from Solicitation Set 01.

Solicitation Set 01:

- Bid Package 1.1 –Long Lead Electrical Equipment Package: Davin Electric Inc.

If you should have any questions, please feel free to contact me at (913) 971-9116 or email at sparker@olatheks.org.

Sincerely,

Sabrina Parker, PE
Water and Sewer Manager

CC: Kerrie Greenfelder, Burns & McDonnell

Kellen Wilhelm
2131 NE Grantville Rd.
Topeka, KS 66608

December 19, 2025

Reference: Cedar Creek WWTP Expansion Long Lead Electrical Equipment
Subject: Solicitation Set 01 Bid Package 1.1 – Long Lead Electrical Equipment

Dear Mr. Wilhelm,

Garney Companies, Inc has evaluated all the competitive sealed proposals received for the above referenced bid package. It has been determined to select **Davin Electric** for **Bid Package 1.1 – Long Lead Electrical Equipment** as the best value to the Project. The final scoring chart used in the selection process for **Bid Package 1.1** is as follows:

| | Switch Board | | Transformer | | Combined Best Value |
|---------|--------------|------------|--------------|------------|---------------------|
| | Manufacturer | Best Value | Manufacturer | Best Value | |
| Davin | Eaton | 82.73 | ABB, Inc | 86.54 | 169.27 |
| Shelley | Eaton | 78.04 | ABB, Inc | 86.80 | 164.84 |
| WITEC | Eaton | 70.93 | ABB, Inc | 76.04 | 146.98 |

Garney Companies, Inc. intends to enter into a contract with **Davin Electric** as soon as possible.

If you have any questions, please feel free to call me at (816) 654-2623 or email me at bill.morehead@garney.com .

Sincerely,

GARNEY COMPANIES, INC.



Bill Morehead
Project Manager

CC: File



Attachment A

SOLICITATION SET 1 BIDDING DOCUMENTS



City of Olathe
Cedar Creek WWTP Expansion Phase II and Solids Handling Rehabilitation
PN 1-C-013-25 and 1-C-025-25

00 11 13 ADVERTISEMENT FOR Solicitation Set #1 – Cedar Creek WWTP Expansion Phase II and Solids Handling Rehabilitation

Competitive Sealed Proposals (CSP) for the City of Olathe's Cedar Creek Wastewater Treatment Plant Expansion Projects will be received at Olathe Municipal Services and Public Works Center at 1385 S Robinson Dr, Olathe, KS 66061. Proposals for Bid Package number 1.1 to be turned in by **2:00 pm**, prevailing time on **Thursday, December 4th, 2025**.

Solicitation Set #1 – Cedar Creek Wastewater Treatment Plant Expansion Projects Bid Package includes but is not limited to all work, equipment, and materials necessary to complete the requirements of the proposal documents for the City of Olathe's Cedar Creek Wastewater Treatment Plant Expansion Projects.

Information pertaining to the development and submission of the competitive sealed proposals (CPS) can be found in the following sections of the bidding documents:

- 00 11 13 Invitation to Bid
- 00 21 13 Instructions to Bidders
- 00 42 23 Bid Form
 - 00 42 23.01 Statement of Qualifications and Project Approach
 - 00 42 23.02 Schedule of values/scope of work

Proposals shall be submitted as three (3) document packages. (1) Hard copy presented in sealed envelope marked "Price Proposal" submitted via hand delivery or mailed to above mentioned bid receiving location. One (1) digital copy marked "Price Proposal" and one (1) digital copy marked "Technical Proposal" shall be submitted via secure link provided by Garney Construction. **Any bid proposal for Bid Package 1.1 received after 2:00 pm, prevailing time on Thursday, December 4th, 2025, will be returned unopened.**

No bid may be changed, amended, or modified after the above time and date. A bid may, however, be withdrawn and resubmitted any time prior to the time set for receipt of bids.

A Mandatory pre-bid meeting will be required for bid package 1.1. The pre-bid meeting will be held via Microsoft Teams on **November 13th, at 2:00 pm**. No site visits will be required for this bid package. If desired, site visits can be scheduled through Bill Morehead.

All questions about the meaning or intent of the Contract Documents and Bidding Documents are to be directed via email to Bill Morehead at bill.morehead@garney.com with Garney Companies, Inc. All correspondence regarding bid package 1.1 shall include "CCWWTP Bid Package 1.1" in the subject line. Technical interpretations or clarifications considered necessary by CMAR and Engineer in response to such questions will be issued by Addenda. **Questions received after 2:00 pm November 19th, may not be answered.** Only questions answered by formal written communication shared on the Procurement SharePoint referenced below will be binding. Oral and other interpretations or clarifications will be without legal effect.

Bid Documents will be made available at the following web address:

<https://garney.sharepoint.com/:f/s/team/sjr/cedarcreek/EmdjE8f0tSNKqJ7C2Q5tjEEBP9S5R1AFNA02zk5kgPBq8A>



City of Olathe
Cedar Creek WWTP Expansion Phase II and Solids Handling Rehabilitation
PN 1-C-013-25 and 1-C-025-25

Bid Documents may be downloaded from the above-mentioned website for free or contact Bill Morehead to be provided documents from Garney Companies, Inc. No hard copies of plans or specifications will be made available. It is the responsibility of the interested party to download and print the Bid Documents. Please contact Bill Morehead at bill.morehead@garney.com with any questions.

City of Olathe, Kansas and Garney Companies, Inc. (Project Team) will receive and open all proposals in a manner which does not disclose the contents to the respondents or the public during the selection process. Bids will be turned into the reception desk at the Olathe Municipal Services and Public Works Center previously mentioned. The selection shall be made public after award of the agreement or not later than the fourteenth day after the date of the final selection of bids or proposals, whichever is later. In addition to the proposed costs, selection will be made based upon the entire proposal package. Additional Information can be found in the Section 00 21 13 Instructions to Bidders. The Contract Team reserves the right to make an award to a bidder other than the lowest-priced bidder. Award is subject to the discretion and final approval of the City of Olathe. All bids shall be valid for a period of 30-days from the date bids are open and no bid may be withdrawn until after the expiration date. Bidder must have signed and returned a Notice of Intent (NOI) to Advertise Bid Documents which included contract terms and conditions that will be issued for this project.

Qualifications, as stated in the instructions to bidders, will be strictly enforced and any bidder not meeting these qualifications may be disqualified. In evaluating Bids, Project Team will consider the qualifications of the Bidders, whether the Bids comply with the prescribed requirements, and such alternates, unit prices, and other data, as may be requested in the Bid Form prior to the Notice of Award. The criteria being used in the evaluation process is provide in Section 00 21 13 Instruction to Bidders. Bidder shall clearly define any and all exceptions to the Drawings and specifications for the evaluation team to review any exceptions that are being proposed.

MBE/WBE certified companies are encouraged to propose on this project.

This is Solicitation Set #1 for the Cedar Creek WWTP Expansion Phase II and Solids Handling Rehabilitation projects.

END OF SECTION

00 21 13 INSTRUCTIONS TO BIDDERS

1. Qualifications of Bidders

- A. Submit documentation with Proposals to demonstrate that the Bidder is qualified by experience and capability to successfully construct the project within the Contract Time and for the Contract Amount. See Specification Section 00 42 23.01 Statement of Qualifications and Project Approach for required documentation.
- B. City of Olathe, KS (Owner), Burns & McDonnell (Engineer), and Garney Companies, Inc. (CMAR), hereafter referred to as "Project Team" may conduct investigations as considered necessary to establish the responsibility, qualifications, and financial ability of the Bidders, proposed Subcontractors and other persons and organizations to do the work in accordance with the Contract Documents to Project Team's satisfaction, and within the prescribed time. The Project Team may reject the Proposal of any Bidder who does not meet any such evaluation to Owner's satisfaction.

2. Copies of Bidding Documents

- A. The Project Team in making copies of Bidding Documents available on the below terms do so only for the purpose of obtaining Proposals on the Work and do not confer a license or grant for any other use.
- B. Bidding Documents can be obtained at the following web address:

<https://garney.sharepoint.com/:f/s/team/sjr/cedarcreek/EmdjE8f0tSNKqJ7C2Q5tjEEBP9S5R1AFNA02zk5kgPBq8A?e=0E9mh1>

3. Examination of Contract Documents and Site

- A. It is the responsibility of each Bidder before submitting a Proposal, to (a) examine the Contract Documents thoroughly, (b) visit the site to become familiar with local conditions that may affect cost, progress, performance or furnishing of the Work, (c) consider federal, state and local Laws and Regulations that may affect cost, progress, performance or furnishing of the Work, (d) study and carefully correlate Bidder's observations with Contract Documents and Bidding Documents, and (e) notify CMAR of all conflicts, errors or discrepancies in the Contract Documents and Bidding Documents.
- B. Before submitting a proposal, each Bidder shall, at Bidder's own expense, make or obtain any additional examinations, investigations, explorations, tests and studies and obtain any additional information and data which pertain to the physical conditions (surface, subsurface and underground facilities) at or contiguous to the site or otherwise which may affect cost, progress, performance or furnishing of the Work which Bidder deems necessary to determine its Proposal for performing and finishing the Work in accordance with the time, price and other terms and conditions of the Contract Documents.
- C. The submission of a Proposal will constitute an incontestable representation by Bidder that Bidder has complied with every requirement of this Article, that without exception the Proposal is premised upon performing and furnishing the Work required by the Contract Documents and such means, methods, techniques, sequences or procedures of construction as may be indicated in or required by the Contract Documents, and that the Contract Documents are sufficient in scope and detail to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.
- D. A pre-bid conference will be required for Solicitation Set 01, refer to section 00 11 13 Advertisement for Bid for the date, time, and location.

4. Technical Specifications

All technical specifications are issued by:

Burns & McDonnell
9400 Ward Parkway
Kansas City, MO
64114

5. Questions and Interpretations and Addenda

- A. All questions about the meaning or intent of the Contract Documents and Bidding Documents are to be directed via email to Bill Morehead at bill.morehead@garney.com with Garney Companies, Inc. Technical interpretations or clarifications considered necessary by CMAR and Engineer in response to such questions will be issued by Addenda. Questions received after 2:00 pm November 19th, may not be answered. Only questions answered by formal written communication shared on the Procurement SharePoint referenced above will be binding. Oral and other interpretations or clarifications will be without legal effect.
- B. All correspondence regarding bid package 1.1 shall include "CCWWTP Bid Package 1.1" in the subject line.
- C. Addenda may also be issued to modify the Bidding Documents as deemed advisable by the Project Team.

6. Substitutions or "equivalent" Items

- A. The Contract, if awarded, will be on the basis of materials and equipment described in the Drawings or specified in the Specifications without consideration of possible substitute or "or-equivalent" items. Whenever it is indicated in the Drawings or specified in the Specification that a substitute or "or-equivalent" item of material or equipment may be furnished or used by Bidder if acceptable to Project Team, application for such acceptance will not be considered by Project Team until after the Effective Date of the Agreement unless the Engineer/CMAR at their option, elect to issue an Addenda naming a substitute or "or-equivalent" item prior to receipt of proposal. The procedure for submission of any such application by Bidder and consideration by Project Team as set forth in Specification Section 01 25 13 Product Substitutions and Specification Section 01 33 00 Submittal Procedures.

7. Proposal Requirements - **Price Proposal** and **Technical Proposal**

- A. One (1) Opaque Envelope containing a hard copy of the **price proposal** will be submitted at the time, location, and addressed as specified in 00 21 13 Instructions to Bidders, Section 8 Submission of Bids. One (1) digital copy marked "**Price Proposal**" and one (1) digital copy marked "**Technical Proposal**" shall be submitted via secure link provided by Garney Construction.
- B. **Price Proposal**
 - i. A hard copy of each Bid Package Scope of Work / Supply applicable to the Bidder is to be turned in with the Price Proposal as indicated below. See section 00 42 23.02 Bid Package Scope of Work/Supply for appropriate forms.
 - 1. All blanks on the hard copy of the Bid Package Scope of Work / Supply

must be completed in ink or by typed print.

2. Price Proposal must be priced as indicated on the Bid Package Scope of Work/ Supply as applicable to the Bidder. If applicable the price of the alternative bids for each Bid Package will be the amount to be added to or deducted from the price of the Package's Base Bid if the alternate is selected.

C. Technical Proposal

- i. Technical Proposal shall include one (1) copy of the Bidder's Statement of Qualifications per: 00 42 23.01 – Statement of Qualifications.
- ii. Proposals by corporations must be executed in the corporate name by the President or a Vice president (or other Corporate Officer accompanied by evidence of authority to sign), and the corporate seal must be affixed and attested by the Secretary or an Assistant Secretary. The corporate address and state of incorporation must be shown below the signature. See section 00 42 23 Article 8 Bid Submittal for appropriate forms.
- iii. Proposals by partnerships must be executed in the partnership name signed by a partner, whose title must appear under the signature and the official address of the partnership must be shown below the signature. See section 00 42 23 Article 8 Bid Submittal for appropriate forms.
- iv. Proposals by joint venture must be executed in the in the joint venture name signed by a partner of the joint venture, whose title must appear under the signature, and the official address of the joint venture must be shown below the signature. See section 00 42 23 Article 8 Bid Submittal for appropriate forms.
- v. All names must be typed or printed below the signature.
- vi. The Proposal shall contain an acknowledgment of receipt of all Addenda. See section 00 42 23 Article 3 Bidders representations for appropriate addenda acknowledgement table.
- vii. The address and telephone number for communications regarding the Proposal must be shown.
- viii. Proposals may be rejected that are qualified with conditions, clauses, or alterations, or items not called for in the proposal, or irregularities of any kind in which the Project Team's opinion may disqualify the Bidder.
- ix. The Bidder is only required to execute one Bid Form; however, the submission of that Bid Form will be considered binding for each Bid Package Scope of Work / Supply submitted.
- x. Bidder must provide pre-negotiated Terms & Conditions (within last two years) or, if Garney & Bidder have not previously executed an agreement, Bidder must provide signed NOI acknowledging agreement to Garney's Terms & Conditions. A copy of Garney's standard Terms & Conditions is included on the Procurement SharePoint.
- xi. Technical Proposals to be a maximum of ten (10) pages.

8. Submission of Bids**A. Price Proposal**

- i. Submission of the Price Proposal shall include:
 - 1. 00 42 23.02 – Bid Package Scope of Work / Supply
- ii. Two (2) copies of the Price Proposals shall be submitted, one (1) in person and one (1) digitally as indicated in the 00 11 13 Advertisement for Bids.
- iii. One (1) copy of the Price Proposal shall be submitted digitally at the time and place indicated in the 00 11 13 Advertisement for Bids. Garney construction to provide secure link for proposals 24 hours in advance of bid close. Time stamp on upload time to act as submission time. Submissions showing upload of documents at a time later than 2 pm will not be accepted nor opened.
- iv. One (1) Hard copy shall be enclosed in opaque sealed envelopes, marked with:

PRICE PROPOSAL

City of Olathe, KS

Solicitation Set #1 – Long Lead Electrical Equipment

Bid Package Number 1.1

FOR

Cedar Creek Wastewater Treatment Plant Expansion Project

(Proposer's Name)

(Bidder's Address)

B. Technical Proposal

- i. Submission of the one (1) Technical Proposal shall include:
 - 1. 00 42 23 – Bid Form
 - 2. 00 42 23.01 – Statement of Qualifications and Project Approach (1ea).
 - 3. Annotated Specification indicating compliance and/or deviations from the specification requirements. An example is included at the end of this document labeled "SAMPLE-1."
 - 4. Bidder must provide pre-negotiated Terms & Conditions (within last two years) or, if Garney & Bidder have not previously executed an agreement, Bidder must provide signed NOI acknowledging agreement to Garney's Terms & Conditions. A copy of Garney's standard Terms & Conditions is included on the Procurement SharePoint.
 - 5. Technical Proposals to be a maximum of ten (10) pages
- ii. The Technical Proposal shall be submitted digitally at the time and place indicated in the 00 11 13 Advertisement for Bids. Garney construction to provide secure link for proposals 24 hours in advance of bid close. Time stamp on upload time to act as submission time. Submissions showing upload of documents at a time later than 2 pm will not be accepted nor opened.

Any Bid received after the time indicated in the invitation will be considered ineligible and returned unopened.

9. Modifications and Withdrawal of Proposals

- A. Proposals may be modified or withdrawn by an appropriate document duly executed and delivered to the place where Proposals are to be submitted at any time prior to the deadline of submission of Proposals.

10. Proposals to Remain Subject to Acceptance

- A. All Proposals will remain subject to acceptance for 30-days after award, but the Project Team may, in their sole discretion, release any Proposal prior to that date.

11. Award of Contract

- A. The Project Team reserves the right to reject any and all Proposals, to waive any and all informalities not involving price, time, or changes in the Work, and to negotiate contract terms with the Successful Bidder and the right to disregard all nonconforming, nonresponsive, unbalanced, or conditional Proposals. In the event that there is a conflict in the statement of a price within the bid, the Project Team reserves the right to select the amount most advantageous to the Project Team. Also, the Project Team reserves the right to reject the Proposal of any Bidder if the Project Team believes that it would not be in the best interest of the Project to make an award to that Bidder, whether because the Proposal is not responsive, or the Bidder is unqualified or of doubtful financial ability or fails to meet any other pertinent standard or criteria established by the Project Team.

In evaluating Proposals, the Project Team will consider the qualifications of the Bidders, whether or not the Proposals comply with the prescribed requirements, and such alternates, unit prices and other data, as may be requested in the Bid Form or prior to the Notice of Award.

- B. The following criteria will be used in the evaluation process when selecting Bidders:

| Cedar Creek Waste Water Treatment Plant Expansion Project Solicitation Set 01 - Bid Package 1.1 Long Lead Electrical Equipment | |
|--|--------------------------|
| Description | Weighted Value |
| <u>Cost Proposal</u> -Complete Bid Package Cost as Specified in 00 42 23.02 - Scope of Supply/Work | 45 |
| <u>Technical Proposal</u> -Experience -Feedback, References, & Past Performances/Installations (Prior 5 similar projects) -Operation & Maintenance Requirements, and Start Up Support -Schedule -Submittal Lead Times -Equipment Lead Times | 20 30 |
| <u>Compliance with Proposal Terms & Conditions</u> -Proposals Completed/Formatted Per 00 21 13 - Instruction to Bidders -Bid Form Completion | 5 |
| -Annotated Specification -Acknowledgement of Addenda -Returned Letter of Intent Signed | Pass/Fail |
| Total | 100 |

- C. The Project Team may consider the qualifications and experience of Subcontractors, Suppliers, and other persons and organizations proposed for specific portions of the Work as requested in Proposal Requirements – Price Proposal and Technical Proposal, Section C Technical Proposal. Owner also may consider the operating costs, maintenance requirements, performance data, and guarantees of major items of materials and equipment proposed for incorporation in the Work when such data is required to be submitted prior to the Notice of Award.
- D. The Project Team may conduct such investigations as they deem necessary to assist in the evaluation of any Proposal and to establish the responsibility, qualifications and financial ability of Bidders, proposed Subcontractors, Suppliers and other persons and organizations to perform and furnish the Work in accordance with the Contract Documents to the Project Team's satisfaction within the prescribed time.
- E. If the contract is to be awarded, it will be awarded to the Bidder whose evaluation is considered to be of best value and of the best interests of the Project by the Project Team.
- F. Point of Clarification - All Bid Proposals will be turned into the Olathe Municipal Services and Public Works Center at the designated time and place as indicated in the bidding documents. Although this will not be a public bid opening, you may contact Bill Morehead on or after the Bid Date and Time, as specified in 00 11 13 – Advertisement for Bids, to discover the quantity and name of proposers. Price and Technical proposals will be evaluated separately by different teams and will be assembled only once both have

completed the review. A copy of the Price Proposal shall remain in the possession of the City of Olathe during the evaluation period. Only the contractor's evaluated score will be revealed after the Project Team is selected. If the CMAR submits a proposal on a Bid Package, they may not be present during the evaluation of portions of work for which they submitted but may participate in the final selection of the successful proposer.

- G. The Project Team reserves the right to conduct interviews with respondents and/or other investigations prior to finalizing evaluations. Information gathered during this process may be used during the evaluation process prior to award.

12. Signing of Agreement

- A. After award by the Project Team, the Successful Bidder will be given the required number of unsigned counterparts of the Agreement with all other written Contract Documents attached. The Bidder shall sign and deliver the required number of counterparts of the Agreement and attached documents to CMAR and the Owner with the required Bonds. Thereafter CMAR shall deliver one fully signed counterpart to Bidder.

13. Safety – (Construction Phase Only)

- A. Not used for material procurement packages

14. Sales and Use Taxes

- A. This project is sales tax exempt for any equipment and/or material that is directly incorporated into or becomes a permanent part of this project.
- B. The Bidder is responsible for obtaining the latest information from the State Comptroller's Office and/or other appropriate entities, regarding tax laws and exemptions, and bidding accordingly.

15. Wages

- A. Wage rates paid on this project are **not** subject to prevailing wage rates.

16. Contract Time and Liquidated Damages

- A. Construction and/or Production and Delivery Milestones are included on each Bid Package Scope of Work / Supply. These proposed Milestones are subject to change by the Project Team as Proposer's are awarded bid packages. Failure to comply with and perform in accordance with these Milestones may result in Liquidated damages as set forth in the Supplementary Conditions, or cancellation of the Contract or Agreement.
- B. Liquidated Damage Rates
 - Liquidated damages have not yet been established for the project. Liquidated damages to be established via amendment to the prime contract.
 - Liquidated damages to be assessed if Contractor causes delay to the Critical Path of the schedule.
- C. Standard Work Hours for the Project
 - Standard work hours for the project shall be Monday-Friday 7:00am-5:30pm. Standard Federal Government Holidays to be considered non-work days.
 - A Contractor may request to work additional hours. Request will need to be made in writing and approved by the CMAR.

00 42 23.01 Statement of Qualifications and Project Approach

1.00 General

- 1.01 The statement of qualifications must be submitted with the Proposal and include, at a minimum, the information as described in this section of the Proposal Documents. Failure to submit the required information in the statement of qualifications may result in the Owner considering the Proposal non-responsive and result in rejection of the Proposal by the Owner. Bidders may be required to provide supplemental information if requested by the Owner to clarify, enhance, or supplement the information provided in the statement of qualifications.
- 1.02 Bidders must complete the forms included in this section. A copy of these forms can be provided by the CMAR in Microsoft Word to assist with the preparation of the statement of qualifications. Information in these forms must be provided completely and in detail. Information that cannot be totally incorporated in the form may be included in an appendix to the form. This appendix must be clearly referenced by number in the form, and the appended material must include the appendix number on every sheet of the appendix. The appendix must include only the information that responds to the question or item number to which the appended information applies.
- 1.03 Bidders may provide supplemental information to the statement of qualifications using AIA, AGC, or other industry standard statement of qualification forms and/or bidders may submit additional information such as organizational brochures or other marketing information to help demonstrate the ability to provide best value to the owner. This information may not be submitted as a substitute to the information specifically requested in this section, or in the statement of qualification forms.

2.00 Required Information

- 2.01 For **Bid Package 1.1** the proposer shall provide the following information:

A. Experience & Qualifications

1. Company Questionnaire
 - a. Table #1 at the end of this specification
2. Company's past performance on similar projects of size and type of work
 - a. Table #2 – Project Experience and Key Personnel
 - b. Include attachment with necessary information indicating company's compliance with the qualifications requirements per Specification Section provided on Procurement SharePoint.

B. Qualifications

1. On Time Performance
 - a. Provide submittal lead times and lead time of material was submittal is approved
 - b. Provide schedule risks specific to your equipment
 - c. Provide risk mitigation strategy to reduce schedule impacts
2. Lifecycle, Maintenance Requirements, and Start-Up Support
 - a. Estimated energy usage (kWh) of equipment over a 10-year and 20-year period
 - b. Estimated maintenance to include:
 1. Periodic maintenance requirements/schedule
 2. Expected wear parts (exceeding spare parts) and lifespan
 3. Spare part replacement cost with lead times
 - c. Start-up and Maintenance support services to include:
 1. Equipment Representative's proximity to Olathe, KS for Startup Services



- a. If not in house, provide local representative's Company information
2. Equipment Maintenance support within 150 mile radius of Olathe, KS
 - a. If not, provide local representative's Company information
3. Required Start-up Activities & Durations



Table #1 - Company Questionnaire

| | | | |
|--|--|--|--|
| Organization doing business as: | | | |
| Business address of principle office | | | |
| | | | |
| | | | |
| Telephone numbers | | | |
| Main number | | | |
| Fax number | | | |
| Website address | | | |
| Form of business (check one) | <input type="checkbox"/> A corporation | <input type="checkbox"/> A partnership | <input type="checkbox"/> An individual |
| If a corporation | | | |
| Date of incorporation | | | |
| State of incorporation | | | |
| Chief Executive Manager's name | | | |
| President's name | | | |
| Vice President's name(s) | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| Secretary's name | | | |
| Treasurer's name | | | |
| If a Partnership | | | |
| Name of Partners | | | |
| | | | |
| | | | |
| | | | |
| Date of organization | | | |
| State whether partnership is general or limited | | | |
| If an Individual | | | |
| Individual's name | | | |
| Date founded | | | |
| State whether organization is general or limited | | | |



Table #1 - Company Questionnaire continued

| | |
|--|--|
| Organization doing business as: | |
| Construction/Industry Experience | |
| Years of experience in projects similar to the proposed project: | |
| Has this or a predecessor organization ever defaulted on a project or failed to complete any work awarded to it? | |
| If yes provide full details in a separate attachment. | |
| Has this or a predecessor organization been released from a bid or proposal in the past ten years? | |
| If yes provide full details in a separate attachment. | |
| Has this or a predecessor organization ever been disqualification as a bidder or proposer by any local, state, or federal agency within the last five years? | |
| If yes provide full details in a separate attachment. | |
| Is this organization or your proposed surety currently in any litigation or contemplating litigation? | |
| If yes provide full details in a separate attachment. | |
| Has this or a predecessor organization ever refused to construct or refused to provide materials defined in the contract documents? | |
| If yes provide full details in a separate attachment. | |



Table #2 - Project Experience and Key Personnel

| | | | |
|--|------|-------|--------------|
| Organization doing business as: | | | |
| Projects | | | |
| Provide an attachment to the proposal that includes all necessary information required to determine proposer meets the qualifications required by the specification section. | | | |
| | | | |
| Key Personnel | | | |
| Provide contact information for key personal involved on this project. | | | |
| Role | Name | Email | Phone Number |
| | | | |
| | | | |
| | | | |
| | | | |

| | |
|----------------------|---|
| Bid Packages: | 1.1 - Long Lead Electrical Equipment |
|----------------------|---|

Fill out all EXTENSION items with N/A if not placing bid on that particular item.

| ITEM NUMBER | SPEC SECTION | DESCRIPTION | QUANTITY | UNIT | MANUFACTURER | LUMP SUM COST | SUBMITTAL LEAD TIME | EQUIPMENT LEAD TIME |
|----------------|-----------------|--------------|----------|------|------------------------------|------------------|------------------------|------------------------|
| 1.00 | 26 24 13 | Switchboards | 1.00 | LS | Eaton Corporation | | | |
| 2.00 | 27 24 13 | Switchboards | 1.00 | LS | ABB, Inc. | | | |
| 3.00 | 28 24 13 | Switchboards | 1.00 | LS | Siemens Corporation | | | |
| 4.00 | 29 24 13 | Switchboards | 1.00 | LS | Schneider Electric, Square D | | | |
| 5.00 | 26 24 13 | Transformer | 1.00 | LS | General Electric Company | | | |
| 6.00 | 27 24 13 | Transformer | 1.00 | LS | Schneider Electric, Square D | | | |
| 7.00 | 28 24 13 | Transformer | 1.00 | LS | Howard Industries | | | |
| 8.00 | 29 24 13 | Transformer | 1.00 | LS | ABB, Inc. | | | |
| 9.00 | 30 24 13 | Transformer | 1.00 | LS | Cooper Industry | | | |
| 10.00 | | | 1.00 | | | | | |

| ALTERNATE BID ITEMS | | QUANTITY | UNIT | Bond Rate % |
|---------------------|---------------------|----------|------|-------------|
| 1.00 | Material Bond Adder | 1.00 | LS | % |

Contract Milestone Dates

| Milestone: | Description | Date | |
|------------|--|---------------------|--|
| 1 | Bid Package Proposal Due Date | December 4th, 2025 | |
| 2 | Notice of Letter of Intent to Award Delivered to Supplier / Contractor | December 18th, 2025 | |
| 3 | Contracts Delivered to Supplier / Contractor | January 20th, 2026 | |
| 4 | Notice to Proceed | January 7th, 2026 | |
| 5 | Item 1.00 through 12.00 Equipment Delivery Date No Later than | May 15th, 2027 | |
| 6 | Anticipated Project Substantial Completion | January 1st, 2028 | |
| 7 | Anticipated Project Final Completion | March 1st, 2028 | |

| | |
|--|-------------------------------------|
| Notes: Prime Agreement & General Conditions All Div 00 Specifications All IFB Drawings, Specifications, and Details | Inclusions/Exclusions: Sales Tax |
|--|-------------------------------------|

00 42 23.02 Bid Package Scope of Work/Supply

Measurement and Payment

Bid Packages: 1.1 - Long Lead Electrical Equipment

| ITEM NUMBER | DESCRIPTION | APPROVED MANUFACTURERS | MEASUREMENT AND PAYMENT |
|-------------|--------------|---|--|
| 1 through 4 | Switchboards | per Specification 26 24 13 - Switchboards | These bid items are to include the procurement of Switchboards and all appurtenances as required in specification 26 24 13 - Switchboards complete. Proposer shall be responsible for submittals, O&M's, performance requirements, warranties, quality assurance, spare parts, training and start up. Please provided pricing and lead times for each listed manufacturer. |
| 5 through 9 | Transformers | per Specification 26 22 16 - Transformers | These bid items are to include the procurement of Transformers and all appurtenances as required in specification 26 22 16 - Transformerscomplete. Proposer shall be responsible for submittals, O&M's, performance requirements, warranties, quality assurance, spare parts, training and start up. Please provided pricing and lead times for each listed manufacturer. |
| | | | |

| ALTERNATIVE ITEM NUMBER | ALTERNATIVE BID ITEM DESCRIPTION | ALTERNATIVE BID ITEM MEASUREMENT AND PAYMENT |
|----------------------------|----------------------------------|---|
| 1.00 | Material Bond Adder | Proposer shall provide bond percentage to be added to the selected bid items. |



00 42 23 BID FORM

ARTICLE 1: BID RECIPIENT

1.01 This Bid is submitted to:

Garney Companies Inc.
1700 Swift Street
North Kansas City, MO 64116
Attention: Bill Morehead

1.02 **This Bid is to be submitted at the following location in accordance with Section 00 21 13 Instructions to Bidders:**

Olathe Municipal Services and Public Works Center
ATTN: Sabrina Parker
1385 S Robinson Dr.
Olathe, KS 66061

A. Please enter in second door on the northwest side of the building as shown at the end of this document. A city worker will be available to accept the bid. Should you need assistance on bid day to drop off proposal, please contact Sabrina Parker at (913) 971-9116.

1.03 This Bid is for Goods, Special Services, or Work on the **City of Olathe Cedar Creek Wastewater Treatment Plant Expansion Projects.**

1.04 The undersigned Bidder proposes and agrees, if this Proposal is accepted, to enter into an Agreement with CMAR or CMAR selected entity in the form included in the Bidding Documents to supply all Goods or perform all Work as specified or indicated in the Bidding Documents for the prices and within the times indicated in this Bid and in accordance with the other terms and conditions of the Bidding Documents.

ARTICLE 2: BIDDER'S ACKNOWLEDGMENTS

2.01 Bidder accepts all of the terms and conditions of the Invitation for Bids and Instructions to Bidders. The Bid will remain subject to acceptance for 30-days after award, but the Project Team may, in their sole discretion, release any Proposal prior to that date.

2.02 Bidder accepts the provisions of the Agreement as to liquidated damages in the event of its failure to complete Work or supply Material in accordance with the schedule set forth in the Agreement.

2.03 Bidder accepts the provisions of the Agreement as to the assignment of the Contract for installing furnished Goods and Special Services.

ARTICLE 3: BIDDER'S REPRESENTATIONS

3.01 In submitting this Proposal, Bidder represents, as set forth in the Agreement, that:

- A. Bidder has examined and carefully studied the Bidding Documents, the other related data identified in the Bidding Documents, and the following Addenda, receipt of all of which is hereby acknowledged.

| Addendum No. | Addendum Date | Signature Acknowledging Receipt |
|--------------|---------------|---------------------------------|
| | | |
| | | |
| | | |
| | | |

- B. Bidder has visited the Site, if desired, and become familiar with and is satisfied as to the general, local and Site conditions that may affect cost, progress, and performance of the Work.
- C. Bidder is familiar with and is satisfied as to all federal, state and local Laws and Regulations that may affect cost, progress and the furnishing of Goods and Special Services.
- D. Not used
- E. Bidder has obtained and carefully studied all additional or supplementary examinations, investigations, explorations, tests, studies and data concerning conditions including 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 Bidder, including applying the specific means, methods, techniques, sequences, and procedures of construction expressly required by the Bidding Documents to be employed by Bidder, and safety precautions and programs incident thereto or accepts the consequences for not doing so.
- F. Bidder does not consider that any further examinations, investigations, explorations, tests, studies, or data are necessary for the determination of this Bid for performance of the Work at the prices bid and within the times and in accordance with the other terms and conditions of the Bidding Documents.
- G. Bidder is aware of the general nature of work to be performed by Owner, CMAR, and others at the Site that relates to the Work as indicated in the Bidding Documents.
- H. Bidder has correlated the information known to Bidder, information and observations obtained from visits to the Site, reports and drawings identified in the Bidding Documents, and all additional examinations, investigations, explorations, tests, studies, and data with the Bidding Documents.
- I. Bidder has given CMAR written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder has discovered in the Bidding Documents, and the written resolution thereof by Engineer and CMAR is acceptable to Bidder.
- J. The Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for the performance of the Work for which this Bid is submitted.

- K. Bidder will submit written evidence of its authority to do business in the state where the Project is located not later than the date of its execution of the Agreement.
- L. Bidder further represents that this Bid is genuine and not made in the interest of or on behalf of any undisclosed individual or entity and is not submitted in conformity with any agreement or rules of any group, association, organization or corporation; Bidder has not directly or indirectly induced or solicited any other Bidder to submit a false or sham Proposal; Bidder has not solicited or induced any individual or entity to refrain from proposing; and Bidder has not sought by collusion to obtain for itself any advantage over any other Bidder or over Owner, Engineer, or CMAR.

ARTICLE 4: BASIS OF BID

- 4.01 Bidder will complete the Work in accordance with the Contract Documents for the prices shown in the attached "00 42 23.02 Bid Package Scope of Work / Supply":
 - A. Bidder acknowledges that the estimated quantities are not guaranteed, and final payment for all Bid items will be based on actual quantities provided, measured as provided in the contract documents
 - B. Unit Price and figures column will be used to compute the actual Bid price.
 - C. Bidder is to submit on minimum of two (2) manufacturers for each piece of equipment.

ARTICLE 5: TIME OF COMPLETION

- 5.01 Bidder agrees that the Work will be substantially complete and will be completed and ready for final payment in accordance with the General Conditions on or before the dates or within the number of calendar days indicated in the Agreement.

ARTICLE 6: ATTACHMENTS TO THIS BID

- 6.01 The following documents are attached to and made a condition of this Bid:
 - A. Two (2) copies of the Price Proposal
 - 1. 00 42 23.02 – Bid Package Scope of Supply
 - B. One (1) copy of the Technical Proposal
 - 1. 00 42 23 – Bid Form
 - 2. 00 42 23.01 – Statement of Qualifications and Project Approach (1ea)
 - 3. Annotated Specification indicating compliance and/or deviations from the specification requirements.
 - 4. Bidder must provide pre-negotiated Terms & Conditions (within last two years) or, if Garney & Bidder have not previously executed an agreement, Bidder must provide signed NOI acknowledging agreement to Garney's Terms & Conditions. A copy of Garney's standard Terms & Conditions is included on the Procurement SharePoint.
 - 5. Technical Proposals to be a maximum of ten (10) pages

Defined Terms

- 6.02 (Reserved for Future Use)



ARTICLE 7: VENUE

7.01 Bidder agrees that venue shall lie exclusively in Johnson County, Kansas for any legal action.

ARTICLE 8: BID SUBMITTAL

8.01 This Bid submitted by:

If Bidder is an individual:

Name: _____
(typed or printed)

By: _____
(Individual's Signature)

Doing business as: _____

Business address: _____

Phone: _____ Facsimile: _____ E-mail: _____

Bid Submitted on the following Date: _____



If Bidder is a Partnership:

Partnership Name: _____
(typed or printed)

Name of General Partner: _____
(typed or printed)

By: _____
(Signature of general partner -- attach evidence of authority to sign)

Doing business as: _____

Business address: _____

Phone: _____ Facsimile: _____ E-mail: _____

Bid Submitted on the following Date: _____



If Bidder is a corporation:

Corporation Name: _____
(typed or printed)

State of Incorporation: _____

Type: _____
(General Business, Professional, Service, Limited Liability)

Date of Qualification to do business in Kansas is: _____

By: _____
(Signature -- attach evidence of authority to sign)

Name: _____
(typed or printed)

Title: _____

Attest: _____
(Signature of Corporate Secretary)

Business address: _____

Phone: _____ Facsimile: _____ E-mail: _____

Bid Submitted on the following Date: _____



If Bidder is a joint venture:

Joint Venture Name: _____
(typed or printed)

By: _____
(Signature of joint venture partner -- attach evidence of authority to sign)

Name: _____
(typed or printed)

Title: _____

Business address: _____

Phone: _____ Facsimile: _____ E-mail: _____

Bid Submitted on the following Date: _____

Joint Venture Name: _____
(typed or printed)

By: _____
(Signature of joint venture partner -- attach evidence of authority to sign)

Name: _____
(typed or printed)

Title: _____

Business address: _____

Phone: _____ Facsimile: _____ E-mail: _____

Bid Submitted on the following Date: _____

Contact for receipt of official communications

Name: _____
(typed or printed)

Business address: _____

Phone: _____ Facsimile: _____ E-mail: _____

END OF SECTION



Instruction for submission of hard copy of Price Proposal

Please enter in second door on the northwest side of the building, shown in the circle below. A city worker will be available to accept the bid. Should you need assistance on bid day to drop off proposal, please contact Sabrina Parker at (913) 971-9116.





Solicitation Set #1 – ADDENDUM NO. 01

November 17th, 2025

To Bidder of Record:

The following changes, additions, and/or deletions are hereby made a part of Contract Documents for the purchase of materials and services described in Solicitation Set #1 – Cedar Creek WWTP Expansion Phase II and Solids Handling Rehabilitation as fully and completely as if the same were full set forth therein. This addendum includes changes, additions, and/or deletions to the Solicitation Set #1 – Cedar Creek WWTP Expansion Phase II and Solids Handling Rehabilitation Bid Packages.

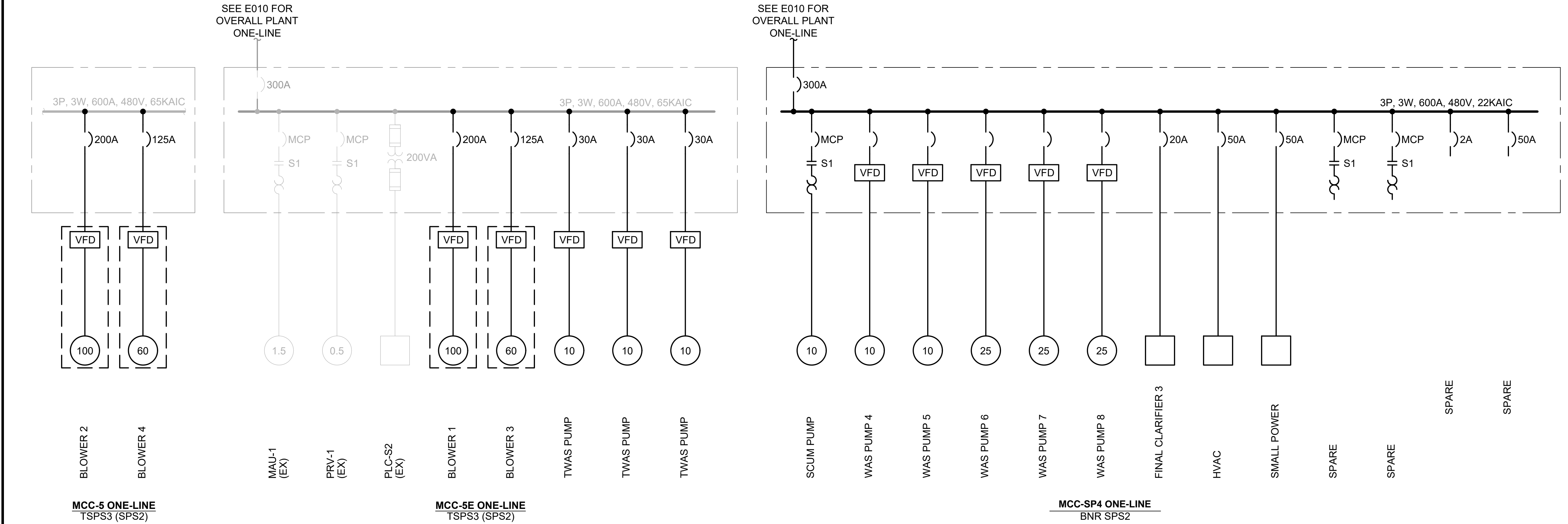
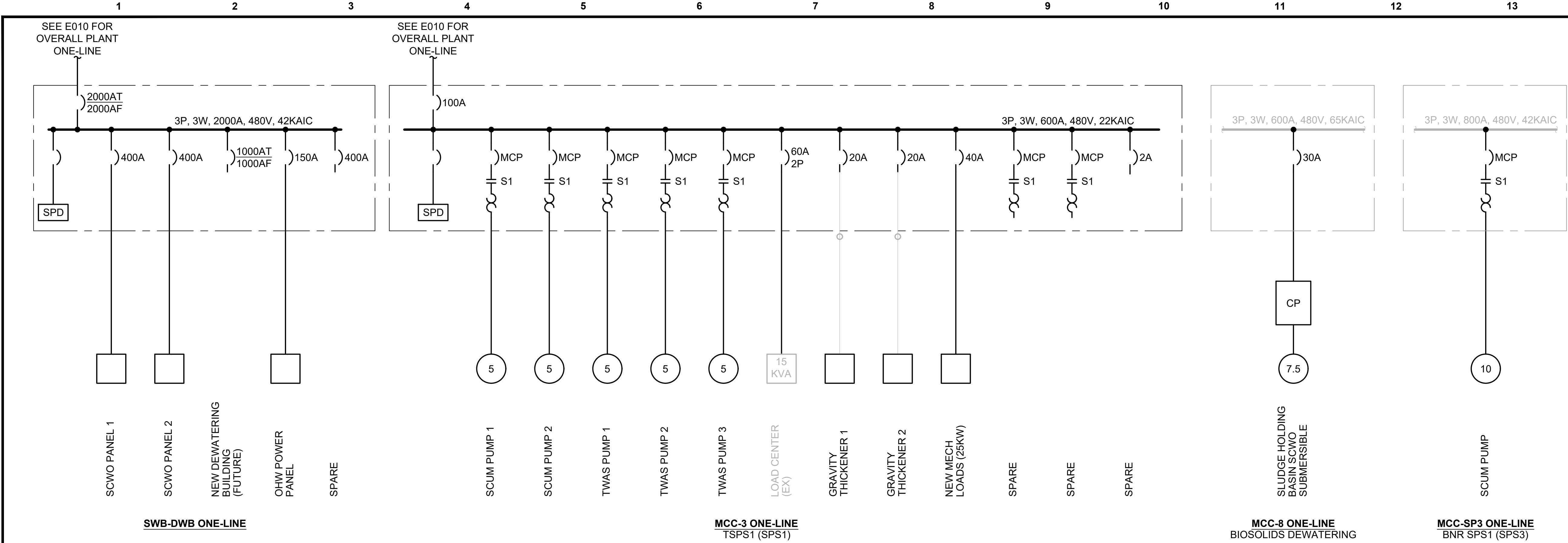
Technical Specifications

- 1. CHANGES TO PRIOR ADDENDA**
 - a. None
- 2. CHANGES TO BID PACKAGE DOCUMENTS**
 - a. None
- 3. CHANGES TO SPECIFICATIONS**
 - a. None
- 4. CHANGES TO DRAWINGS**
 - a. ADD Sheet E010 and Sheet E101
- 5. ATTACHMENTS** - The items listed below and bound following this document's "End of Addendum" designation, are part of this Addendum.
 - a. Specifications and Drawings:**
 - i. Sheet E010 and Sheet E101
 - b. Other attachments here to are as follows:**
 - i. Solicitation Set 1 – Bid phase Questions



END OF ADDENDUM #1

[illegible]



| no. | date | by | ckd | description |
|-----|----------|-----|-----|------------------------|
| A | 11/14/25 | CPW | WMT | ISSUED FOR INFORMATION |

**PRELIMINARY - NOT
FOR CONSTRUCTION**



9400 WARD PARKWAY
KANSAS CITY, MO 64114
816-333-9400
Burns & McDonnell Engineering Co., Inc.
LICENSE NO. E-65

| | | |
|---------------|-----------|----------|
| date | designed | detailed |
| JULY 25, 2025 | C. WARDER | A. LILLY |
| | checked | |
| | CHECKER | |



CEDAR CREEK WWTP EXPANSION
ELECTRICAL ONE LINES
SHEET 1

| | |
|----------------------------|---|
| BMCD Project No. 183619 | City Project No. 1-C-013-25 / 1-C-025-25 |
| drawing | rev. |
| E101 | A |
| sheet | of sheets |
| file 183619_E101.dwg | |



Solicitation Set #1 – ADDENDUM NO. 02

November 25th, 2025

To Bidder of Record:

The following changes, additions, and/or deletions are hereby made a part of Contract Documents for the purchase of materials and services described in Solicitation Set #1 – Cedar Creek WWTP Expansion Phase II and Solids Handling Rehabilitation as fully and completely as if the same were full set forth therein. This addendum includes changes, additions, and/or deletions to the Solicitation Set #1 – Cedar Creek WWTP Expansion Phase II and Solids Handling Rehabilitation Bid Packages.

Technical Specifications

- 1. CHANGES TO PRIOR ADDENDA**
 - a. None
- 2. CHANGES TO BID PACKAGE DOCUMENTS**
 - a. None
- 3. CHANGES TO SPECIFICATIONS**
 - a. ADD Specification Section 26 43 13 Surge Protection Devices
- 4. CHANGES TO DRAWINGS**
 - a. None
- 5. ATTACHMENTS** - The items listed below and bound following this document's "End of Addendum" designation, are part of this Addendum.
 - a. Specifications and Drawings:**
 - i. Specification Section 26 43 13 Surge Protection Devices
 - b. Other attachments here to are as follows:**
 - i. Solicitation Set 1 – Bid phase Questions Updated 11/25/25



END OF ADDENDUM #2

SECTION 26 43 13 – SURGE PROTECTIVE DEVICES

PART 1 - GENERAL

1.01 RELATED DOCUMENTS:

- A. Drawings and general provisions of the Contract, including General and Supplementary Conditions and General Requirements, apply to this Section.

1.02 SUMMARY:

- A. This Section includes parallel and series-wired, surge protective devices (SPDs) for service entrance and AC distribution equipment not exceeding 1000V, including disconnects, switchboards, motor control centers, panelboards, and point-of-service equipment.

1.03 RELATED REQUIREMENTS:

- A. Section 26 24 13 – Switchboards.

1.04 REFERENCE STANDARDS:

- A. Publication Dates: Comply with standards in effect as of date of the Contract Documents unless otherwise indicated.
- B. National Fire Protection Association (NFPA):
 - 1. NFPA 70 – National Electrical Code (NEC)
 - a. Article 285 – Surge-Protective Devices (SPDs) 1 kV or Less.
 - 2. NFPA 780 – Standards for the Installation of Lightning Protection Systems.
- C. National Electrical Manufacturers Association (NEMA). Comply with applicable requirements of the following standards:
 - 1. NEMA 250 – Enclosures for Electrical Equipment (1,000V maximum).
- D. UL Standards & Engagement. Comply with the latest edition and applicable requirements of the following standards:
 - 1. UL 1283 – Electromagnetic Interference Filters.
 - 2. UL 1449 – Surge Protective Devices.
- E. Institute of Electrical and Electronic Engineers (IEEE) comply with applicable requirements of the following standard:
 - 1. IEEE C62.33 – Test Specifications for Metal-Oxide Varistor Surge Protective Components.
 - 2. IEEE C62.41.1 – Surge Environment in Low-Voltage (1000V and less) AC Power Circuits.
 - 3. IEEE C62.41.2 – Characterization of Surges in Low-Voltage (1000V and less) AC Power Circuits.
 - 4. IEEE C62.45 – Surge Testing for Equipment Connected to Low Voltage (1000V and less) AC Power Circuits.
 - 5. IEEE C62.62 – Test Specifications for Surge-Protective Devices (SPDs) for Use on the Load Side of the Service Equipment in Low Voltage (1000 V and less) AC Power Circuits.
 - 6. IEEE 1100 (Emerald Book) – Recommended Practice for Powering and Grounding Electronic Equipment.

1.05 DEFINITIONS AND ABBREVIATIONS:

- A. I-n: I-nominal rating.
- B. MCOV: Maximum Continuous Operating Voltage rating.
- C. MOV: Metal Oxide Varistors.
- D. SAD: Silicon Avalanche Diodes.

SECTION 26 43 13 – SURGE PROTECTIVE DEVICES: continued

- E. SCCR: Short Circuit Current Rating.
- F. SPD: Surge Protection Device.
- G. VPR: Voltage Protection Rating.
- H. Type 1 SPDs – Permanently connected SPDs intended for installation between the secondary of the service transformer and the line side of the service equipment overcurrent device, as well as the load side, including watt-hour meter socket enclosures and intended to be installed without an external overcurrent protective device.
- I. Type 2 SPDs – Permanently connected SPDs intended for installation on the load side of the service equipment overcurrent device; including SPDs located at the branch panel.
- J. Type 3 SPDs – Point of utilization SPDs, installed at a minimum conductor length of 10 meters (30 feet) from the electrical service panel to the point of utilization, for example cord connected, direct plug-in, receptacle type and SPDs installed at the utilization equipment being protected.

1.06 SUBMITTALS:

- A. Submit as specified in General Requirements and Section 26 05 10 – General Electrical Requirements.
- B. Product Data – Submit for each type of product specified, including the following as a minimum:
 - 1. Data sheets:
 - a. Physical details and dimensions.
 - b. Power input voltage and frequency.
 - c. Type category.
 - d. UL 1449 Listing documentation verifying the following:
 - (1) Short Circuit Current Rating (SCCR).
 - (2) Voltage Protection Ratings (VPRs) for all modes.
 - (3) Maximum Continuous Operating Voltage rate (MCOV).
 - (4) I-nominal rating (I-n) for Type 1 and Type 2 SPDs.
 - (5) Device type designation.
 - e. Peak surge current rating per phase.
- C. Shop Drawings: For externally-mounted units, provide shop drawings including manufacturer's installation requirements, field connections and manufacturer's recommended wire and breaker sizes.
- D. Closeout Submittals – Final documentation shall include the following as a minimum:
 - 1. Operation and Maintenance Manuals including the following:
 - a. Operation and maintenance manuals for each type of SPD.
 - b. Copies of all approved Product Data.
 - c. Copies of all approved Shop Drawings.
 - d. Warranty information.

1.07 SOURCE QUALITY CONTROL:

- A. Tests, inspections: At the shop, factory, plant, or place of manufacture.
- B. Verification of performance: Compliance with specified criteria.

1.08 DELIVERY, STORAGE, AND HANDLING:

- A. Non-integral surge protective devices (SPDs) shall be stored according to the manufacturer's instructions and in a conditioned space to avoid condensation, dust, and other environmental contaminants.

SECTION 26 43 13 – SURGE PROTECTIVE DEVICES: continued

- B. Integral SPDs shall be delivered, pre-installed, and stored according to the requirements of the distribution equipment or control panel in which they are installed.
- 1.09 PROJECT SITE CONDITIONS:
 - A. Do not deliver or install SPDs or equipment in which they are installed until spaces are enclosed and weathertight, wet work in spaces is complete and dry, work above installation area is complete, and temporary HVAC system is operating and maintaining ambient temperature and humidity conditions at occupancy levels during the remainder of the construction period.
- 1.10 COORDINATION:
 - A. Coordinate layout and installation of remote surge protective devices with other construction that penetrates walls or is supported by them, including electrical and other types of equipment, raceways, piping, encumbrances to workspace clearance requirements, and adjacent surfaces. Maintain required workspace clearances and required clearances for equipment access doors and panels.
- 1.11 WARRANTY:
 - A. SPD manufacturer shall provide free replacement of the entire model with a minimum warranty period of 10 years from date of shipment. This warranty shall be limited only by failure to comply with manufacturer's installation instructions and applicable national or local code and may not exclude lightning or temporary overvoltage.

PART 2 - PRODUCTS

- 2.01 MANUFACTURERS:
 - A. A manufacturer's presence on this list does not guarantee that all of its models are acceptable. The Contractor is responsible for insuring that each SPD model meets all requirements of this specification.
 - B. AC Power Distribution Units:
 - 1. Advanced Protection Technologies, Inc.
 - 2. Eaton.
 - 3. Erico International Corporation.
 - 4. General Electric.
 - 5. Mersen.
 - 6. Schneider Electric.
 - 7. Siemens.
 - 8. Engineer-approved equal.
- 2.02 GENERAL REQUIREMENTS FOR SURGE PROTECTIVE DEVICES:
 - A. UL 1449 listed and labeled.
 - B. Shall be UL labeled as a Type 1 or Type 2 device, shall be intended to be installed on the load side of the service entrance equipment and shall not require external or supplemental overcurrent safety controls to meet the latest edition of UL 1449.
 - C. The surge protective device (SPD) shall be of a modular design using fast-acting transient energy protection that will divert and dissipate the surge energy.
 - D. Shall provide independent, directly-connected suppression components on each mode in the electrical distribution system, at least seven modes in Wye systems (L-N, L-G, N-G) and six modes (L-L, L-G) in Delta and impedance grounded Wye systems.

SECTION 26 43 13 – SURGE PROTECTIVE DEVICES: continued

- E. Shall be an integral device as specified or indicated.
- F. Shall use metal oxide varistor or MOV-hybrid technology as necessary. Spark gaps, selenium cells and SCRs shall not be acceptable.
- G. Shall include internal fuses and thermally protection over every suppression component of every mode, including N-G unless protecting the service entrance.
- H. Shall have integral, panel front status monitors or remote status panel ability as a minimum to indicate a continuous positive status of all protected modes, including N-G mode where applicable. Diagnostics shall be electrically isolated to prevent damage by surges.
- I. Shall be UL labeled with a short circuit current rating of 200kA.
- J. The maximum continuous operating voltage at 60 Hz shall be capable of sustaining at least 115% of the peak voltages continuously without degrading.
- K. The maximum UL 1449 Voltage Protection Ratings (VPR) for the device must not exceed the following:

| Service | L-N | L-G | N-G | L-L | MCOV |
|---|-------|-------|-------|-------|---------|
| 120V 2-wire + Gnd | 600V | 1000V | 600V | NA | 150 |
| 120/240Vac 3-Wire + Gnd | 700V | 700V | 700V | 1200V | 150 |
| 208Y/120Vac 3-phase, 3 or 4-wire | 700V | 700V | 700V | 1200V | 150/276 |
| 480 Vac 3-phase, 3 Wire Delta | NA | 1800V | NA | 1800V | 550 |
| 480Y/277 Vac 3-phase, 3-wire or 4-wire | 1200V | 1200V | 1200V | 2000V | 550/320 |

- L. Type 1 and Type 2 SPDs shall be UL labeled with 20kA I-n for compliance to UL 96A Lightning Protection Master Label and NFPA 780.
- M. The SPD shall be suitable for 480Y, 3-phase, 3-wire 60Hz.
- N. Downstream SPD units shall be tested and demonstrated suitable for application with ANSI/IEEE C62.41 Category B environments.
- O. Shall have a peak surge current of 140 kA per phase.
- P. Shall include EMI/RFI filtering for ring wave suppression.
- Q. Shall have a minimum EMI/RFI filtering of -30dB at 100 kHz.
- R. UL 1283 Listed (Latest Edition).

2.03 ADDITIONAL REQUIREMENTS FOR PLUG-ON SPDS:

- A. Shall be directly connected to the equipment bus bar through an integral circuit breaker sized as recommended by the manufacturer.
- B. Shall include a display with a resettable counter for the combined total number of transient voltage surges detected since the counter was reset.

2.04 ADDITIONAL REQUIREMENTS FOR SPDS INTEGRAL TO THE POWER DISTRIBUTION EQUIPMENT:

- A. The SPD shall be mounted to the equipment by a direct bus bar connection.
- B. The SPD shall not limit the use of through-feed lugs, sub-feed lugs, or sub-feed breaker options.

SECTION 26 43 13 – SURGE PROTECTIVE DEVICES: continued

- C. The power distribution equipment shall be capable of re-energizing upon removal of the SPD.

2.05 ACCESSORIES:

A. Monitoring Diagnostics/Accessories:

1. Protection Status Indicators - Each unit shall have a green/red solid-state indicator light that reports the status of the protection element on each phase.
 - a. Wye configured units, shall have indication in the L-N and L-G and N-G modes.
 - b. Delta configured units, shall have status indication in the L-G and L-L modes.
 - c. The absence of a green light and the presence of a red light shall indicate that damage has occurred on the respective phase or mode. All protection status indicators must indicate the actual status of the protection on each phase or mode. If power is removed from any one phase, the indicator lights must continue to indicate the status of the protection on all other phases and protection modes. Diagnostics packages that simply indicate whether power is present on a particular phase shall not be accepted.
2. Remote Status Monitor: The SPD must include Form C dry contacts (one NO and one NC) for remote annunciation of its status. Both the NO and NC contacts shall change state under any fault condition.
3. Surge Event Counter: The SPD shall be equipped with an LCD display that indicates to the user how many surges have occurred at the location.
 - a. The surge counter shall trigger each time a surge event with a peak current magnitude of a minimum of $50 \pm 20A$ occurs. A reset pushbutton shall also be standard, allowing the surge counter to be zeroed. The reset button shall contain a mechanism to prevent accidental resetting of the counter via a single, short-duration button press. To prevent accidental resetting, the surge counter reset button shall be depressed for a minimum of 2 seconds in order to clear the surge count total.
 - b. The ongoing surge count shall be stored in non-volatile memory. If power to the SPD is completely interrupted, the ongoing count indicated on the surge counter's display prior to the interruption shall be stored in non-volatile memory and displayed after power is restored. The surge counter's memory shall not require a backup battery to achieve this functionality.

2.06 FINISHES:

- A. Manufacturer shall prepare surfaces, prime, and finish paint all surfaces with manufacturer's standard coating system. Coating system and color shall be suitable for intended services.

PART 3 - EXECUTION

3.01 EXAMINATION:

- A. Examine area and location of equipment to receive SPDs for compliance with manufacturer's environmental conditions and other conditions affecting performance of the Work.
- B. Examine field installed SPDs before installation. Reject SPDs that have been wet, moisture damaged, or physically damaged.
- C. Proceed with installation only after unsatisfactory conditions have been corrected.

3.02 GENERAL INSTALLATION REQUIREMENTS:

- A. The installation of the surge suppression system shall be installed in strict accordance with the manufacturer's recommended practices and in compliance with the NEC.
- B. The Contractor shall verify the proper application of the SPD (i.e. voltage, phases, etc.)

SECTION 26 43 13 – SURGE PROTECTIVE DEVICES: continued

- C. The Contractor shall verify that all neutral conductors are bonded to the system ground at the service entrance or at the serving transformer prior to installation of the SPD.
 - D. The phase, neutral and grounding conductors serving the SPD shall be gently twisted to reduce the SPD system inductance and shall be kept at the minimum length. Avoid any sharp bends and coils in the conductors.
 - E. Do not perform insulation resistance tests on a piece of electrical equipment with an SPD installed. SPDs are not designed to withstand the relatively high voltages applied for the duration of a megger test measured in seconds. Disconnect the SPD during insulation testing and reconnect immediately after testing is over.
- 3.03 INSTALLATION OF INTERNALLY-MOUNTED SPD:
- A. When installed within a switchboard, motor control center, or panelboard, the SPD shall be installed in a dedicated bucket or space.
 - B. Provide a disconnecting means or overcurrent protection and wiring as recommended by the manufacturer. When no recommendation is provided install the SPD through a 30-Amp circuit breaker using 10-gauge wire.
- 3.04 FIELD QUALITY CONTROL:
- A. Perform tests and inspections: Inspect SPDs, modules, connections, and installation. Test and Inspect SPDs for proper function per manufacturers recommendations.
- 3.05 FINISHES:
- A. Externally Mounted SPDs: SPD enclosure coatings shall be free from scratches, rust, or other defects.
 - B. All damaged or defective coatings shall be repaired prior to final acceptance.
 - C. Field Painting:
 - 1. Touch Up:
 - a. Contractor shall prepare surfaces and touch up manufacturer applied coatings as required for any damage during shipment and installation.
 - b. Field painting shall be performed based on manufacturer's recommended procedures.
 - c. Contractor shall provide the necessary quantity of Manufacturer's touch-up paint to match the factory applied finish.
- 3.06 ADJUSTING AND CLEANING:
- A. For externally mounted SPDs: After field installation and final wiring terminations are completed the SPD wiring and cables shall be adjusted and neatly secured with tie wraps, hook-and-loop straps, or the like.
 - B. Prior to final acceptance enclosure interior and exterior shall be wiped clean and free from dust and debris.
- 3.07 DEMONSTRATION:
- A. Upon completion of installation of SPDs and associated electrical circuitry, energize circuitry and demonstrate functioning of equipment in accordance with manufacturer's requirements. Where possible, correct any malfunctioning units at the project site, then retest to demonstrate compliance; otherwise, remove and replace with new units, and retest to demonstrate compliance.

END OF SECTION 26 43 13

Cedar Creek Wastewater Treatment Plant Expansion Projects
Solicitation Set 01 - Bid Phase Questions

[illegible]



Attachment B

CMAR GENERAL CONDITIONS LIST



**Olathe Cedar Creek WWTP SCWO Pilot
Guaranteed Maximum Price (GMP) No.1
Attachment A
General Conditions List
December 19, 2025**

Dear Sabrina Parker,

The list below outlines the items that will be included by Garney Companies, Inc. as a part of the General Conditions Fee included as a part of this "Guaranteed Maximum Price (GMP) No.01" Proposal.

Garney Construction General Conditions

1. Project Management including, but not limited to the following
 - a. Regional Operations Manager as needed for the project
 - b. Project Manager
 - c. Project Engineer(s)
 - d. Project Superintendent
 - e. Field Engineer(s)
 - f. Safety Manager
 - g. Other office and site management as needed to complete the project
2. CMAR Job Office
 - a. Setup and Removal of job office
 - b. Monthly Office Rental
 - c. Office Supplies (computers, internet, copiers, etc.)
 - d. Cell phone for staff
3. Engineer's Job Office
 - a. Setup and Removal of Job Office
 - b. Monthly Office Rental
4. Initial Site Setup
 - a. Installation of laydown yard for storage
 - b. Removal of laydown yard
 - c. Restoration of laydown yard
5. CMAR Expenses
 - a. Project Management Software and other computer software as needed for the project
 - b. Project signage
 - c. Toll Fees as needed for project management personnel
 - d. Drug Tests and Job Physicals as needed for project management personnel



- e. Weekly Cleanup
- f. Final Cleaning
- g. Trash Services
- h. Sanitary Facilities
- i. Temporary Utilities if necessary for the project
- j. O&M Manuals and closeout paperwork as needed for the project

Please let me know if there are any questions regarding this list and the items being provided.

Respectfully,

Bill Morehead
Project Manager
Garney Construction

Supplementary Conditions

These Supplementary Conditions amend or supplement the Standard General Conditions of the Construction Contract, EJCDC® C-700 (2013 Edition). All provisions that are not so amended or supplemented remain in full force and effect.

The address system used in these Supplementary Conditions is the same as the address system used in the General Conditions, with the prefix "SC" added thereto.

ARTICLE 1 – DEFINITIONS AND TERMINOLOGY

SC 1.01 Add the following language before Paragraph 1.01.A:

The terms in these Supplementary Conditions that are defined in the Standard General Conditions of the Construction Contract (EJCDC C-700, 2013 edition) have the meanings assigned to them in the General Conditions. Additional terms used in these Supplementary Conditions have the meanings stated below, which are applicable to both the singular and plural thereof. Any subsequent reference to Engineer shall mean owner's representative. The terms "Owner" and "City" shall refer to the City of Olathe, Kansas.

SC 1.01.A. Add to the list of definitions in Paragraph 1.01.A. by inserting the following as a numbered item in its proper alphabetical position:

Punch List—Collectively, unfinished items of the construction of the Project, which unfinished items of construction are minor or insubstantial details of construction, mechanical adjustment or decoration remaining to be performed, the non-completion of which would not materially affect the use of the Project, and which are capable of being completed within thirty (30) days of Substantial Completion, subject to the availability of special order parts and materials.

ARTICLE 2 – PRELIMINARY MATTERS

SC 2.01.D. Add the following Paragraph after Paragraph 2.01.C.:

- D. *Certificate of Good Standing.* When Contractor delivers the executed counterparts of the Agreement to Owner, Contractor shall also deliver to Owner a Certificate of Good Standing to conduct business in the State of Kansas issued by the Kansas Secretary of State.

SC 2.02.A. Amend Paragraph 2.02.A. to read as follows:

Owner shall furnish to Contractor one copy of the Contract Documents (including one fully executed counterpart of the Agreement), and one copy in electronic portable document format (PDF).

SC 2.03 Delete Paragraph 2.03 in its entirety and insert the following in its place:

Contractor's Progress Schedule

- A. The Contractor, promptly within ten (10) days after being awarded the Contract, shall prepare and submit for the Owner's and Engineer's information review and approval a Contractor's Progress Schedule for the Work. The Progress Schedule shall not exceed time limits current under the Contract Documents, shall be revised at appropriate intervals as required by the conditions of the Work and Project, shall be related to the entire Project to the extent required by the Contract Documents, and shall provide for expeditious and practicable execution of the Work.

- B. The Contractor shall prepare a Schedule of Submittals, promptly within ten (10) days after being awarded the Contract and thereafter as necessary to maintain a current submittal schedule, and shall submit the Schedule of Submittals for the Owner's and Engineer's approval. The Owner's and Engineer's approval shall not unreasonably be delayed or withheld. The Schedule of Submittals shall (1) be coordinated with the Contractor's Progress Schedule, and (2) allow the Owner and Engineer reasonable time to review submittals. If the Contractor fails to submit a Schedule of Submittals, the Contractor shall not be entitled to any increase in Contract Price or extension of Contract Times based on the time required for review of submittals.
- C. The Contractor shall perform the Work in general accordance with the most recent Schedule of Submittals provided to and approved by the Owner and Engineer.

ARTICLE 3 – DOCUMENTS: INTENT, REQUIREMENTS, REUSE

SC 3.03 Delete Paragraph 3.03 in its entirety and insert the following in its place:

Review of Contract Documents and Field Conditions by Contractor

- A. By executing the Contract, the Contractor represents that the Contractor has reviewed and understands the Contract Documents, has visited the Site and is familiar with the visible, local conditions under which the Work is to be performed based on its personal observations of the Site, has correlated personal observations with the requirements of the Contract Documents, and has notified the Engineer of and obtained clarification of any discrepancies which have become apparent during the bidding or proposal period.
- B. The Contractor must carefully study and compare the Contract Documents among themselves and further compare the Contract Documents with any other information furnished by the Owner pursuant to this Section SC 3.03 before commencing Work at the Site and at frequent intervals during its progress.
- C. The Contractor must take field measurements and verify Site conditions, and must carefully compare such field measurements and Site conditions and other information known to the Contractor with the Contract Documents, before ordering any material or doing any Work at the Site.
- D. The Contractor must make frequent inspections during the progress of the Work to confirm that Work previously performed by the Contractor is in compliance with the Contract Documents and applicable Laws and Regulations bearing on the performance of the Work and Referenced Standards and that portion of Work previously performed by the Contractor or by others are in proper condition to receive subsequent Work.
- E. If the Contractor believes that any portions of the Contract Documents do not comply with applicable Laws or Regulations, or any orders by code enforcement officials or the Owner or its designees acting in the capacity of building code inspectors or Referenced Standards, the Contractor must promptly notify the Owner and the Engineer of the non-compliance as provided in Subparagraph SC 3.03.F. and request direction before proceeding with the affected Work.
- F. Contractor shall not be liable to Owner or Engineer for failure to report any errors, inconsistencies, omissions, ambiguities, or discrepancies in the Contract Documents unless Contractor had actual knowledge thereof. The Contractor must promptly notify the Owner and the Engineer in writing of any apparent errors, inconsistencies, omissions, ambiguities, construction impracticalities or code violations discovered as a result of the Contractor's review of the Contract Documents including any differences between actual and indicated dimensions, locations and descriptions, and must give the Owner and the Engineer timely notice in writing of same and of any corrections,

clarifications, additional Drawings or Specifications, or other information required to define the Work in greater detail or to permit the proper progress of the Work. The Contractor must provide similar notice with respect to any variance between its review of the Site and physical data and Site conditions observed. Contractor shall proceed with the Work once directed by the Owner and Engineer after any clarifications or corrections are made, and shall be entitled to an adjustment to the Contract Price or Contract Times, or both, for any impacts it incurs as a result of such clarification or correction.

- G. If the Contractor performs any Work involving an apparent error, inconsistency, ambiguity, construction impracticality, omission or code violation in the Contract Documents of which the Contractor is aware, without prompt written notice to the Owner and the Engineer and request for correction, clarification or additional information, as appropriate, the Contractor does so at its own risk and expense and all claims relating thereafter are specifically waived.

SC 3.06 Add the following new paragraph immediately after Paragraph 3.05:

Document Retention and Audit Provisions

- A. Contractor shall account for all materials, equipment and labor entering into the Work and must keep such full and detailed records as may be necessary for proper financial management pursuant to the Contract Documents for a period of five (5) years after final payment. Furthermore, the Owner has the right to examine the Contractor's records directly or indirectly pertaining or relating to the Work or the Contract and the Contractor must grant the Owner access to and an opportunity to copy such records at all reasonable times during the Contract period and for five (5) years after final payment.

ARTICLE 4 – COMMENCEMENT AND PROGRESS OF THE WORK

SC 4.01 Delete Paragraph 4.01 in its entirety and insert the following in its place:

Commencement of Contract Times; Notice to Proceed

- A. The Contract Times will commence to run immediately from the day indicated on the Notice to Proceed.

SC 4.03 Add the following new Paragraph after Paragraph 4.03.A.:

- B. Any Section Corner or Quarter Section Corner affected by the project shall be referenced to points outside the construction and all requirements of KSA 58-2011 shall be met. A copy of all reports required by KSA 58-2011 to be filed with the Johnson County Engineer shall be submitted to the City.

SC 4.04 Add the following new Paragraphs after Paragraph 4.04.B.:

- C. Time limits stated in the Contract Documents are of the essence of the Contract. By executing the Agreement the Contractor confirms that the Contract Times are a reasonable period for performing the Work.
- D. The Contractor shall not knowingly, except by agreement or instruction of the Owner in writing, prematurely commence operations on the Site or elsewhere prior to the effective date of insurance required by Article 6 to be furnished by the Contractor and Owner, or prior to approval of Certificates of Insurance, and Additional Insured Endorsement and Notice of Cancellation Endorsement required to be submitted to Owner under the Agreement. The date of commencement of the Work shall not be changed by the effective date of such insurance.
- E. The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Times. If Contractor's Work shall fall behind schedule for reasons

that are not excused under the terms of the Contract, Contractor shall add additional workers or shifts, and/or work overtime as necessary to maintain the Progress Schedule as a Cost of the Work.

- F. The Contractor must conform to the most recently approved Progress Schedule. The Contractor must complete the indicated Work or achieve the required percentage of completion, as applicable, within any interim completion dates established in the most recently approved Progress Schedule.
- G. The Contractor must maintain at the Site, available to the Owner and the Engineer for their reference during the progress of the Work, a copy of the approved Progress Schedule and any approved revisions thereto. The Contractor must keep current records of and mark on a copy of the approved Progress Schedule the actual commencement date, progress, and completion date of each scheduled activity indicated on the Progress Schedule.
- H. The Contractor represents that its Bid includes all costs, overhead and profit which may be incurred throughout the Contract Times and the period between Substantial and final Completion. Accordingly, the Contractor may not make any Claim for delay damages based in whole or in part on the premise that the Contractor would have completed the Work prior to the expiration of the Contract Times but for any claimed delay.
- I. If the Contractor's progress is not maintained in accordance with the approved Progress Schedule, or the Owner determines that the Contractor is not diligently proceeding with the Work or has evidence reasonably indicating that the Contractor will not be able to conform to the most recently approved Progress Schedule, the Contractor must, promptly and at no additional cost to the Owner, take all measures necessary to accelerate its progress to overcome the delay and ensure that there will be no further delay in the progress of the Work and notify the Owner.
- J. The Owner reserves the right to issue a Work Change Directive to accelerate the Work that may be subject to an appropriate adjustment, if any, in the Contract Price. If the Owner requires an acceleration of the Progress Schedule and no adjustment is made in the Contract Price, or if the Contractor disagrees with any adjustment made, the Contractor must file a Claim as provided in Article 12 or the same will be deemed to be conclusively waived.

SC 4.05 Delete Paragraph 4.05 in its entirety and insert the following in its place:

Delays and Extensions of Time

- A. Excusable delays are delays in the progress of the Work which at the time of the delays were critical path activities as shown on the most recently approved Progress Schedule, or delays to Work not previously identified as critical path activities as shown on the most recently approved Progress Schedule but which become critical path activities as a result of a delay, and which prevent the Contractor from achieving Substantial Completion before the expiration of the Contract Times, caused by conditions which could not reasonably be anticipated by, are beyond the control of, and are without the fault or negligence of the Owner, as set forth in Paragraph 4.05.B, the Contractor or anyone for whose acts the Contractor is responsible. Excusable delays do not include any delays to the extent caused by any Subcontractors, Sub-subcontractors or Suppliers. Excusable Delays will entitle Contractor to an adjustment to the Contract Times, but not to the Contract Price. Excusable delays may, but do not necessarily, include:
 - 1. weather delays as further defined in Paragraph SC 4.05.F.;
 - 2. acts of government and regulatory agencies and officials (other than the Owner in its capacity as Owner);
 - 3. catastrophic events such as fire, flood and unavoidable casualties; and
 - 4. strikes or labor disputes.

- B. Compensable delays are limited to delays in the progress of the Work which at the time of the delays were critical path activities as shown on the most recently approved Progress Schedule, or delays to Work not previously identified as critical path activities as shown on the most recently approved Progress Schedule but which become critical path activities as a result of a delay, and which prevent the Contractor from achieving Substantial Completion before the expiration of the Contract Times, caused by or attributable to Owner, Engineer, or anyone for whom Owner is responsible (except actions taken by the Owner acting as a regulatory authority to protect the public health or safety or to conform to applicable Laws or Regulations, which is an excusable delay). For the avoidance of doubt, compensable delays shall include, but are not limited to, delays attributable to differing or subsurface or physical conditions, underground facilities, hazardous environmental conditions at the Site, and any other delays identified in this Agreement which allow for an adjustment to the Contract Price and the Contract Times, which have not already been disclosed by the Owner or Engineer.
- C. Unexcused delays are delays in Work which at the time of the delays were critical path activities as shown on the most recently approved Progress Schedule, or delays to Work not previously identified as critical path activities as shown on the most recently approved Progress Schedule but which become critical path activities as a result of a delay, and which prevent the Contractor from achieving Substantial Completion before the expiration of the Contract Times, to the extent caused by or within Contractor's reasonable control. No increase in the Contract Price or extension of the Contract Times will be made for an unexcused delay.
1. Contractor shall be entitled to an adjustment in the Contract Times, but not an adjustment to the Contract Price, to the extent that an unexcused delay runs concurrently with an excused delay or a compensable delay pending approval by Owner.
- D. The Contractor must provide written notice of any actual or prospective delay promptly, and in no event later than ten (10) days after Contractor becomes aware of the event giving rise to such delay. The notice must be given to the Owner and Engineer within the specified time. In the case of a continuing delay, the Contractor must provide an initial notice and a further notice at each progress meeting throughout the duration of the delay. The notice must contain all of the specific information required in Paragraph SC 4.05.E. The Contractor's failure to provide the written notice containing the information specified in Paragraph SC 4.05.E within the ten (10) days prescribed above will be deemed a waiver of any Claim for delay arising from such occurrence if such delay causes actual prejudice to the Owner's interests.
- E. The Contractor's notice must identify those portions of the Progress Schedule affected by the delay and must include an estimate of the cost and probable effect of the delay, if any, on the progress of the Work. Within fourteen (14) days after the written notice, Contractor shall to the extent practicable submit all necessary supporting documentation of its claim, unless the Parties agree on another time period. Contractor may seasonably supplement its claim with additional supporting documentation if and when that information becomes available to Contractor. Such supplemental additional supporting documentation must be provided within 30 days after the written notice, unless Owner extends such time upon Contractor's submission of proof of continued efforts to obtain such supporting documentation that is satisfactory to the Owner, and further provided that such extension of time shall not be unreasonably withheld. Supporting documentation must include, but is not limited to:
1. A written detailed statement of the reasons and causes for the delay;
 2. inclusive dates of the delay;
 3. specific trades and portions of the Work affected by the delay;
 4. status of Work affected before commencement of the delay;
 5. effect of the delay on available "float" time;

6. a critical path method (CPM) analysis demonstrating that the delay has affected an activity then on the critical path at the time of the occurrence of the delay as shown on the most recently approved Progress Schedule, or that the delay has an effect on an activity not previously on the critical path as shown on the most recent approved Progress Schedule, but which becomes a critical path activity as a result of a delay; and
 7. if the Contractor claims that the delay is an excusable delay or compensable delay, evidence that the delay was unforeseeable, beyond the Contractor's control, and without the fault or negligence of the Contractor or the negligence of anyone for whose acts the Contractor is responsible including any Subcontractor, Sub-subcontractor or Supplier; and in the case of a compensable delay, how the delay was caused by or attributable to Owner, Engineer, or anyone for whom Owner is responsible was caused solely and exclusively by the acts or omissions of the Owner (excepting actions taken by the Owner to protect the public health or safety or to conform to applicable Laws and Regulations) .
- F. In order for the Contractor to be entitled to an extension of the Contract Times for unusually severe weather, the following conditions must be satisfied:
1. The weather experienced at the Site during the Contract period must be found to be unusually severe, that is, more severe than the adverse weather anticipated for the Project location during any given month;
 2. The unusually severe weather must delay Work which at the time of the unusual severe weather was a critical path activity as shown on the most recently approved Progress Schedule, or delays Work not previously identified as critical path activity as shown on the most recently approved Progress Schedule but which become critical path activity as a result of a delay, and which prevents the Contractor from achieving Substantial Completion before expiration of the Contract Times. The delay must be beyond the control and without the fault or negligence of the Contractor. For example, the impacted activity must not have occurred during unusually severe weather due to previous unexcused delays; and
 3. The Contractor must have provided written notice of the weather-related delay complying with Paragraphs 4.05.D. and 4.05.E. above.

The following schedule of monthly anticipated adverse weather delays constitute the base line for monthly weather time evaluations. The Contractor's Progress Schedule must reflect these anticipated adverse weather delays in all-weather dependent activities.

MONTHLY ANTICIPATED ADVERSE WEATHER DELAY

| Jan | Feb | Mar | Apr | May | June | July | Aug | Sept | Oct | Nov | Dec |
|-----|-----|-----|-----|-----|------|------|-----|------|-----|-----|-----|
| 6 | 4 | 5 | 5 | 4 | 3 | 3 | 3 | 3 | 4 | 4 | 5 |

Upon acknowledgement of the Notices to Proceed and continuing throughout the Contract, the Contractor must record on the daily superintendent report, the occurrence of adverse weather and resultant impact to normally scheduled Work. Actual adverse weather delay days must prevent Work on critical path activities, or must prevent Work not previously identified as a critical path activity as shown on the most recent approved Progress Schedule but which becomes a critical path activity as a result of a delay, for fifty (50) percent or more of the Contractor's scheduled workday. The number of actual adverse weather delays must include Contractor's scheduled workdays impacted by actual adverse weather (even if the adverse weather occurred in the previous month), be calculated chronologically from the first to the last day each month, and be recorded as full days. If the Contractor has complied with Paragraphs 4.05.D and 4.05.E and the

provisions of this Paragraph 4.05.F. and the number of actual adverse weather delay workdays exceeds the number of days anticipated in the table above, and have adversely affected critical path weather-dependent activities, the Contractor is entitled to a Modification of the Contract Times but not the Contract Price.

- G. If strikes or labor disputes are to be considered as the basis for an excusable delay, they must be documented by data evidencing (i) the trades directly and indirectly involved in or affected by the strike or labor dispute, (ii) reasons for the strike or labor dispute, (iii) the onset and duration of the strike or labor dispute, and (iv) the measures taken by the Contractor to avoid or overcome the effects of any delay.
- H. Upon receipt of a notice from the Contractor of the occurrence of a delay complying with Paragraphs 4.05.D and 4.05.E (and, if applicable, SC 4.05.F and SC 4.05.G), the Owner will review the most recently approved Progress Schedule to determine (i) whether the delay is in fact an excusable or compensable delay, and (ii) whether any adverse effects of the delay can be overcome by an adjustment in the Progress Schedule, including the application of any unused "float" time available in the schedule. The Owner may require the Contractor to submit a more detailed Progress Schedule than previously required in order to permit the Owner to evaluate the delay. Based on such review, the Contractor must, if required by the Owner, submit for the Owner's approval a revised Progress Schedule which minimizes the adverse effects of the delay.
- I. Not used.
- J. The Contractor acknowledges and agrees that the profit, additional bond cost and overhead (which includes extended office overhead and site-specific overhead and general conditions) if any, incurred by the Contractor in performing work beyond the Work required by the Contract Documents and any and all other costs, compensation or damages due Contractor (including any of its Subcontractors or Suppliers), is included in, and payable to the Contractor as part of the Change Order or Work Change Directive. The Contractor will be compensated for compensable delays only for actual and direct damages resulting from such compensable delays. Actual direct damages are limited to site specific general conditions and do not include any indirect costs such as home office overhead. The Contractor will be compensated for such actual and direct damages for compensable delays not attributable to performance of Change Order.
- K. In the event the Owner denies, in whole or in part, the Contractor's request for a change in the Contract Times or, in the case of a compensable delay, a change in the Contract Price, the Contractor may submit a Claim as provided in Article 12. Submissions made prior to the denial must be resubmitted after the denial. Any Claim on account of denial of a change that is not made within such ten (10) days of the denial may be deemed waived if such failure to timely submit a Claim substantially prejudices Owner's interests.
- L. *Delay Damages*
 - 1. By executing a Change Order or Work Change Directive, the Contractor represents that the Contractor is not entitled to an increase in the Contract Price or an extension of the Contract Times beyond that specified in the Change Order or Work Change Directive. The Contractor is not entitled to an increase in the Contract Price or extension of the Contract Times as a result of the issuance by the Owner of a Work Change Directive unless the Contractor asserts a Claim as required by this Agreement;
 - 2. The provisions of Paragraph SC 4.05.L.1. do not apply to claims that meet all of the following conditions: (i) the claim arises under the Contract; (ii) the claim is limited to actual and direct damages (i.e. profit, additional bond and insurance cost (if any) and overhead (only site-specific overhead and not including home office overhead)) incurred as a result of a delay in completing the Project which the Contractor acknowledges are

fully compensated for by payment of the adjustment amount specified in Paragraph 4.05.K.; (iii) the Contract establishes a time limit for achieving Substantial Completion and the claim is for delays that prevent achievement of Substantial Completion of the Contract within that time limit; (iv) the delay for which damages are claimed is caused solely and exclusively by the Owner, Engineer, or anyone for whom they are responsible; (v) the delay is not caused by actions taken by the Owner to protect the public health or safety or to conform to applicable Laws or Regulations; and (vi) the Contractor has fully complied with Paragraphs SC 4.05.D and SC 4.05.E.; and

ARTICLE 5 – AVAILABILITY OF LANDS; SUBSURFACE AND PHYSICAL CONDITIONS; HAZARDOUS ENVIRONMENTAL CONDITIONS

SC 5.02.A.2 Delete subparagraph (c) in its entirety and insert the following:

(c) indemnify and hold harmless Owner Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against any such claim, and against all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs), but only to the extent caused by Contractor's (or those for which Contractor is responsible) negligent performance of the Work.

SC 5.02.C Add the following language at the end of the Paragraph:

If a dispute arises among the Contractor, separate contractors and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish, the Owner may clean up and the Engineer will allocate the cost among those responsible.

SC 5.03 Delete Paragraphs 5.03.A and 5.03.B in their entirety and insert the following:

- A. No reports of explorations or tests of subsurface conditions at or adjacent to the Site, or drawings of physical conditions relating to existing surface or subsurface structures at the Site, are known to Owner.

SC 5.04.A. & 5.04.B. Delete Paragraphs 5.04.A. and 5.04.B in their entirety and insert the following:

- A. *Notice by Contractor.* If the Contractor encounters conditions at the Site that are (1) differing subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature, that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents (except in an emergency as required by Paragraph SC 7.15), the Contractor shall promptly provide written notice to the Owner and the Engineer before conditions are disturbed and within ten (10) days after first observance of the conditions.
- B. *Engineer's Review.* The Engineer will promptly investigate such conditions and, if the Engineer determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend an equitable adjustment in the Contract Price or Contract Times, or both. If the Engineer determines that the conditions at the Site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Engineer shall promptly notify the Owner and Contractor in writing, stating the reasons. If either party disputes the Engineer's determination or recommendation, that party may proceed as provided in Article 12.

SC 5.04. D.1 Add the following language at the end of the Paragraph:

It is the responsibility of the Contractor to justify any change.

SC 5.04.E. Add the following language after Paragraph 5.04.D.:

- E. If, in the course of the Work, the Contractor encounters human remains or recognizes the existence of burial markers, archaeological sites or wetlands not indicated in the Contract Documents, the Contractor shall immediately suspend any operations that would affect them and shall notify the Owner and Engineer. Upon receipt of such notice, the Owner shall promptly take any action necessary to obtain governmental authorization required to resume the operations. The Contractor shall continue to suspend such operations until otherwise instructed by the Owner but shall continue with all other operations that do not affect those remains or features. Requests for adjustments in the Contract Price and Contract Times arising from the existence of such remains or features may be made as provided in Article 12.

SC 5.05.E.3. Add the following language to the end of Subparagraph 5.05.E.3.:

It is the responsibility of Contractor to justify any change.

SC 5.06 Delete Paragraphs 5.06.A through 5.06. I. in their entirety and insert the following:

- A. No reports or drawings related to Hazardous Environmental Conditions at the Site are known to Owner.
- B. In the event the Contractor encounters on the Site material reasonably believed to be a Hazardous Environmental Condition (other than those for which the Contractor may have specific responsibility for remediation under the Contract), and the Contractor's reasonable precautions will be inadequate to prevent foreseeable damage or injury and the Contractor cannot proceed with the Work in the absence of the removal, containment or remediation of the Hazardous Environmental Condition, the Contractor must immediately stop Work in the area affected and report the condition to the Owner and the Engineer, in writing, within twenty-four (24) hours of discovery.
- C. Upon receipt of notice of a suspected Hazardous Environmental Condition, Owner will cause an investigation to be made to verify the presence and extent of such materials, to determine whether such materials are in fact hazardous, and the steps necessary for their removal, containment or remediation.
- D. If the Owner's investigation confirms the presence of a Hazardous Environmental Condition which present a risk of injury or damage which will not be adequately protected against by the Contractor's reasonable precautions, then the Work in the affected area must not thereafter be resumed except at the written direction of the Owner. The Work in the affected area will be resumed promptly (i) in the absence of a finding of a Hazardous Environmental Condition by Owner, (ii) upon the removal, containment or remediation of the Hazardous Environmental Condition, or (iii) upon the establishment of appropriate safety precautions.
- E. The Contractor may request a change in the Contract Price or Contract Times if the Contractor incurs additional costs on account of or is delayed by the need to remove, contain or remediate the Hazardous Environmental Condition which has not been rendered harmless at the Site unless the Contractor is responsible for same under the Contract. Any such requested change in the Contract Price or Contract Times must be made in writing within ten (10) days of discovery of any Hazardous Environmental Condition, which has not been rendered harmless giving rise to the request for the change and must fully comply with Articles 4, 11, and 12 or any such requested change will be deemed waived if such failure to comply causes actual prejudice to Owner's interests.

- F. The Owner shall not be responsible under this Section SC 5.06 for materials or substances the Contractor brings to the Site unless such materials or substances are required by the Contract Documents. The Owner shall be responsible for materials or substances required by the Contract Documents, except to the extent of the Contractor's fault or negligence in the use and handling of such materials or substances.
- G. The Contractor shall indemnify the Owner for the cost and expense the Owner incurs for remediation of a material or substance the Contractor brings to the Site to the extent negligently handled by Contractor.
- H. If, without fault or negligence on the part of the Contractor, the Contractor is held liable by a government agency for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Contract Documents, the Owner shall indemnify the Contractor for all cost and expense thereby incurred.
- I. Intentionally left blank.

ARTICLE 6 – BONDS AND INSURANCE

SC 6.01.A. At the end of Paragraph 6.01.A., add the following Subparagraphs:

1. The performance bond and payment bond, as identified in the General Conditions, Article 6.01, shall be identified herein as a Performance Bond and Statutory Bond, respectively. The Performance (Construction Completion) Bond and Statutory (Construction Payment) Bond shall be in the forms included in the Contract Documents.
2. The Statutory Bond described in Subparagraph SC 6.01.A.1. shall be provided in accordance with the provisions of K.S.A. 60-1111 with a duly licensed or authorized corporate surety in the amount of 100% of the price set forth in the Guaranteed Maximum Price Amendment. Said bond shall be on a form approved by the Owner and filed with the City of Olathe City Clerk.
3. As a provision of the Performance Bond or as a separate bond document, the Contractor will be required to furnish a two (2) year Maintenance Bond in an amount not less than 100% of the amount set forth in the Guaranteed Maximum Price Amendment. In addition, a two (2) year Maintenance Bond clause in the amount of 100% of the cost to cover any settlement shall be provided.
4. Coincidental with the execution of any Guaranteed Maximum Price Amendment, the Contractor shall furnish all required bonds in the forms included in the Agreement. The bonds shall be in the amount of not less than the contract such as indicated by the Guaranteed Maximum Price Amendment guaranteeing the following:
 - a. The faithful performance of all the covenants, guarantees and agreements of the contract and the payment of all bills and obligations arising from the execution of the contract, which bills or obligations might, or will, in any manner become a Claim against the Owner, and
 - b. The work included in this contract against faulty materials (not including those furnished by the Owner) or poor workmanship for two (2) years after the time of its acceptance by the Owner. The bond shall be complete and in full accordance with statutory requirements.

The bonds shall be executed through a company licensed and qualified to operate in the state of Kansas and is subject to approval by the Owner. The bonds shall be signed

by an agent residing in the state of Kansas, and the date thereof shall be the date of the execution of the contract.

If at any time during the term of the contract, the surety on the Contractor's bond become irresponsible, the Owner shall have the right to require additional and sufficient sureties which the Contractor shall furnish to the Owner's satisfaction within ten (10) days after the notice to do so. In default of providing the bonds required above, the contract may be suspended and all payments due the Contractor may be withheld.

SC 6.03 Add the following language at the end of Section 6.03:

The limits of liability for the insurance required by paragraph 6.03 of the General Conditions do not infer or place a limit on Contractor's liability and shall provide coverage for not less than the following amounts or greater where required by Laws and Regulations:

6.03.A. *Worker's Compensation:*

- (a) Coverage as required by the statutes of the state of Kansas. The policy shall provide "other states" coverage.
- (b) Applicable Federal (e.g., Longshoreman's)
- (c) Employer's Liability:
 - By Accident - \$500,000 each accident
 - By Disease - \$500,000 each person
 - By Disease - \$500,000 policy limit

6.03.B. *Commercial General Liability –Claims Covered:*

All insurance required of Contractor by this Agreement shall be first and primary until fully exhausted to the limits provided by this Agreement.

Self-insurance and/or self-insured retentions must be declared to and approved by the Owner. If any portion of any coverage is self-insured, Contractor must provide Owner with written claims handling procedures, to include the name, address, and telephone number of the claims handling office. This may be noted on the Certificate of Insurance or on a separate attached document. Any and all deductibles or self-insurance shall be assumed by and be for the account of, and at the sole risk of the contractor. The Owner may require written guarantees for payment procedures of self-insured losses including related investigations, claims administration and cost of defense.

6.03.C. *Commercial General Liability, Form and Content* (including completed operations and products liability) per site/project including Personal & Advertising Injury:

| | | |
|--------------------------------|-------------|-----------------------|
| General | \$1,000,000 | Per Occurrence |
| | \$2,000,000 | Per Project Aggregate |
| Product - completed operations | \$1,000,000 | Each Occurrence |
| | \$1,000,000 | Per Project Aggregate |

6.03.D. *Automobile liability:*

\$1,000,000

Per Occurrence
Bodily Injury and
Property Damage,
Combined Single Limit
(or equivalent)

6.03.E. *Umbrella or excess liability:*

This coverage obtained by Contractor shall be excess of the limits provided under the workers compensation and employer's liability, general liability and business automobile liability policies. The liability limits of the umbrella liability policy shall not be less than \$1,000,000. Coverage limits contained in this Section SC 6.03 can be met by a combination of primary and umbrella policy limits.

6.03.F. *Contractor's pollution liability insurance:*

This coverage may be waived at the Owner's discretion.

SC 6.04 Delete Paragraph 6.04 and substitute the following:

The Owner and Engineer shall be included as additional insureds under policies required by paragraph 6.03 as commercially available. Upon request, Contractor shall provide copies of ISO form endorsements (CG 20 10) or equivalent indicating additional insured status of Owner and Engineer.

Any insurance or self-insurance maintained by the Owner and Engineer shall be separate and excess of the contractor's insurance and shall not contribute with it.

Contractor shall include all Subcontractors as additional insureds under its policies or shall submit to Owner for each Subcontractor separate certificates of insurance and endorsements which meet the requirements contained herein.

SC 6.06.B. and 6.06.C Delete Paragraphs 6.06.B. and 6.06.C. and substitute the following:

- B. The Contractor and Owner waive claims against each other for consequential, special, indirect, or punitive damages arising out of or relating to this Contract, regardless of whether such damages were foreseeable or if either Party was advised of the possibility of such damages. This mutual waiver includes, but is not limited to:
1. damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and
 2. damages incurred by the Contractor for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit except anticipated profit arising directly from the Work.
- C. The mutual waiver provided in Paragraph 6.06.B. is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 16. Nothing contained in this Section 6.06 shall be deemed to preclude an award of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.

ARTICLE 7 – CONTRACTOR’S RESPONSIBILITIES

SC 7.01 Delete Paragraphs 7.01.A. and 7.01.B. in their entirety and insert the following:

- A. The Contractor shall supervise and direct the Work, using the Contractor’s best skill and attention. The Contractor shall be solely responsible for, and have control over, construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Work under the Contract, unless the Contract Documents give other specific instructions concerning these matters. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences or procedures, the Contractor shall evaluate the jobsite safety thereof and, except as stated below, shall be fully and solely responsible for the jobsite safety of such means, methods, techniques, sequences or procedures. If the Contractor determines that such means, methods, techniques, sequences or procedures may not be safe, the Contractor shall give timely written notice to the Owner and Engineer and shall not proceed with that portion of the Work without further written instructions from the Engineer. If the Contractor is then instructed to proceed with the required means, methods, techniques, sequences or procedures without acceptance of changes proposed by the Contractor, the Owner shall be solely responsible for any loss or damage arising solely from those Owner-required means, methods, techniques, sequences or procedures.
- B. The Contractor shall be responsible to the Owner for acts and omissions of the Contractor’s employees, Subcontractors and their agents and employees, and other persons or entities performing portions of the Work for, or on behalf of, the Contractor or any of its Subcontractors.
- C. The Contractor shall be responsible for inspection of portions of Work already performed to determine that such portions are in proper condition to receive subsequent Work.
- D. *Superintendent*
 - 1. The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Site during performance of the Work. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor. The superintendent must provide his or her email address and cell phone number to Owner and Engineer and must be available to be contacted during all business hours, and outside of business hours in the event of an emergency.
 - 2. The Contractor, as soon as practicable after award of the Contract, shall furnish in writing to the Owner through the Engineer the name and qualifications of a proposed superintendent. The Engineer may reply within 14 days to the Contractor in writing stating (1) whether the Owner or the Engineer has reasonable objection to the proposed superintendent or (2) that the Engineer requires additional time to review. Failure of the Engineer to reply within the 14 day period shall constitute notice of no reasonable objection.

3. The Contractor shall not employ a proposed superintendent to whom the Owner or Engineer has made reasonable and timely objection. The Contractor shall not change the superintendent without the Owner's consent, which shall not unreasonably be withheld or delayed.

SC 7.02 Delete Paragraphs 7.02.A. and 7.02.B. in their entirety and insert the following:

- A. The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Work. The Contractor shall not permit employment of unfit persons or persons not properly skilled in tasks assigned to them. Persons permitted to perform Work under Contractor or any Subcontractor or Sub-Subcontractor shall meet all employment eligibility, safety training, security or drug/alcohol testing requirements required by Laws or Regulations.
- B. The Contractor shall keep the premises and surrounding area free from accumulation of waste materials or rubbish caused by operations under the Contract. At completion of the Work, the Contractor shall remove waste materials, rubbish, the Contractor's tools, construction equipment, machinery and surplus materials from and about the Project. Work will be performed in accordance with the Contract Documents and the codes, ordinances, and other applicable Laws and Regulations governing the Contractor's performance of the Work. No delays resulting from compliance with applicable Laws or Regulations may form the basis for any claim by the Contractor for delay damages or additional compensation or for any extensions of the Contract Times.
- C. If the Contractor fails to clean up as provided in the Contract Documents, the Owner may do so and Owner shall be entitled to reimbursement from the Contractor. The Contractor must keep the Site and adjacent areas free from accumulation of waste materials or rubbish caused by operations under the Contract, and must keep tools, construction equipment, machinery and surplus materials suitably stored when not in use. If the Contractor fails to do so in a manner reasonably satisfactory to the Owner or the Engineer within forty-eight (48) hours after notice or as otherwise required by the Contract Documents, the Owner may clean the Site and back charge the Contractor for all costs associated with the cleaning. At completion of the Work, the Contractor shall remove waste materials, rubbish, the Contractor's tools, construction equipment, machinery and surplus materials from and about the Project.
- D. The Contractor must not permit work outside of hours established in the Contract Documents or on holiday observed by the Owner without the consent of the Owner. The Contractor must notify the Owner as soon as possible if Work must be performed outside such times established in the Contract Documents. In no event shall the Contractor permit Work to be performed at the Site without the presence of the Contractor's superintendent, other assigned project staff, or a designated representative of the Contractor, all whom must be knowledgeable of the Work required for the Project.
- E. The Contractor must comply with all codes, ordinances, and other applicable Laws and Regulations covering the regulation of noise levels. It is the duty of the Contractor to familiarize itself with those provisions and perform the Work in compliance with those provisions.

SC 7.03 Add the following new Paragraph after Paragraph 7.03.C.:

- D. The Contractor is strongly encouraged to use the Owner's solid waste roll-off containers at the Site.

SC 7.04.A. Add the following language to the end of Paragraph 7.04.A.:

Owner or Engineer has the right to deny any “or equal” claim.

SC 7.04.D. At the end of the first sentence of Paragraph D, add the following language:

unless approval of an “or-equal” request will result in cost savings to Owner; in such event, the Contract Price will be equitably reduced.

SC 7.06.A. Add the following language to the end of Paragraph 7.06.A.:

1. Unless otherwise stated in the Contract Documents or the bidding requirements, the Contractor, as soon as practicable after award of the Contract, shall furnish in writing to the Owner through the Engineer the names of persons or entities (including those who are to furnish materials or equipment fabricated to a special design) proposed for each principal portion of the Work. The Engineer may reply within 14 days to the Contractor in writing stating (1) whether the Owner or the Engineer has reasonable objection to any such proposed person or entity or (2) that the Engineer requires additional time for review. Failure of the Owner or Engineer to reply within the 14-day period shall constitute notice of no reasonable objection. The Contractor shall update this list throughout the Project and keep Owner and the Engineer advised of any new Subcontractors employed.
2. The Contractor shall not contract with a proposed person or entity to whom the Owner or Engineer has made reasonable and timely objection. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.
3. If the Owner or Engineer has reasonable objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the Owner or Engineer has no reasonable objection. If the proposed but rejected Subcontractor met all criteria set forth in the Contract Documents and was reasonably capable of performing the Work, the Contract Price and Contract Times shall be increased or decreased by the difference, if any, occasioned by such change, and an appropriate Change Order shall be issued before commencement of the substitute Subcontractor’s Work. However, no increase in the Contract Price or Contract Times shall be allowed for such change unless the Contractor has acted promptly and responsively in submitting names as required.
4. The Contractor shall not substitute a Subcontractor, person or entity previously selected if the Owner or Engineer makes reasonable objection to such substitution.

SC 7.06.F. Amend Paragraph 7.06.E. to read as follows:

- F. If Owner requires the replacement of any Subcontractor, Supplier, or other individual or entity retained by Contractor to perform any part of the Work, then Contractor may be entitled to an adjustment in Contract Price or Contract Times, or both, with respect to the replacement; Contractor shall initiate a Change Proposal for such adjustment within 30 days of Owner’s requirement of replacement in order to prove Contractor’s need for an adjustment in Contract Price or Contract Times, or both.

SC 7.06. P. Add the following language at the end of Section 7.06:

- P. By appropriate agreement, written where legally required for validity, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety

of the Subcontractor's Work, which the Contractor, by these Documents, assumes toward the Owner and Engineer. Each subcontract agreement shall preserve and protect the rights of the Owner and Engineer under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may be at variance with the Contract Documents. Subcontractors will similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

Q. Contingent Assignment of Subcontractors

1. Each subcontract agreement for a portion of the Work is assigned by the Contractor to the Owner, provided that assignment is effective only after termination of the Contract by the Owner for cause pursuant to Section 16.02 and only for those subcontract agreements that the Owner accepts by notifying the Subcontractor and Contractor in writing, and assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.
2. When the Owner accepts the assignment of a subcontract agreement, the Owner assumes the Contractor's rights and obligations under the subcontract.
3. Upon such assignment, if the Work has been suspended for more than 30 days, the Subcontractor's compensation shall be equitably adjusted for increases in cost resulting from the suspension.
4. Upon such assignment to the Owner under this Paragraph 7.06.P, the Owner may further assign the subcontract to a successor contractor or other entity. If the Owner assigns the subcontract to a successor contractor or other entity, the Owner shall nevertheless remain legally responsible for all of the successor contractor's obligations under the subcontract.

SC 7.09 Delete Paragraph 7.09.A. in its entirety and insert the following:

- A. The Owner enjoys tax exempt status. To enjoy the cost-savings benefits of its tax-exempt status, the Owner will provide a Tax Exemption Certificate to the Contractor for use on the Project. The Contractor shall use that certificate to exempt any purchases made for the Work from taxes. Contractor will pass on all savings for the tax-exempt status to the Owner. The Contractor agrees to bind all Subcontractors of any tier to the obligation to present and use the Tax Exemption Certificate and pass all savings to the Owner.
- B. The Contractor will require all Subcontractors and bidders to provide cost information for materials separate from other costs for labor, profit, overhead, etc. to allow the Owner to verify that no taxes are to be paid on material procurement and that such savings shall be passed on to the Owner.
- C. The Contractor will maintain all records, invoices, receipts, or other accounting data regarding material purchases and will allow, upon written request of the Owner and within a reasonable time frame after receipt of such request, the Owner to audit such records to verify tax savings. If an audit reveals taxes paid or savings not transferred to the Owner, the Contractor will be

liable to the Owner for those amounts and the Owner may back-charge the Contractor for those amounts if a balance of funds due and payable remains at the time of such discovery.

1. The Contractor will require all Subcontractors of any tier to maintain all records, invoices, receipts, or other accounting data regarding material purchases. The Contractor will collect such records with each Application for Payment it receives from its Subcontractors and shall maintain such records in the same manner and location as the Contractor's records.
 2. The Contractor will ensure its Subcontractors and any lower-tier Subcontractors include these obligations in their contracts and bind themselves in the same manner as Contractor is bound to the Owner.
- D. The Contractor shall pay sales, consumer, use and similar taxes, including unemployment compensation taxes, for the Work provided by the Contractor that are legally enacted when bids are received or negotiations concluded, whether or not yet effective or merely scheduled to go into effect.

SC 7.11.A. Amend Paragraph 7.11.A. to read as follows:

- A. Contractor shall maintain in a safe place at the Site one printed record copy of all Drawings, Specifications, Addenda, current Progress Schedule, Change Orders, Work Change Directives, Field Orders, written interpretations and clarifications, and approved Shop Drawings. Contractor shall display a current Progress Schedule at the Site for reference and reliance by Owner and Engineer. Contractor shall keep such record documents in good order and annotate them to show changes made during construction. These record documents, together with all approved Samples, will be available to Engineer for reference. Upon completion of the Work, Contractor shall deliver these record documents to Engineer.

SC 7.12.B. Add the following language to the end of Paragraph 7.12.B.:

1. The Contractor shall erect and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations and notifying owners and users of adjacent sites and utilities.
2. The Contractor must not load nor permit any part of any structure at the Site to be loaded or subjected to stresses or pressures so as to endanger its safety or that of adjacent structures or property.
3. When explosives or other hazardous materials or equipment are stored or used or unusual methods are employed in the performance of the Work, the Contractor must exercise utmost care and conduct such activities under supervision of properly qualified personnel.
4. If the Contractor suffers injury or damage to person or property because of an act or omission of the Owner, or of any of the Owner's employees or agents, or of others for whose acts it is contended that the Owner is liable, written notice of such injury or damage, whether or not insured, must be given to the Owner within a reasonable time not exceeding ten (10) days after the onset or occurrence of such damage or injury or such shorter time as may be required by the Occupational Safety Hazards Administration (OSHA). The notice must provide sufficient detail to enable the Owner to investigate the matter. If notice is not received by the Owner within the time specified, any claims arising from the occurrence will be deemed to be conclusively waived, except to the extent of any applicable insurance (excluding self-insurance) coverage covering such occurrence. The provisions of this Section may not be used

by the Contractor in lieu of the requirements of Article 11 when the Contractor is seeking an adjustment in the Contract Price and are in addition to the requirements of Article 4 when the Contractor is seeking an adjustment in the Contract Times.

5. The Contractor must promptly remedy, at its sole cost and expense, damage and loss to property referred to in Subparagraph SC 7.12.B.6 caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable, unless otherwise instructed in writing by the Owner; provided that Contractor shall be entitled to do so under protest and subject to the right to submit a Change Proposal to recover the costs and / or time incurred in remedying any damage or loss accordance with Article 11. This obligation is in addition to, and not in limitation of, the Contractor's obligations for indemnification under Paragraph SC 7.18.A. and the Contractor's responsibility to repair and or replace that portion of the Work and any materials and equipment to be incorporated therein which are damaged as a result of criminal mischief as specified in Subparagraph SC 7.12.B.6.
6. The Contractor is responsible for taking all reasonable and necessary precautions to secure and protect the Site, the Work, materials and equipment to be incorporated therein, and any tools or equipment of the Contractor necessary or beneficial to the performance of the Work from damage due to vandalism, theft, or other criminal mischief. The Contractor must repair and/or replace that portion of the work and any materials or equipment to be incorporated therein and any tools or equipment of the Contractor necessary or beneficial to performance of the Work which are damaged or stolen due to vandalism, theft or any other criminal mischief at its expense whether or not covered by insurance. No increase in the Contract Price will be granted to the Contractor as a consequence of any delay, impacts or inefficiencies resulting from any act of vandalism, theft or other criminal mischief whether or not caused or contributed to by the Contractor's negligence.

SC 7.12.E Add the following at the end of Paragraph 7.12.E:

; provided that Contractor shall be entitled to do so under protest and subject to the right to submit a Change Proposal to recover the costs and / or time incurred in remedying any such damage, injury, or loss in accordance with Article 11.

SC 7.15 Delete Paragraph 7.15.A. in its entirety and replace with the following:

In an emergency affecting safety of persons or property, the Contractor must take all necessary action, without the necessity for any special instruction or authorization from the Owner or Engineer, to prevent threatened damage, injury or loss. The Contractor must promptly, but in all events within twenty-four (24) hours of the emergency, report such action in writing to the Owner and Engineer. If the Contractor incurs additional costs on account of or is delayed by such emergency, the Contractor may request a change in the Contract Price or Contract Times to account for such additional costs or delay in accord with Articles 7, 8 and 15. The Contractor must file any such request within ten (10) days of the emergency or it is deemed waived. Any adjustment in the Contract Price or Contract Times shall be limited to the extent that the emergency work is not attributable to the fault or neglect of the Contractor or otherwise the responsibility of the Contractor under the Contract Documents.

SC 7.16.B. Add the following language to the end of Paragraph 7.16.B:

4. The Contractor must correct at its cost, and without any adjustment in Contract Times, any Work the correction of which is required due to the Contractor's failure to obtain approval of a submittal required to have been obtained prior to proceeding

with the Work, including, but not limited to, correction of any conflicts in the Work resulting from such failure.

SC 7.17 **In the Heading of this Paragraph 7.17, delete “and Guarantee”.**

SC 7.17.A Delete all references to “guarantee” in this Paragraph 7.17.A.

SC 7.17.B Delete “and guarantee” from this Paragraph 7.17.B.

SC 7.17.B **Add the following at the end of Paragraph 7.17.B:**

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, ALL IMPLIED WARRANTIES, INCLUDING BUT NOT LIMITED TO, MERCHANTABILITY, SUITABILITY, AND FITNESS FOR A PARTICULAR PURPOSE, ARE HEREBY DISCLAIMED AND ARE NULL AND VOID.

SC 7.17 **Add the following language to the end of Section 7.17:**

- E. The Contractor’s general warranty and any additional or special warranties are not limited by the Contractor’s obligations to specifically correct defective or nonconforming Work as provided in Article 14, or are they limited by any other remedies provided in the Contract Documents. The Contractor shall also be liable for any damage to property or persons (including death) including direct damages relating to any breach of the Contractor’s general warranty or any additional or special warranties required by the Contract Documents.
- F. The Contractor must furnish all special warranties required by the Contract Documents to the Owner no later than Substantial Completion. The Owner may require additional special warranties in connection with the approval of “Or-Equals” or Substitutions, Allowance items, Work that is defective or nonconforming, or the acceptance of nonconforming Work pursuant to Article 14.
- G. *After Substantial Completion*
 - 1. In addition to the Contractor’s obligations under Paragraph SC 7.17.F., if, within two years after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Subparagraph SC 15.01.B.3., or by terms of an applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of written notice from the Owner to do so unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the two-year period (or the period as agreed to by the Owner and Construction Manager and set forth in the Contract) for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor and to make a claim for breach of warranty. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner or Engineer, the Owner may correct it in accordance with Section 14.07.
 - 2. The two-year period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual completion of that portion of the Work.
 - 3. The two-year period (or the period as agreed to by the Owner and Construction Manager and set forth in the Contract) for correction of Work shall not be extended by corrective Work performed by the Contractor pursuant to this Section SC 7.17.

4. The Contractor shall remove from the Site portions of the Work that are not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner.
5. The Contractor shall bear the cost of correcting destroyed or damaged construction, whether completed or partially completed, of the Owner or separate contractors caused by the Contractor's correction or removal of Work that is not in accordance with the requirements of the Contract Documents.
6. Nothing contained in this Section SC 7.17 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the two-year period for correction of Work as described in Paragraph SC 7.17.G.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

SC 7.18.A. Revise Paragraph 7.18.A. to read as follows:

- A. To the fullest extent permitted by Laws and Regulations, and in addition to any other obligations of Contractor under the Contract or otherwise, Contractor shall indemnify, defend, and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, attorneys, and other professionals, and all court, arbitration, mediation, or other dispute resolution costs) arising out of or relating to the performance of the Work, provided that any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than (1) the Work itself, or (2) the materials and equipment to be incorporated therein), including the loss of use resulting therefrom but only to the extent caused by any negligent act or omission of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work or anyone for whose acts any of them may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder; provided however, that Contractor's indemnity obligations do not apply to the extent caused by or attributable to a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described in this Paragraph SC 7.18.A.

SC 7.18.B. Add the following Paragraph after Paragraph SC 7.18.A.:

- B. In claims against any person or entity indemnified under Paragraph SC 7.18.A by an employee of the Contractor, a Subcontractor, anyone directly employed by them or anyone for whose acts they may be liable, the indemnification obligation under Paragraph SC 7.18.A. shall not be limited by the amount of insurance Contractor is required to carry under Article 6, nor by a limitation on amount or type of damages, compensation or benefits payable by or for the Contractor or a Subcontractor under workers' compensation acts, disability benefit acts or other employee benefit acts.

ARTICLE 8 – OTHER WORK AT THE SITE

SC 8.01. Add the following language to the end of Section 8.01:

- E. The Contractor shall reimburse the Owner for costs the Owner incurs that are payable to a separate contractor because of the Contractor's delays, improperly timed activities or defective construction. The Owner shall be responsible to the Contractor for costs the Contractor incurs because of a separate contractor's delays, improperly timed activities, damage to the Work or defective construction.
- F. The Contractor shall promptly remedy damage the Contractor wrongfully causes to completed or partially completed construction or to property of the Owner or separate contractors as provided in Subparagraph SC 7.12.B.5.

SC-8.02 Delete Paragraphs 8.02.A. and B. in their entirety and replace with the following:

- A. The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and to award separate contracts in connection with other portions of the Project or other construction or operations on the Site under Conditions of the Contract identical or substantially similar to these including those portions related to insurance and waiver of subrogation. If the Contractor claims that delay or additional cost is involved because of such action by the Owner, the Contractor shall make such Claim as provided in Article 12.
- B. When separate contracts are awarded for different portions of the Project or other construction or operations on the Site, the term "Contractor" in the Contract Documents in each case shall mean the Contractor who executes each separate Owner-Contractor Agreement.
- C. The Owner shall provide for coordination of the activities of the Owner's own forces and of each separate contractor with the Work of the Contractor, who shall cooperate with them. The Contractor shall participate with other separate contractors and the Owner in reviewing their current Progress Schedule. The Contractor shall make any revisions to the Progress Schedule deemed necessary after a joint review and mutual agreement. The Progress Schedule shall then constitute the schedules to be used by the Contractor, separate contractors and the Owner until subsequently revised.
- D. Unless otherwise provided in the Contract Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces, the Owner shall be deemed to be subject to the same obligations and to have the same rights that apply to the Contractor under the Conditions of the Contract, including, without excluding others, those stated in Articles 6 and 7, this Article 8, and Article 14.

SC-8.03.D Revise Paragraph 8.03.D to read as follows:

- D. If Contractor damages, delays, disrupts, or interferes with the work of any other contractor, or any utility owner performing other work at or adjacent to the Site, through Contractor's failure to take reasonable and customary measures to avoid such impacts, or if any claim arising out of Contractor's actions, inactions, or negligence in performance of the Work at or adjacent to the Site is made by any such other contractor or utility owner against Contractor, Owner, or Engineer, then Contractor shall (1) promptly attempt to settle the claim as to all parties through negotiations with such other contractor or utility owner, or otherwise resolve the claim by arbitration or other dispute resolution proceeding or at law, and (2) indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against any such claims, and

against all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such damage, delay, disruption, or interference, to the extent such claims, costs, losses, and damages are caused by Contractor's failure, actions, inactions, or negligence as set forth above.

ARTICLE 9 – OWNER’S RESPONSIBILITIES

SC 9.06.A. Delete Paragraph 9.06.A. in its entirety.

ARTICLE 10 – ENGINEER’S STATUS DURING CONSTRUCTION

SC-10.03 Add the following language after Paragraph 10.03.A:

- B. The Resident Project Representative (RPR) will be Engineer's representative at the Site, will act as directed by and under the supervision of Owner, shall be the Owner's agent in all matters relating to on-site construction review of the Contractor's work, shall communicate only with the Owner and the Contractor (or Contractors), shall communicate with Subcontractors only through the Contractor or the Contractor's authorized superintendent, and will confer with Engineer regarding RPR's actions.
 - 1. General: RPR's dealings in matters pertaining to the Work in general shall be with Engineer and Contractor. RPR's dealings with Subcontractors shall only be through or with the full knowledge and approval of Contractor.
 - 2. Schedules: Review the Progress Schedule, schedule of Shop Drawing and Sample submittals, and Schedule of Values prepared by Contractor and consult with Engineer concerning acceptability.
 - 3. Conferences and Meetings: Attend meetings with Contractor, such as preconstruction conferences, progress meetings, job conferences, and other Project-related meetings, and prepare and circulate copies of minutes thereof.
 - 4. Liaison:
 - a. Serve as Engineer's liaison with Contractor. Working principally through Contractor's authorized representative or designee, assist in providing information regarding the provisions and intent of the Contract Documents.
 - b. Assist Engineer in serving as Owner's liaison with Contractor when Contractor's operations affect Owner's on-Site operations.
 - c. Assist in obtaining from Owner additional details or information, when required for proper execution of the Work.
 - 5. Interpretation of Contract Documents: Report to Engineer and Owner when clarifications and interpretations of the Contract Documents are needed and transmit to Contractor clarifications and interpretations as issued by Engineer and Owner.
 - 6. Shop Drawings and Samples:
 - a. Record date of receipt of Samples and Contractor-approved Shop Drawings.
 - b. Receive Samples which are furnished at the Site by Contractor, and notify Engineer of availability of Samples for examination.

- c. Advise Engineer and Contractor of the commencement of any portion of the Work requiring a Shop Drawing or Sample submittal for which RPR believes that the submittal has not been approved by Engineer.
- 7. Modifications: Consider and evaluate Contractor's suggestions for modifications in Drawings or Specifications and report such suggestions, together with RPR's recommendations, if any, to Owner and Engineer. Transmit to Contractor in writing decisions as issued by Owner and Engineer.
- 8. Review of Work and Rejection of Defective Work:
 - a. Conduct on-Site observations of Contractor's work in progress (relating to portions of the project designed and specified by the Engineer under the Contract Documents) to assist Engineer in determining if the Work is in general proceeding in accordance with the Contract Documents.
 - b. Report to Owner and Engineer whenever RPR believes that any part of Contractor's work in progress is defective, will not produce a completed Project that conforms generally to the Contract Documents, or will imperil the integrity of the design concept of the completed Project as a functioning whole as indicated in the Contract Documents, or has been damaged, or does not meet the requirements of any inspection, test or approval required to be made; and advise Engineer of that part of work in progress that RPR believes should be corrected or rejected or should be uncovered for observation, or requires special testing, inspection or approval.
- 9. Inspections, Tests, and System Start-ups:
 - a. Verify that tests, equipment, and systems start-ups and operating and maintenance training are conducted in the presence of appropriate Owner's personnel, and that Contractor maintains adequate records thereof.
 - b. Observe, record, and report to Owner and Engineer appropriate details relative to the test procedures and systems start-ups.
- 10. Records:
 - a. Prepare a daily report or keep a diary or log book, recording Contractor's hours on the Site, Subcontractors present at the Site, weather conditions, data relative to questions of Change Orders, Field Orders, Work Change Directives, or changed conditions, Site visitors, deliveries of equipment or materials, daily activities, decisions, observations in general, and specific observations in more detail as in the case of observing test procedures; and send copies to Owner and Engineer.
 - b. Record names, addresses, fax numbers, e-mail addresses, web site locations, and telephone numbers of all Contractors, Subcontractors, and major Suppliers of materials and equipment.
 - c. Maintain records for use in preparing Project documentation.
- 11. Reports:
 - a. Furnish to Owner and Engineer periodic reports as required of progress of the Work and of Contractor's compliance with the Progress Schedule and schedule of Shop Drawing and Sample submittals.

- b. Draft and recommend to Owner and Engineer proposed Change Orders, Work Change Directives, and Field Orders. Obtain backup material from Contractor.
 - c. Immediately notify Owner and Engineer of the occurrence of any Site accidents, emergencies, acts of God endangering the Work, force majeure or delay events, damage to property by fire or other causes, or the discovery of any Constituent of Concern or Hazardous Environmental Condition.
- 12. Payment Requests: Review applications for payment with Contractor for compliance with the established procedure for their submission and forward with recommendations to Owner and Engineer, noting particularly the relationship of the payment requested to the Schedule of Values, Work completed, and materials and equipment delivered at the Site but not incorporated in the Work.
- 13. Certificates, Operation and Maintenance Manuals: During the course of the Work, verify that materials and equipment certificates, operation and maintenance manuals and other data required by the Contract Documents to be assembled and furnished by Contractor are applicable to the items actually installed and in accordance with the Contract Documents, and have these documents delivered to Engineer for review and forwarding to Owner prior to payment for that part of the Work.
- 14. Completion:
 - a. Participate in Owner's and Engineer's visits to the Site to determine Substantial Completion, assist in the determination of Substantial Completion and the preparation of a Punch List of items to be completed or corrected.
 - b. Participate in Engineer's final visit to the Site to determine completion of the Work, in the company of Owner and Contractor, and prepare a final Punch List of items to be completed and deficiencies to be remedied.
 - c. Observe whether all items on the final list have been completed or corrected and make recommendations to Owner and Engineer concerning acceptance and issuance of the notice of acceptability of the Work.
- C. The RPR shall not:
 - 1. Authorize any deviation from the Contract Documents or substitution of materials or equipment (including "or-equal" items).
 - 2. Exceed limitations of Owner's or Engineer's authority as set forth in the Contract Documents.
 - 3. Undertake any of the responsibilities of Contractor, Subcontractors, or Suppliers.
 - 4. Advise on, issue directions relative to, or assume control over any aspect of the means, methods, techniques, sequences or procedures of Contractor's work.
 - 5. Advise on, issue directions regarding, or assume control over security or safety practices, precautions, and programs in connection with the activities or operations of Owner or Contractor.

6. Participate in specialized field or laboratory tests or inspections conducted off-site by others except as specifically authorized by Owner and Engineer.
7. Accept Shop Drawing or Sample submittals from anyone other than Contractor.
8. Authorize Owner to occupy the Project in whole or in part.

ARTICLE 11 – AMENDING THE CONTRACT DOCUMENTS; CHANGES IN THE WORK

SC 11.04.B.4. Add the following Subparagraph after Subparagraph 11.04.B.3.:

4. Where the work involved is not covered by unit prices contained in the Contract Documents, the unit prices will be determined by mutually agreed-upon prices.

ARTICLE 12 – CLAIMS

SC 12.01.B. Revise Paragraph 12.01.B to read as follows:

Submittal of Claim: The party submitting a Claim shall deliver it directly to the other party to the Contract in writing promptly (but in no event later than 10 days) after the start of the event giving rise thereto or within 10 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later; in the case of appeals regarding Change Proposals within 10 days of the decision under appeal. The party submitting the Claim shall also furnish a copy to the Engineer, for its information only. The responsibility to substantiate a Claim shall rest with the party making the Claim. In the case of a Claim by Contractor seeking an increase in the Contract Times or Contract Price, or both, Contractor shall certify that the Claim is made in good faith, that the supporting data are accurate and complete, and that to the best of Contractor's knowledge and belief the amount of time or money requested accurately reflects the full amount to which Contractor is entitled. As a condition to making a Claim for an increase in the Contract Price, the Contractor shall maintain and produce accurate records to substantiate all additional costs actually incurred. If a Claim for a change in Contract Price is approved, the Owner shall pay the Contractor actual costs incurred, plus either (a) ten-percent (10%) for overhead and profit for work performed by the Contractor, or (b) five percent (5%) overhead and profit for work performed by a subcontractor, as applicable.

SC 12.01.C. Revise Paragraph 12.01.C. to read as follows:

Review and Resolution: The party receiving a Claim shall review it thoroughly, giving full consideration to its merits. The two parties shall seek to resolve the Claim through the exchange of information and direct negotiations. The parties may extend the time for resolving the Claim by mutual agreement. All actions taken on a Claim shall be stated in writing and submitted to the other party, with a copy to Engineer. Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Paragraph SC 5.06.B. and Article 16, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents. The Engineer will prepare Change Orders and issue Certificates for Payment in accordance with the decisions of the Owner.

ARTICLE 13 – COST OF THE WORK; ALLOWANCES; UNIT PRICE WORK

SC 13.03.E. Delete Paragraph 13.03.E in its entirety and replace with the following:

The unit price of an item of Unit Price Work shall be subject to reevaluation and adjustment under the following conditions:

1. if the extended price of a particular item of Unit Price Work amounts to twenty percent (20%) or more of the Contract Price (based on estimated quantities at the time of Contract formation) and the variation in the quantity of that particular item of Unit Price Work actually furnished or performed by Contractor differs by more than twenty percent (20%) from the estimated quantity of such item indicated in the Agreement; and
2. if there is no corresponding adjustment with respect to any other item of Work; and
3. if Contractor believes that Contractor has incurred additional expense as a result thereof, Contractor may submit a Change Proposal, or if Owner believes that the quantity variation entitles Owner to an adjustment in the unit price, Owner may make a Claim, seeking an adjustment in the Contract Price.

ARTICLE 14 – TESTS AND INSPECTIONS; CORRECTION, REMOVAL OR ACCEPTANCE OF DEFECTIVE WORK

SC 14.02.C. Add the following language to the end of Paragraph 14.02.C.:

If any test indicates non-compliance with applicable Specifications, Laws or Regulations, at least one additional test will be paid for by Contractor to determine actability of material or methods if such non-compliance is due to the performance of the Work.

SC 14.02.G. Add the following Paragraph after Paragraph 14.02.F.:

In addition to the tests required by this Section 14.02, the Owner may at any time arrange for other tests, inspections and specific approvals to be performed by others selected by the Owner, at the Owner's expense. The Contractor must cooperate with the Owner and provide access to the Work for such tests, inspections and approvals.

SC 14.03.F Delete the last sentence of this Paragraph 14.03.F and replace with the following:

Prior to final payment, if Owner and Contractor are unable to agree as to the measure of such claims, costs, losses, and damages resulting from defective Work, then either Party may proceed with a Change Proposal or Claim, as appropriate, as provided elsewhere in the general conditions and supplementary conditions.

SC 14.05.A. On the first line of Paragraph 14.05.A., after "Engineer", add ", upon written authorization from the Owner,".

SC 14.05.B. On the second line of Paragraph 14.05.B, after "Engineer", add ", upon written authorization from the Owner,".

SC 14.05.C. In the second line of Paragraph 14.05.B, after "Engineer's request", add ", upon written authorization from the Owner,".

SC 14.07.A. On the first line of Paragraph 14.07.A., delete "reasonable time after written notice from Engineer to correct defective Work" and substitute "seven-day period (or such shorter time as may be reasonable to Owner under the circumstances)" after written notice from Engineer to commence with or agree upon a plan with Owner to commence to correct defective Work.

ARTICLE 15 – PAYMENTS TO CONTRACTOR; SET-OFFS; COMPLETION; CORRECTION PERIOD

SC 15.01.B.3. At the end of Paragraph 15.01.B.3, add the following language:

Until the conditions set forth in this Section have been satisfied by Contractor, the amount of each monthly Application for Payment must include the value of each line item as indicated on the

approved Schedule of Values, to the extent completed, less retainage as stated in the Agreement. The retainage shall be released as indicated in the Agreement and once the following conditions have been satisfied: (A) Upon Substantial Completion of all work, (2%) shall be released, this does not apply to Partial Substantial Completions. (B) Full retainage shall be released with the final payment when Contractor has completed all Punch List items to the satisfaction of the Owner and the Engineer; (C) the Contractor has delivered to the Owner all Project close-out documents as required by the Agreement, including (1) all maintenance and operating manuals; (2) marked sets of as-built drawings and/or other electronic media documenting as-built conditions; (3) all guarantees and warranties required under the Contract Documents; (4) a list of names, addresses, and telephone numbers for all subcontractors and others providing guarantees and warranties; and (D) the applicable governmental authorities have issued to the Owner the final use and occupancy permit for the Project.

SC 15.01.C.1. On the first line of Paragraph 15.01.C.1, delete “10” and substitute “7”.

SC 15.01.D.1. On the first line of Paragraph 15.01.D.1., delete “Ten” and substitute “In accordance with K.S.A. 16-1903 (c) and any amendments thereto, unless extenuating circumstances exist, thirty”.

SC 15.03.B. Add the following new subparagraphs to Paragraph 15.03.B:

1. The Contractor shall promptly correct Work rejected by the Engineer or failing to conform to the requirements of the Contract Documents, whether discovered before or after Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Engineer’s services and expenses made necessary thereby, shall be at the Contractor’s expense;
2. If some or all of the Work has been determined not to be at a point of Substantial Completion and will require re-inspection or re-testing by Engineer, the cost of such re-inspection or re-testing, including the cost of time, travel and living expenses, shall be paid by Contractor to Owner. If Contractor does not pay, or the parties are unable to agree as to the amount owed, then Owner may impose a reasonable set-off against payments due under Article 15.

SC 15.04. A.2 Add “Partial” in front of Substantial Completion

SC 15.04.A.3 Delete last sentence and replace with the following:

If Engineer considers that part of the Work to be substantially complete, the provisions of Paragraph 15.03 will apply with respect to certification of Partial Substantial Completion of that part of the Work and the division of responsibility in respect thereof and access thereto.

SC 15.04.A.5 Add the following after Paragraph 15.04.A.4:

5. For any portion of the Work used or occupied under this Paragraph 15.04, the Parties acknowledge and agree that the warranty and correction periods applicable to the Contract shall commence on the date which Owner executes a Partial Substantial Completion Certificate for such portion/s of the Work and end two years thereafter.

SC 15.06.A. Delete Section 15.06.A. in its entirety and replace with the following:

A. Completion of Punch List and Application for Payment

1. When the Contractor has completed or corrected all items on the final Punch List and considers that the Work is complete and ready for final acceptance, the Contractor must give written notice to the Owner and the Engineer and request a final inspection of the Work as provided in Paragraph SC 15.06.A.2. The Contractor's notice and request for a final inspection must be accompanied by a final Application for Payment and the submittals required by Paragraph SC 15.06.A.3.
2. Upon receipt of the Contractor's notice and request for final inspection, the Owner and the Engineer will promptly make such inspection and, when the Owner and the Engineer concur that the Work has been fully completed and is acceptable under the Contract Documents, the Engineer will issue a Certificate of Final Completion to the Owner. The Contractor's notice and request for final inspection constitutes a representation by the Contractor to the Owner that the Work has been completed in full and strict accordance with terms and conditions of the Contract Documents. The Engineer will promptly notify the Contractor if the Owner or the Engineer do not concur that the Work is finally complete. In such case, the Contractor must bear the cost of any additional services of the Owner or the Engineer until the Work is determined to be finally complete.
3. Neither final payment nor any remaining retained percentage will become due until the Contractor submits the following documents to the Engineer:
 - a. an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner), have been paid or otherwise satisfied, submitted on a form as may be prescribed by or agreed to by the Owner;
 - b. a release or waiver of Liens on behalf of the Contractor and a similar release or waiver on behalf of each Subcontractor and Supplier, accompanied by an affidavit of release of Liens on a form as may be prescribed by or agreed to by the Owner;
 - c. a certificate evidencing that the Contractor's liability insurance and Performance Bond remain in effect during the correction period (as stated in the Agreement) following Substantial Completion as set forth in Section SC 7.17;
 - d. a written statement that the Contractor knows of no substantial reason that the insurance will not be renewable to cover the period required by the Contract Documents;
 - e. consent of surety to final payment, submitted on a form prescribed by or agreed-upon by the Owner;
 - f. other data required by the Owner establishing payment or satisfaction of obligations, such as receipts, releases and waivers of Liens, Claims, security interests or encumbrances arising out of the Contract, to the extent and in such form as may be prescribed by the Owner;
 - g. an as-built Site plan in the form and number required by the Contract Documents;
 - h. all warranties and bonds required by the Contract Documents;
 - i. Record Documents as provided in Paragraph SC 7.11.A. and return of Contract Documents as provided therein; and
 - j. Attic stock items as required by the Contract Documents; and
 - k. As applicable, documentation of approval by the agency having jurisdiction for all Storm Water Management (SWM) work as to allow closeout of the SWM Permit.

Approval by the appropriate agency will be based on satisfying all Permit requirements including the submission of all required SWM documentation.

4. If the Contractor is unable to secure from any Subcontractor or Supplier a release or waiver required under the Contract, the Contractor must furnish a bond satisfactory to the Owner to indemnify the Owner and any co-obligees under the bond against any lien or claim from such Subcontractor or Supplier. The Contractor must also indemnify the Owner for all costs incurred by the Owner in removing, discharging or otherwise settling all Subcontractor or Supplier Liens or Claims, including all personnel and consultant costs and reasonable attorneys' fees.

SC 15.06.B. In the first sentence of Paragraph 15.06.B., fifth line, delete "ten" and substitute "seven".

SC 15.08.A. In the first sentence of Paragraph 15.08.A., first line, delete "one year" and substitute "two years".

ARTICLE 16 – SUSPENSION OF WORK AND TERMINATION

SC 16.01.A. Delete Paragraph 16.01.A. and replace with the following:

- A. The Owner may, without cause, order the Contractor in writing to suspend, delay or interrupt the Work in whole or in part for such period of time as the Owner may determine by written notice to Contractor and Engineer.
- B. The Contract Price and Contract Times shall be adjusted for increases in the cost and time caused by suspension, delay or interruption as described in Paragraph SC 16.01.A. Adjustment of the Contract Price shall not include profit. No adjustment shall be made to the extent
 1. that performance is, was or would have been so suspended, delayed or interrupted by another cause for which the Contractor is responsible; or
 2. that an equitable adjustment is made or denied under another provision of the Contract; or
 3. if a Change Proposal seeking such adjustments is submitted more than thirty (30) days after the date fixed by Owner for resumption of the Work.

SC 16.02.A.3. Delete "or" at the end of Subparagraph 16.02.A.3.

SC 16.02.A.4. Delete "." at the end of Subparagraph 4 and substitute "; or"; add the following Subparagraphs after Subparagraph 4.:

5. Assuming Owner is not in breach of its payment obligations under the Contract, Contractor's failure to make payment to Subcontractors or Suppliers for materials or labor in accordance with the respective agreements between the Contractor and such Subcontractors or Suppliers;
6. Contractor anticipatorily breaches or repudiates the Contract;
7. Contractor fails to make satisfactory progress in the prosecution of the Work required by the Contract; or
8. Contractor endangers the performance of the Contract.

SC 16.02.B.-G. Delete Paragraphs 16.02.B. through 16.02.G. and substitute the following:

- B. The Owner may terminate the Contract, in whole or in part, whenever the Owner determines that sufficient grounds for termination exist as provided in Subsection SC 16.02.A. The Owner will provide the Contractor (and any surety) with a written notice to

cure the default. If the default is not cured or Contractor does not commence the cure of the default within ten (10) days (or within an additional time period agreed upon by the Parties) pursuant to a timetable for cure of the default agreed upon by the Parties, the termination for default is effective on the date specified in the Owner's written notice. However, if the Owner determines that default contributes to the curtailment of an essential service or poses an immediate threat to life, health, or property, the Owner may terminate the Contract immediately upon issuing oral or written notice to the Contractor without any prior notice or opportunity to cure. A termination for default is a termination for convenience if the termination for default is later found to be without justification.

- C. Upon receipt of written notice from the Owner of termination, the Contractor must:
 - 1. cease operations as directed by the Owner in the notice and, if required by the Owner and County, participate in an inspection of the Work with the Owner, County and the Engineer to record the extent of completion thereof, to identify the Work remaining to be completed or corrected, and to determine what temporary facilities, tools, equipment and construction machinery are to remain at the Site pending completion of the Work;
 - 2. complete or correct the items directed by the Owner, and take actions necessary, or that the Owner may direct, for the protection and preservation of any stored materials and equipment and completed Work;
 - 3. unless otherwise directed by the Owner, remove its tools, equipment and construction machinery from the Site, and
 - 4. except as directed by the Owner, terminate all existing subcontracts and purchase orders and enter into no further subcontracts or purchase orders.
- D. Following written notice from the Owner of termination and Contractor's failure to commence the cure of the default (if allowed) in accordance with Paragraph 16.02.B, the Owner may:
 - 1. declare Contractor to be in default and give Contractor (and any surety) notice that the contract is terminated;
 - 2. enforce the rights available to Owner under any applicable performance bond;
 - 3. take possession of the Site and of all materials and equipment thereon, and at the Owner's option, such temporary facilities, tools, construction equipment and machinery thereon owned or rented by the Contractor that the Owner elects to utilize in completing the Work;
 - 4. accept assignment of subcontracts and purchase orders; and
 - 5. complete the Work by whatever reasonable method the Owner may deem expedient.
- E. Upon termination for cause,
 - 1. the Contractor must take those actions described in Section SC 16.02.C, and the Owner may take those actions described in Section SC 16.02.D, subject to the prior rights of the Contractor's Surety.
 - 2. If the Contractor files for Bankruptcy protection, or a petition is filed against it, under applicable Bankruptcy laws, and Contractor wishes to affirm the Contract, Contractor shall immediately file with the Bankruptcy Court a motion to affirm the Contract and shall provide satisfactory evidence to Owner and to the Court of its ability to cure all present defaults and its ability to timely and successfully complete the Work. If

Contractor does not make such an immediate filing, Contractor accepts that Owner may petition the Bankruptcy Court to lift the Automatic Stay and permit Owner to terminate the Contract.

- F. When the Owner terminates the Contract for cause, the Contractor is not entitled to receive further payment until the Work is completed and the costs of completion have been established.
- G. If the unpaid balance of the Contract Price less amounts which the Owner is entitled to offset from the unpaid Contract balance including actual or Liquidated Damages for which Contractor is responsible up to the date of termination, exceeds the costs of completing the Work, including compensation for the Owner's and the Engineer's services made necessary thereby, such excess will be paid to the Contractor or Surety, as directed by the Surety. If such costs exceed the unpaid Contract balance, the Contractor must pay the difference to the Owner upon written demand. This obligation for payment survives termination of the Contract.
- H. In completing the Work following termination for cause, the Owner is not required to solicit competitive Bids or to award completion work to the lowest Bidder, but may obtain such completion work and related services on the basis of sole source procurement and negotiated compensation.
- I. Where Contractor's services have been terminated by Owner, the termination will not affect any rights or remedies of Owner against Contractor then existing or which may thereafter accrue, or any rights or remedies of Owner against Contractor or any surety under any performance, maintenance, and/or statutory bond. Any retention or payment of money due Contractor by Owner will not release Contractor from liability.
- J. If and to the extent that Contractor has provided a performance and maintenance bond under the provisions of Paragraph 6.01.A, the provisions of that bond shall govern over any inconsistent provisions of Section 16.02.

SC 16.03 Delete Section 16.03 in its entirety and substitute the following:

- A. The Owner may, at any time, terminate the Contract or any portion thereof or of the Work for the Owner's convenience and without cause.
- B. Upon receipt of written notice from the Owner of termination, the Contractor must:
 - 1. Cease operations as directed by the Owner in the notice and, if required by the Owner, participate in an inspection of the Work with the Owner and the Engineer to record the extent of completion thereof, to identify the Work remaining to be completed or corrected, and to determine what temporary facilities, tools, equipment and construction machinery are to remain at the Site pending completion of the Work;
 - 2. Complete or correct the items directed by the Owner, and take actions necessary, or that the Owner may direct, for the protection and preservation of any stored materials and equipment and completed Work;
 - 3. Unless otherwise directed by the Owner, remove its tools, equipment and construction machinery from the Site, and
 - 4. Except as directed by the Owner, terminate all existing subcontracts and purchase orders related to the Work and enter into no further subcontracts or purchase orders therefor.
- C. Following written notice from the Owner of termination, the Owner may:

1. Take possession of the Site and of all materials and equipment thereon, and at the Owner's option, such temporary facilities, tools, construction equipment and machinery thereon owned or rented by the Contractor that the Owner elects to utilize in completing the Work;
 2. Accept assignment of subcontracts and purchase orders; and
 3. Complete the Work by whatever reasonable method the Owner may deem expedient.
- D. In case of termination for the Owner's convenience, the Contractor will be entitled to compensation only for the following items:
1. Payment for acceptable Work performed up to the date of termination;
 2. The costs of preservation and protection of the Work if requested to do so by the Owner;
 3. The cost of terminating the following contracts including:
 - a. Purchased materials but only if not returnable and provided to the Owner, or the restocking or return charge, if any, if returnable at the Owner's written election;
 - b. Equipment rental contracts if not terminable at no cost but not to exceed an amount equal to thirty (30) days rental;
 4. Documented transportation costs associated with removing Contractor-owned equipment;
 5. Documented demobilization and close-out costs; and
 6. Overhead and profit on the foregoing not to exceed ten (10%) percent.

The Contractor is not entitled to any other costs or compensation (including lost or expected profits or revenues, uncompensated overhead or related expenses, or other economic loss arising out of or resulting from such termination, including, but not limited to, the cost of preparing and documenting its compensable expenses under this Subparagraph SC 16.03.D as a consequence of the Owner's termination of the Contract for convenience. The Contractor conclusively and irrevocably waives its right to any other compensation or damages (compensatory or punitive) arising from termination of the Contract. If the Owner and the Contractor are unable to agree upon the amounts specified in this subsection, the Contractor may submit a Claim as provided in Article 12. The Claim must be limited to resolution of the amounts specified in Subparagraphs SC 16.03.D.1, SC 16.03.D.2., SC 16.03.D.3., and SC 16.03.D.4. No other cost, damages or expenses may be claimed or paid to the Contractor or considered as part of the Claim, the same being hereby conclusively and irrevocably waived by the Contractor. Any such Claim must be delivered to the Owner within thirty (30) days of the termination of the Contract and must contain a written statement setting forth the specific reasons and supporting calculations and documentation as to the amounts the Contractor claims to be entitled to under this Subsection as a result of the termination of the Contract.

- E. The Contractor's obligations surviving final payment under the Contract, including without limitation those with respect to insurance, indemnification, and correction of Work that has been completed at the time of termination, remains effective notwithstanding termination for convenience of the Owner.

ARTICLE 17 – FINAL RESOLUTION OF DISPUTES

SC 17.02 Add the following new paragraph immediately after Paragraph 17.01:

Mediation

- A. Claims, disputes, or other matters in controversy arising out of or related to the Contract except those waived as provided for in Paragraph SC 6.06.B shall be subject to mediation as a condition precedent to binding dispute resolution the institution of legal or equitable proceedings by either party.
- B. The parties shall endeavor to resolve their Claims by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of binding dispute resolution proceedings but, in such event, mediation shall proceed in advance of binding dispute resolution. Mediation shall proceed in advance of legal or equitable proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration is stayed pursuant to this Paragraph SC 17.02.B., the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.
- C. The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof. Any dispute under the Agreement not resolved by mediation shall be litigated in the District Court of Johnson County, Kansas, or the closest Court of competent jurisdiction thereto as a bench trial, provided however, that a bench trial does not violate any provisions of the Fairness in Public Construction Contracting Act.

ARTICLE 18 - MISCELLANEOUS

SC 18.07.A. Delete Paragraph 18.07.A. in its entirety and substitute the following:

This Agreement shall be construed and enforced in accordance with the laws of the State of Kansas without regard to its conflict of laws provisions. Any action to enforce this Agreement or that arises out of or relates to any of the provisions of this Agreement shall be brought, heard in, and be subject to the jurisdiction of the District Court of Johnson County, Kansas.

SC 18.09 Add the following new Paragraph after Paragraph 18.08:

The contract awardee, if not resident of Kansas, shall appoint a Process Agent as provided in the form in these documents. The contractor awardee, shall file the Process Agent form with the Secretary of State of Kansas, as provided by law.

If the contract awardee has a Foreign Corporation Application (or any other form that is acceptable to Owner and filed with the Kansas Secretary of State, Contractor shall provide this form to the City with the Agreement.