

**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 Super Critical Water Oxidation Pilot (1-C-019-25), 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: Super Critical Water Oxidation, GMP 1.
 2. Drawings (not attached but incorporated by reference) consisting of __ sheets total between two plan sets with each sheet bearing the following general title: Super Critical Water Oxidation, GMP 1.
 3. Addenda (not attached but incorporated by reference) issued for development of the Guaranteed Maximum Price (numbers __ to __, 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 –

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 \$ 0,000,000.00. 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:

GMP #1:	\$	0,000,000.00	Amendment No. 1 (this amendment)
Total GMP:	\$	0,000,000.00	

- 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: _____

(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.: _____

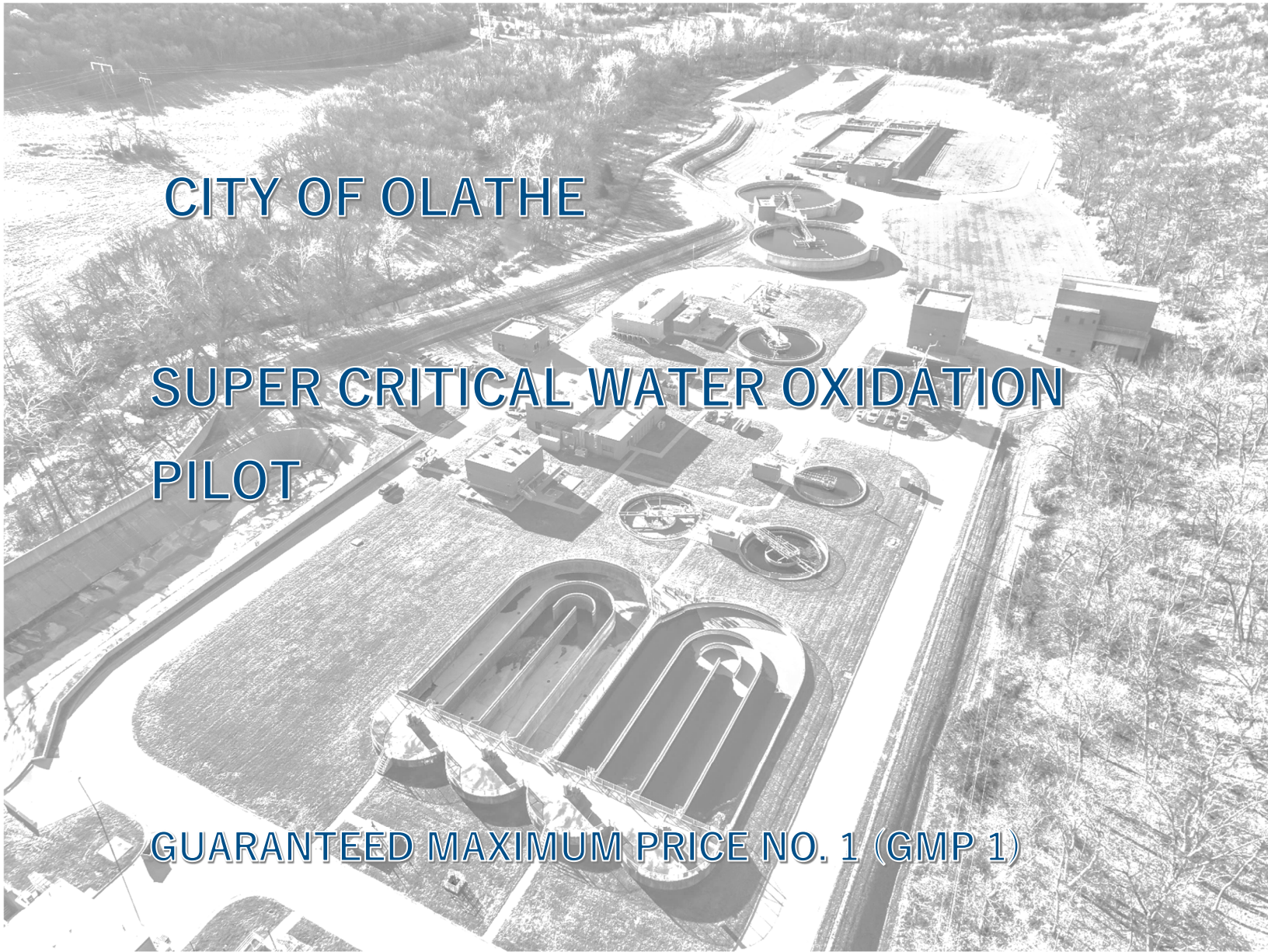
(where applicable)

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

SUPER CRITICAL WATER OXIDATION
PILOT

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

October 7, 2025

Reference: Super Critical Water Oxidation Pilot, PN 1-C-019-25

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 **\$6,188,970.00** for the Cedar Creek WWTP Improvements Project. “Guaranteed Maximum Price (GMP 1) No.1” is the first of at least two (2) Guaranteed Maximum Price Proposals for the Cedar Creek WWTP Super Critical Water Oxidation Pilot Project.

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

- Section 1 – Bidding Documents Summary and Cost Summary Sheet
 - 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 – SCWO Proposal Documents Dated 7/31/25
 - AirSCWO 06 Scope as provided by vendor
 - One time project fees as outlined by vendor
 - Pretreatment Skid Option 1 Scope as provided by vendor
 - Additional 1 year warranty to cover the full two year warranty requirements
 - SCADA Description
 - Full Dewatering System PFD
 - AirSCWO Data Sheets
 - Preliminary Analytical Report Olathe WAS
 - Proposed Project Schedule
 - Budget Estimate for Six Months Operation (not included in current GMP, but could be added in future GMP)
- Attachment A – CMAR General Conditions Covered by Fees

During the Procurement Phase it was agreed by the City of Olathe, KS, Burns & McDonnell, and Garney Companies, Inc. that Liquidated Damages may be assessed on the Project for Contractor delays to the Critical Path of the Project Schedule that effect the Substantial Completion Date in the amount of **\$500 per day** as well as the Final Completion Date for the Project in the amount of **\$500 per day**.

Garney Construction and the City of Olathe have established a **Project Contingency Fund** as a part of this GMP in the amount of \$488,000 or 10% of the cost of work. 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 **October 31, 2025**. 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

COST SUMMARY SHEET



**Super Critical Water Oxidation Pilot
GMP No. 01
City of Olathe, KS**

Garney CMAR General Conditions		
CMAR General Conditions (7.5% of COW)	\$	402,600.00
Solicitation Set 01 General Conditions	\$	402,600.00

Cost of Work - Solicitation Set 01		
Bid Package 1.1 - Super Critical Water Oxidation Pilot - 374Water Capital Costs	\$	4,880,000.00
Solicitation Set 01 Cost of Work Subtotal	\$	4,880,000.00

Contingency		
Contingency (10% as Determined by the Team)	\$	488,000.00
Contingency Subtotal	\$	488,000.00

CMAR Fees, Bonds, and Insurance		
CMAR Construction Management Fee (5.75% of COW)	\$	331,810.00
CMAR Construction Management Bond (0.80%)	\$	46,165.00
CMAR Construction Management Insurance (0.70%)	\$	40,395.00
CMAR Fees, Bonds, and Insurance Subtotal	\$	418,370.00

GMP 1 Total	\$	6,188,970
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SECTION 2

SCWO PROPOSAL DOCUMENTS

374Water AirSCWO Proposal

Updated 07/31/2025

The City of Olathe, KS

Project Name	City of Olathe	
Project No.	Olathe-07312025	
Submitted to	Sabrina Parker, P.E Bill Morehead, Assoc. DBIA Kerrie Greenfelder	Water & Sewer Manager (CE V) Public Works, City of Olathe, Kansas Project Manager, Garney Construction Project Manager, Burns & McDonnell
Submitted by	Naomi Senehi Sudhakar Viswanathan	Technical Solutions Lead Vice President
Date	07/31/2025	
Revision	10	
Confidentiality	This document is confidential and may contain proprietary information. It is not to be disclosed to a third party without the written consent of 374Water Inc.	

Sabrina Parker, P.E
Water & Sewer Manager
Public Works, City of Olathe, Kansas

Subject– AirSCWO 6 Proposal for the City of Olathe

Thank you for your continued interest in 374Water and our AirSCWO technology. We greatly value the City of Olathe's commitment to exploring innovative and sustainable solutions for wastewater treatment.

AirSCWO offers a transformative approach to residuals and waste treatment, providing the City with a pathway to achieve multiple long-term benefits—including enhanced sustainability, energy and resource recovery, and meaningful risk reduction. In particular, AirSCWO's ability to destroy harmful emerging contaminants such as PFAS can help protect public health, reduce regulatory risk, and position the City as a leader in next-generation wastewater management.

As a demonstration of our support for forward-looking partners and early adopters, this proposal includes a nearly 50% discount off the current commercial market price for the AirSCWO 6 system.

Upon execution of the purchase order, we require a 50% down payment on both the AirSCWO 6 and dewatering systems, totaling \$2,300,000 USD. This down payment will be put towards initiating the project – including tasks such as detailing system design, detailed engineering, procurement of long lead items, and beginning unit fabrication.

We appreciate the opportunity to work with the City and look forward to advancing this important initiative together.



Sincerely,
Sudhakar Viswanathan
Vice President, Municipal and Industrial Solutions
374Water

OVERVIEW

The City of Olathe is exploring the installation of a 374Water AirSCWO supercritical water oxidation unit to treat unstabilized waste activated sludge (WAS). The AirSCWO system design basis is for treating the WAS at a rate of 4.92 wet tonnes per day (WTPD) with an adjusted solids concentration of 10.00%. The assumed operation of the system is 24/5/218. Note that all units are in metric tonnes, and the density of sludge is assumed to be the same as that of water (1,000 kg/m³). Based on this, implementing the AirSCWO technology yields the following benefits:

- Approximately 4,416 kwh thermal energy is produced per day and is re-used in the AirSCWO system
- The AirSCWO system will yield roughly 0.15 ± 5% metric dry tonnes of phosphorus-rich minerals per day
- The AirSCWO system discharges approximately 14.1 cubic meters of non-potable clean water per day

Based on simulations and continuous design improvement, 374Water expects that the AirSCWO process as supplied will have an uptime factor of ~70% (roughly equating to 24/5/218 operation). Based on the very limited number of similar units built and fielded by 374Water, and the newness of the technology, The City of Olathe accepts that this is a **good faith projection only** which is not based on actual operating experience.

The City of Olathe's interest in AirSCWO technology underscores its commitment to innovative and sustainable waste management solutions that enhance energy efficiency, resource recovery, and environmental protection.

TECHNOLOGY OVERVIEW

AirSCWO harnesses the power of supercritical water oxidation (SCWO) to treat wet organic wastes such as dewatered wastewater sludge. It is a transformative technology that utilizes the unique properties of water above its critical point of 705°F (374°C) and 3,200 psi (221 bar). At these conditions, in the presence of oxygen, organic wastes are rapidly converted to water, inert solids (i.e. minerals), gasses, and reusable heat with >99.9% reduction in volatile solids volume. The reaction is illustrated as shown in Figure 1.



Figure 1 - AirSCWO Reaction

The continuous process utilizes the energy embedded in the waste to support autothermal operations at a steady state. A process block flow diagram is illustrated in Figure 2.

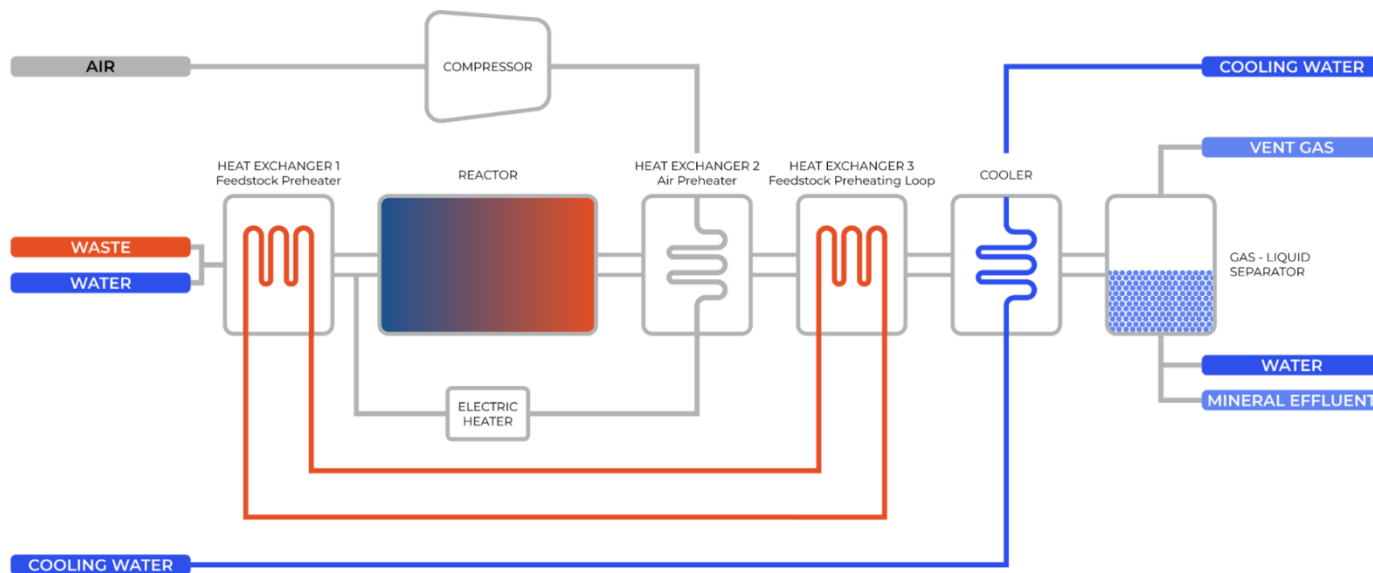


Figure 2 - 374Water AirSCWO Process Flow

374Water's AirSCWO systems address prior challenges of other SCWO systems by incorporating preheating of the waste slurry, followed by mixing the waste with supercritical water and air. Air serves as an oxidant which is safer than pure oxygen. The internal mixing rapidly brings the waste undergoing treatment to supercritical conditions which minimizes corrosion, and the risks associated with charring and plugging. All organics in the residuals are rapidly oxidized to CO₂, the heat of oxidation is recovered to heat the influent waste, and the water and minerals may be recovered for reuse.

ORIGINAL BASIS OF DESIGN

Per the table below, the original design basis assumed a WAS volume of 21.00 WTPD at 2.0% DS, and adjusted (via dewatering) to 5.41 WTPD at 13.00% DS. Note that no trim fuel was assumed to be needed, to achieve the target caloric content in the feed. This dewatering was based on a measured calorific content of 19.1 MJ/kg (reported as 8,206 BTU/lb in the Hazen Research results).

SOURCE	VOL. (WTPD)	CONC. (% DS)	HHV (MJ/kg)
Unstabilized WAS	5.41	13.00%	2.48
Trim fuel	0.00	100.00%	46
COMBINED	5.41	13.00%	2.48

REVISED BASIS OF DESIGN¹

SOURCE	VOL. (WTPD)	CONC. (% DS)	HHV (MJ/kg)
Unstabilized WAS	4.92	10.00%	1.91
Trim fuel	0.36	100.00%	16.9
COMBINED	5.29	10.00%	2.95

¹ Based on 374Water's operating experience with the AirSCWO 6 unit over the past 2 years, the design basis has been revised to reflect conditions optimized for processing biosolids over extended duration. These conditions include an increased water feed rate, which results in higher effluent flow, and requires the addition of a trim fuel for temperature attainment and control. In addition, the revised design basis accounts for variation in the incoming solids content, and therefore a worst case of 10% is assumed (vs. the nominal 13%). 374Water continues to improve and optimize the AirSCWO system design.

ORIGINAL AirSCWO ESTIMATED OUTPUTS

OUTPUT	DESCRIPTION
Heat	Generates roughly 3,606 kWh /day of thermal energy that is reused in the AirSCWO system.
Minerals	Produces roughly 0.17 ± 5% metric dry tons of phosphorus rich minerals each day with the post-treatment mineral separation add-on option.
Non-potable Water	Produces roughly 5.1 cubic meters of non-potable clean water each day with the post-treatment mineral separation add-on option.
Notes: The heat recovery add-on option, and resulting electricity generation, has been removed due to the expected project timeline outpacing the development of the heat recovery add-on option. Without the mineral separation add-on option, the effluent volume will be ~100% of the feed volume and contain <1% (m/v) inert inorganic solids of size <4mm.	

REVISED ESTIMATED AirSCWO OUTPUTS

OUTPUT	DESCRIPTION
Heat	Generates roughly 4,416 kWh th/day of thermal energy that is reused in the AirSCWO system.
Minerals	Produces roughly 0.15 ± 5% metric dry tonnes of phosphorus rich minerals each day with the post-treatment mineral separation add-on option.
Non-potable Water	Produces roughly 14.1 cubic meters of non-potable clean water each day with the post-treatment mineral separation add-on option.
Notes: The heat recovery add-on option, and resulting electricity generation, has been removed due to the expected project timeline outpacing the development of the heat recovery add-on option. Without the mineral separation add-on option, the minerals and non-potable water will be discharged as a combined effluent. In the event of varying operational conditions, effluent handling should be designed to support a SCWO effluent discharge of up to 600 L/h.	

BUDGET ESTIMATE

Olathe, KS			
TABLE 1: CAPITAL SALE ESTIMATE		ORIGINAL ESTIMATES	REVISED ESTIMATES
		<i>One (1) AirSCWO 6 treating 5.41 WTPD of WAS at 13.0% with 0.00 m³/day of trim fuel</i>	<i>One (1) AirSCWO 6 treating 4.92 WTPD of WAS at 10.0% with 0.36 m³/day of trim fuel</i>
1 x AirSCWO 06 (incl. one-year std mechanical warranty) ¹	System & Warranty	\$3,000,000	\$3,000,000
One-time project fees ²	Service	\$452,800	\$452,500
(Add-on) Pretreatment (Option 1) - complete system ³	System	\$1,200,000	\$1,140,000
(Add-on) Pretreatment (Option 2) - grinder, screen and live bottom bin only ³	System	\$466,539	\$466,000
(Add-on) Additional 1-year warranty (starting month 13) ⁴	Warranty	\$287,500	\$287,500
(Add-on) Post-treatment mineral separation system (dewatering containers with filter cloth)	REMOVED PER PREVIOUS COMMUNICATIONS		
(Add-on) Heat to electric recovery unit	REMOVED PER PREVIOUS COMMUNICATIONS		
Consultancy engineering and design fees	Service	Out of Scope	Out of Scope
Permits and regulatory compliance costs	Service	Out of Scope	Out of Scope
TOTAL CAPITAL COSTS – Option 1 pretreatment		\$4,940,300	\$4,880,000
TOTAL CAPITAL COSTS – Option 2 pretreatment		\$4,206,839	\$4,206,000
¹ Includes a nearly 50% discount off the current commercial market price for the AirSCWO 6 system. ² As described in "Appendix A - 1_One Time Fees". ³ As described in "Appendix A -4A Complete Dewatering System PFD" and "Appendix A -4B Partial Dewatering System PFD". ⁴ Equipment warranty covers manufacturing defects in pumps, reactors, and control systems, including replacement of faulty components within the warranty period. It does not cover normal wear-and-tear or damage due to operator error. The standard one (1) year warranty shall commence upon completion of system checkout, startup, and successful completion of a one-week demonstration period and/or upon the owner's acceptance of the pretreatment and AirSCWO 6 system. An optional extended warranty is available beginning in month thirteen (13), as outlined in the Operating Costs section. The operation of the unit by the manufacturer does not preclude the Customer from procuring a two (2) year warranty. Any costs associated with repairs not covered under the applicable warranty shall be the responsibility of the Customer.			

TABLE 2: ANNUAL ESTIMATED OPERATING COSTS		ORIGINAL ESTIMATES	REVISED ESTIMATES
AirSCWO System Maintenance ¹	Out of Scope	\$47,602	\$48,000
(Add-on) Pretreatment (Option 1) maintenance - complete system ²	Out of Scope	\$24,000	\$24,000
(Add-on) Pretreatment (Option 2) maintenance - grinder, screen and live bottom bin only ³	Out of Scope	\$7,465	\$8,000
(Add-on) Post-treatment mineral separation replacement filters	REMOVED PER PREVIOUS COMMUNICATIONS		
(Add-on) Heat to electric recovery unit maintenance	REMOVED PER PREVIOUS COMMUNICATIONS		
Fuel for 45 startups/shutdowns per year (original using \$3.2/gal diesel, revised with ~\$8/gal MEG)	Out of Scope	\$1,305	\$3,000
Trim fuel per year	Out of Scope	\$0	\$165,000
Electricity costs @ \$0.15/kWh (original using 2,750 kWh/d, revised with ~ 4,400 kWh/d)	Out of Scope	\$89,925	\$145,000
Labor costs per FTE (annualized salary each) ⁴	Out of Scope	\$87,000	\$87,000
TOTAL OPERATING COSTS - Option 1 pretreatment		\$249,832	\$472,000
TOTAL OPERATING COSTS - Option 2 pretreatment		\$233,297	\$456,000
The annual operating costs are 374Water's estimate of what the customer can expect to pay once the unit is operating beyond the pilot period. The customers' actual costs may be different from these estimates. Aside from the extended warranty, the above-listed OPEX costs are to be fully covered by the customer (i.e. these items are not serviced by or paid to 374Water). Note that the warranty does not cover normal wear-and-tear or damage due to customers operator error. ¹ Maintenance tasks may include labor and field service tech allowance for the replacement/repair/calibration of parts and instrumentation, replacement parts purchasing from 13 months on if the extended warranty is not purchased, and contingency for (planned and any unplanned) shutdowns and associated waste disposal costs. ² Associated CAPEX of \$1,140,000 USD. ³ Associated CAPEX of \$466,000 USD. ⁴ Headcount needed depends on the operating schedule determined by the Customer.			

BUY-BACK

If the Customer initially purchases an AirSCWO 06 and decides to upsize to an AirSCWO 30 (“**Buy-Back**”): the Customer exchanges the AirSCWO 06 for an AirSCWO 30, and is credited the AirSCWO 6 unit value at the time of Buy-Back (estimated at \$1M) to the agreed upon AirSCWO 30 purchase price at the time of Buy-Back. Should the Customer choose not to upgrade to an AirSCWO 30 unit, and intends to decommission and sell the AirSCWO 06 unit, 374Water shall retain the right of first refusal to purchase the AirSCWO 06.

CRITICAL SPARE ESTIMATE

A high level estimate for critical spares for a year will be in the range of \$150,000 to \$250,000.

PROPOSED PAYMENT SCHEDULE

1. 50% upon execution of purchase order (PO)
2. 40% through progressive milestone payments tied to delivery of components and equipment
3. 5% upon completion of startup and commissioning
4. 5% upon final handover and customer acceptance

SHIPPING

Pricing includes freight-on-board (FOB) (Olathe, KS).

ADDITIONAL INFORMATION

APPENDIX A

1. One time project fees breakdown
2. Scope of work breakdown
3. SCADA description
4. Dewatering PFD
 - a. Full dewatering system
 - b. Partial dewatering system
5. AirSCWO system datasheet
6. Preliminary Analytical Report – Olathe WAS
7. Proposed Project Schedule
8. Budget Estimate for Six (6)-Month Operations

APPENDIX A – 1_One time project fees breakdown

APPENDIX: One time project fees breakdown		ESTIMATES
1. Engineering		\$45,600
Site Planning	Site Assessment & Preparation Plan Design Load Values Support for Permitting & Compliance	
Mechanical Engineering	Equipment Layout Materials Selection & Procurement Support Mechanical Integration Planning Piping & Connections Support Design	
Electrical Engineering	Control System Customization Design Utility Connection, Wiring & Compliance Review Electrical Drawings Safety & Inspection Planning	
2. System Installation		\$175,300
Mechanical Installation	Equipment Delivery & Staging Support Assembly & Mechanical Fit-up Support Piping & Connections Support Pressure & Leak Testing	
Electrical Installation	Power & Control Wiring System Integration & Panel Wiring Grounding & Safety Testing Final Inspection & Certification	
3. System Startup		\$102,400
Functional Testing & Calibration	Mechanical System Testing Electrical & Control System Verification Software & Automation Setup Performance Optimization Troubleshooting & Adjustments Initial Operator Training	
4. System Commissioning		\$129,200
Final Validation & Documentation	System Performance Evaluation Operator Training (2-months of included training, starting 2 weeks prior to system startup) Handover Final Reports & Documentation Post-Commissioning Support	
TOTAL		\$452,500

APPENDIX A – 2_Scope of work breakdown

APPENDIX: Scope of Supply / Scope of Division of Work

374Water = 374 / Owner = OWN / Site Contractor = GC / Not Applicable = N/A / TBD = To Be Determined

Equipment	Design	Furnish	Install
GENERAL			
Site Office for 374 Personnel (minimum 20ft x 10ft)	374	GC	GC
Internet & Telephone (Operating cost by 374)	374	374 / OWNER / GC	GC
Shipment Receipt, Unloading, & Storage	N/A	GC	GC
Pre-processing (Grinder, Screening, LBB Only) (Option 2)			
Sludge pre-processing	374	374	GC
Anchoring, ground rod insulation, conduits	GC	GC	GC
Field Painting	N/A	N/A	N/A
Platform and Ladder (if needed)	374	374	GC
PROCESS EQUIPMENT TO BE INSTALLED (inside the system boundary)			
AirSCWO 06	374	374	374
Anchoring, ground rod insulation, conduits	374 / GC	GC	GC
Field Painting	N/A	N/A	N/A
Platform and Ladder (if needed)	374	374	374
Pre-processing (Full Dewatering System) (Option 1)			
Sludge pre-processing	374	374	374
Anchoring, ground rod insulation, conduits	374 / GC	GC	GC
Field Painting	N/A	N/A	N/A
Platform and Ladder (if needed)	374	374	374

APPENDIX: Scope of Supply / Scope of Division of Work			
374Water = 374 / Owner = OWN / Site Contractor = GC / Not Applicable = N/A / TBD = To Be Determined			
Equipment	Design	Furnish	Install
Process Control System			
Software	374	374	374
Programming	374	374	374
Ethernet Interface	374	374	374
Existing SCADA Screen Modification	374 / OWNER	OWNER	OWNER
Electrical - 374 equipment interconnects			
PDP for System Equipment	374	374	374
Wiring	374	374	374
Conduit, Cable & Raceways, etc.	374	374	374 / GC
Permitting	GC	N/A	N/A
Foundations and Equipment Mounting Pads			
	374 / GC	GC	GC
System Startup and Initial Operation Before the Sludge Injection			
	374	374	374 / GC
Supervised Operation of the Unit After the First Day of Sludge Injection and Training of Operators			
	374	374	374 / GC
SLUDGE HOLDING TANK / FEED SYSTEM (Interface between OWNER and 374)			
Sludge holding/buffer tank	OWNER	OWNER	GC / OWNER
Sludge fill pump w/level control	OWNER	OWNER	GC / OWNER

APPENDIX: Scope of Supply / Scope of Division of Work

374Water = 374 / Owner = OWN / Site Contractor = GC / Not Applicable = N/A / TBD = To Be Determined

Equipment	Design	Furnish	Install
Pre-processing (Grinder, Screening, LBB Only) (Option 2)			
Sludge Transfer Pumps / Recirc	GC	GC	GC
Instruments	GC	GC	GC
Automatic Valves for sludge fill	OWNER	OWNER	GC / OWNER
Manual Valves	GC	GC	GC
Anchor Bolts	GC	GC	GC
Interconnecting Piping	GC	GC	GC
Pipe Hangers and Supports	GC	TBD	TBD
Field Painting	N/A	N/A	N/A
Pre-processing (Full Dewatering System) (Option 1)			
Sludge Transfer Pumps / Recirc	374	374	374
Instruments	374	374	374
Automatic Valves for sludge fill	OWNER	OWNER	GC / OWNER
Manual Valves	374	374	374
Anchor Bolts	GC	GC	GC
Interconnecting Piping	374	374	374
Pipe Hangers and Supports	374	TBD	TBD
Field Painting	N/A	N/A	N/A

APPENDIX: Scope of Supply / Scope of Division of Work

374Water = 374 / Owner = OWN / Site Contractor = GC / Not Applicable = N/A / TBD = To Be Determined

Equipment	Design	Furnish	Install
UTILITIES / INFRASTRUCTURE (outside the system boundary)			
Valves at scope boundary for process water of non-potable quality to the RO unit – at least 2 GPM (max of 7 GPM)	OWNER	OWNER	OWNER
Valves at scope boundary: Plant reclaim water - 80 GPM @95°F (36°C) max (if not available, we'll need to add a closed loop air-cooler & chiller)	OWNER	OWNER	OWNER
400Amps ¹ / 3-Phase / 480Volts power supply, Conduit, Cable & Raceways, etc.	OWNER	OWNER	OWNER
Biosolids sludge supply - see above details	OWNER	OWNER	OWNER
Drain – Capable of discharging up to 600 L/hr	374	OWNER	OWNER
¹ Note: Up to 800 Amps may be required, depending on the system configuration.			

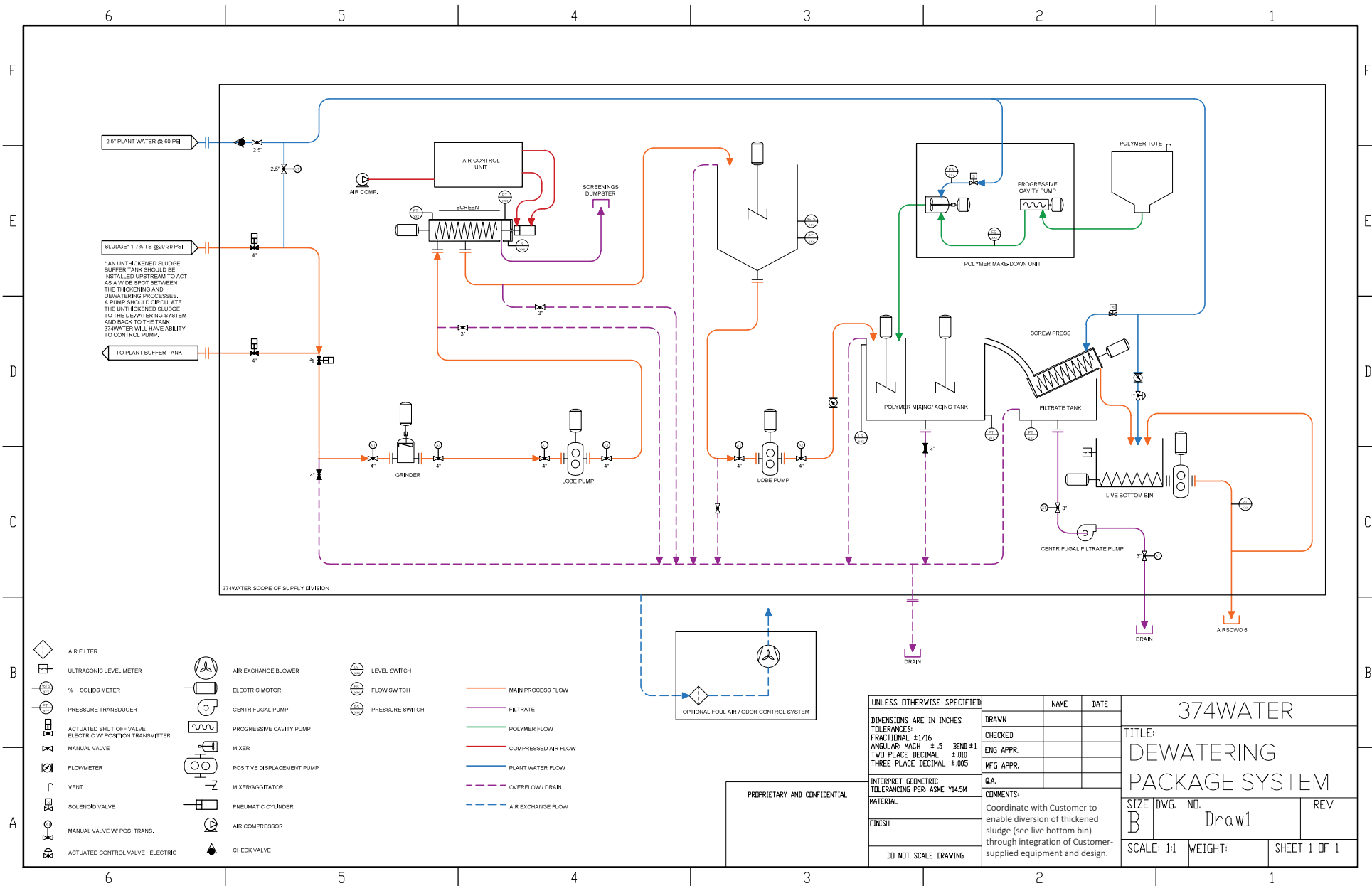
APPENDIX A – 3_SCADA description

Version 1 (with DW skid): The AS6 unit, with its dewatering skid, features two Allen-Bradley Logix5000 controllers, managing approximately 800 I/O's and thousands of additional data points (including alarms, states, and parameters). The main workstation of the unit runs OPC-UA server software, providing read-only access to the data. For scenarios requiring a limited number of data points, an OPC-UA server can also be configured directly on the PLC, ensuring higher availability. Note: The PLC's native protocol (CIP) is unrestricted; therefore, we recommend against its use to maintain proper system functionality.

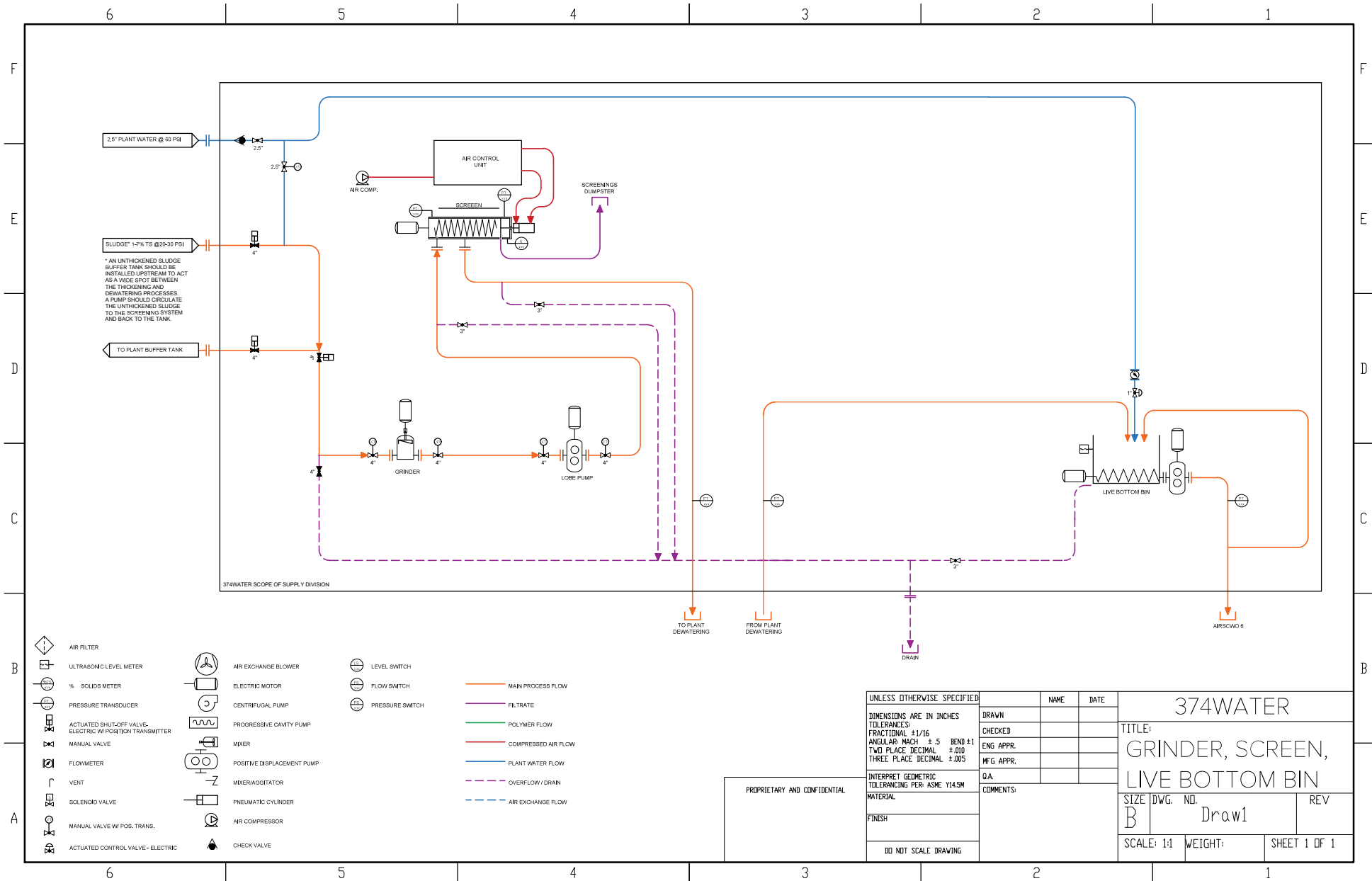
Version 2 (without DW skid): The AS6 unit features an Allen-Bradley Logix5000 controller, managing approximately 700 I/O's and thousands of additional data points (including alarms, states, and parameters). The main workstation of the unit runs OPC-UA server software, providing read-only access to the data. For scenarios requiring a limited number of data points, an OPC-UA server can also be configured directly on the PLC, ensuring higher availability. Note: The PLC's native protocol (CIP) is unrestricted; therefore, we recommend against its use to maintain proper system functionality.

Department of Defense Cybersecurity Requirements: NIST Level 4, Ubiquiti firewall

APPENDIX A – 4A_Full Dewatering System PFD



APPENDIX A – 4B Partial Dewatering System PFD



APPENDIX A – 5_AirSCWO Datasheet

AirSCWO 6 Datasheet

System Description:

Supercritical Water Oxidation (SCWO) takes organic waste (and the energy entrained within it) in the form of a pumpable slurry into supercritical conditions, then injects an oxidant in the form of air (20% O₂, 80% N₂), to completely oxidize and eliminate organic compounds. The unique properties of supercritical water result in the rapid (4-12 seconds) oxidation of the organic bonds in the waste, 99.9% of the organic energy entrained in the carbon bonds is released as heat. The SCWO reaction is exothermic, there is more recoverable energy in the organic compounds than it takes to pressurize and heat the waste to supercritical conditions. Plant water is softened and routed through an RO (reverse osmosis) system to lower the dissolved solids (TDS) content before being used in the SCWO process. A closed loop cooling water system supplies cooling to several process users (compressor and heat exchangers); cooling can be achieved using plant water (if temperature range is acceptable, preferred range of 5 to 30°C), or a supplemental chiller may be required. The SCWO system produces two output streams: effluent water with a small fraction of recoverable minerals and vent gas composed mainly of CO₂ and N₂.



Required Waste Stream:

Most sludge or cake requires some preparation prior to treatment with AirSCWO 6:

- Approximately 6 wet tonnes of homogenized sludge per day. Project-specific values may vary from design values.
 - # An “AirSCWO Wet Tonne” of sludge is qualified with ~3 MJ/kg. This generally equates to 10% to 13% TS for biosolids with co-fuel.
- Screened such that it is relatively grit free and particles do not exceed 4 mm in size

System site requirements:

1. **Water Supply:** The required total water supply for the system is 80 to 100 gpm at 5 to 30°C and 3 to 5 bar. A source of 100 gpm is preferred, and it is advised to have a redundant water supply. If non-potable water is used as the supply source, an additional 8 to 12 gpm of potable water (ambient T, ~3 bar, using ¾ to 1” water service line) is required. If non-potable water is used as the supply source, bag filters and an RO system will be used to adjust water quality.

2. Water Discharge: Capability to drain 600L/hr (3 gpm) of ~75°C effluent from the SCWO system and the capability to drain 97 gpm of ~45°C effluent from the cooling system (assuming an inlet temperature of 30°C, cooling water effluent temperature is dependent on influent temperature and is typically 10 to 15°C higher than the influent temperature). The streams can be drained jointly or separately. Note that the SCWO effluent contains minerals.
3. Electricity: 480V, 3 Phase, 400 Amps ¹ max draw during start-up for the AirSCWO 6 system. Without pre or post processing equipment, a 300 A supply is suitable. Continuous amp load will vary based on operational parameters and could range from 130-400 Amps, if needed, 250 amps can be used as an estimation.
4. Co-Fuel: A tank for onsite storage of liquid fuel for start-ups (estimated 10 gal/startup per AirSCWO 6 system with 45 startups/year) and trim-fuel (estimated at 0.36 WTPD). Types of fuel may include monoethylene glycol (MEG) or isopropyl alcohol (IPA). The tank size is dependent on the number of AirSCWO systems on site and existing facility permits. The larger the stored volume the better, with 250 gal or more preferred.
5. Surface: The AirSCWO system must be placed on a surface with a loading bearing capable of supporting 32,000 lb at minimum (this does not include the weight of pre or post treatment equipment).
6. Noise: The AirSCWO 6 unit typically has a sound output of 85 dB at 3m (~10 ft) away from the system boundary (this does not include the dB levels of pre or post treatment equipment).
7. Footprint: Final system dimensions and component weights will be provided later, once detailed engineering is complete. As agreed, this modular system is designed with flexibility in mind, and updated specifications will be shared as they become available.

¹ Note: Up to 800 amps may be required, depending on the system configuration.

APPENDIX A – 6_Preliminary Analytical Report – Olathe WAS



Hazen Research, Inc.
4601 Indiana Street
Golden, CO 80403 USA
Tel: (303) 279-4501
Fax: (303) 278-1528

Lab Control ID: 25F01158

Received: Apr 15, 2025

Reported: Apr 25, 2025

Purchase Order No.

None Received

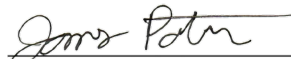
Customer ID: 06043Z
Account ID: Z06326

Nina Hubbard
City of Olathe, Kansas
25851 West 119th Street
City of Olathe, KS 66061

PRELIMINARY ANALYTICAL REPORT

*Report may only be copied in its entirety.
Results reported herein relate only to discrete samples
submitted by the client. Hazen Research, Inc. does not warrant
that the results are representative of anything other than the
samples that were received in the laboratory*

Reviewed and approved by:


James Potvin
Fuel Laboratory Manager

Customer ID: 06043Z

Account ID: Z06326

PRELIMINARY ANALYTICAL REPORT

Nina Hubbard
 City of Olathe, Kansas

Client Sample ID CC Cake
 Lab Sample ID 25F01158-001

Reporting Basis >	As Rec'd	Dry	Air Dry
Proximate (%)			
Moisture	84.35	0.00	1.22
Ash	2.68	17.12	16.92
Volatile	11.83	75.59	74.67
Fixed C	1.14	7.29	7.19
Total	100.00	100.00	100.00

Sulfur	0.152	0.970	0.958
Btu/lb (HHV)	1300	8307	8206
Btu/lb (LHV)	336	7699	
MMF Btu/lb	1332	10199	
MAF Btu/lb		10024	

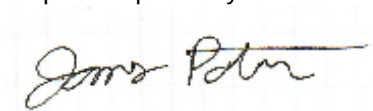
Ultimate (%)			
Moisture	84.35	0.00	1.22
Carbon	6.82	43.59	43.06
Hydrogen	1.03	6.56	6.48
Nitrogen	1.23	7.84	7.74
Sulfur	0.152	0.970	0.958
Ash	2.68	17.12	16.92
Oxygen*	3.74	23.92	23.62
Total	100.00	100.00	100.00

Chlorine** (%) NR

Air Dry Loss (%)	84.16	Lb. Alkali Oxide/MM Btu =	
		Lb. Ash/MM Btu=	20.61
		Lb. SO2/MM Btu=	2.334
		Lb. Cl/MM Btu=	NR
		F-Factor(dry),DSCF/MM Btu=	9,779

Total Sulfur (%) 0.152 0.970

Report Prepared By:



* Oxygen by difference

** Not usually reported as part of the ultimate analysis.

Fuel Laboratory



Hazen Research, Inc.
4601 Indiana Street
Golden, CO 80403 USA
Tel: (303) 279-4501
Fax: (303) 278-1528

Lab Control ID: 25F01158

Received: Apr 15, 2025

Reported: Apr 25, 2025

Purchase Order No.

None Received

Customer ID: 06043Z

Account ID: Z06326

PRELIMINARY ANALYTICAL REPORT

Nina Hubbard
City of Olathe, Kansas

Sieve Analysis Report

Customer Sample ID			CC Cake			
Lab Sample ID			25F01158-001			
Mesh Size			Direct Weight		Cumulative Weight (%)	
Pass - Retained			g	%	Retained	Pass
	-	1.0"	26.1	28.68	28.68	71.32
1.0"	-	0.5"	31.3	34.40	63.08	36.92
0.5"	-	0.25"	12.9	14.18	77.25	22.75
0.25"	-	6 m	10.5	11.54	88.79	11.21
6 m	-	10	9.8	10.77	99.56	0.44
10	-	30	0.2	0.22	99.78	0.22
30	-	50	0.1	0.11	99.89	0.11
50	-	70	0.1	0.11	100.00	0.00
70	-	100	0.0	0.00	100.00	0.00
100	-	pan	0.0	0.00	100.00	0.00
Total			91.0	100.00		

By:

Fuel Laboratory



Hazen Research, Inc.
4601 Indiana Street
Golden, CO 80403 USA
Tel: (303) 279-4501
Fax: (303) 278-1528

Lab Control ID: 25F01158

Received: Apr 15, 2025

Reported: Apr 25, 2025

Purchase Order No.

None Received

Customer ID: 06043Z

Account ID: Z06326

PRELIMINARY ANALYTICAL REPORT

Nina Hubbard
City of Olathe, Kansas

Elemental Analysis of Ash

Customer Sample ID	CC Cake
Lab Sample ID	25F01158-001
SiO ₂	%
Al ₂ O ₃	%
TiO ₂	%
Fe ₂ O ₃	%
CaO	%
MgO	%
Na ₂ O	%
K ₂ O	%
P ₂ O ₅	%
SO ₃	0.86
Total	0.86

By:

Fuel Laboratory

25F01158

HAZEN**ANALYTICAL REQUEST FORM 2025**Are you a new customer? ☐ Yes ☐ NoDo you have a quote? ☐ Yes ☐ No Quote #: _____**Hazen Research, Inc.**4601 Indiana Street
Golden, CO 80403
(303) 279-4501analytical@hazenresearch.comwww.hazenresearch.com*Please enter reporting information below (required):*

Company Name City of Olathe, Kansas

Contact Name Nina Hubbard

Address 25851 W 119th St, Olathe, KS 66061

Email NMHubbard@olatheks.org

Phone 913-971-8349

Please enter billing information below: ☐ Same info as above?

Billing Name/Dept. City of Olathe, Kansas

Contact Name Nina Hubbard

Address 25851 W 119th St

Email NMHubbard@olatheks.org

Phone 913-971-8349

**This form must
accompany samples
during shipment****PAYMENT
INFORMATION**

Purchase Order No. _____

Check No. _____

Amount, \$ _____

Payment questions? ar@hazenresearch.com

Visit www.hazenresearch.com for payment

Select Contact to pay your invoice

Orders less than \$100.00 require prepayment:

DO NOT PUT CREDIT CARD INFORMATION ON FORM

For companies outside the U.S., direct bank transfer must be received prior to analysis beginning.

**REPORT COMPLETION
INFORMATION**
(select one)

Standard ☒ 15-20 business days* 100% surcharge for rapid; must be approved
Rapid ☐ A.S.A.P. **prior** to sample submission

**Turnaround times vary based on a variety of factors and can be as long as 6 weeks*

SAMPLE SAFETY
(check all that apply)

Are any of your samples hazardous? ☐ Yes ☒ No ☐ Unsure

Did you include a Safety Data Sheet (SDS)? ☐ Yes ☒ No CAS # _____

Possible hazards: ☐ Warning ☐ Danger ☐ Organic ☐ Aqueous

☐ Toxic ☐ Corrosive ☐ Explosive ☐ Flammable ☐ Health ☐ Oxidizing ☐ Environmental

SAMPLE RETURN
(select one)

Samples remain the property of client; we return all samples except water/rad chemical:

☐ Pick up sample(s) (If unclaimed, subject to a storage charge)

☐ Sample return (\$4 per sample – minimum applies)

☐ SDS included – dispose if possible; you understand the sample will be returned if no options are available (\$4 per sample – minimum applies).

SIGNATURE REQUIRED BELOW – If you do not sign this form, your analysis may be delayed or returned.

RELINQUISHED AND SIGNED BY: Nina HubbardDigitally signed by Nina Hubbard
Date: 2025.04.02 08:05:53 -05'00'**DATE:** 4/2/2025

By signing above, you agree that services shall be governed by Hazen's Analytical Terms and Conditions on page 3;
Hazen's terms and conditions supersede other Terms and Conditions.

HAZEN INTERNAL ONLY

LCID: _____

CUSTOMER NO: _____

Radiation Screen	_____ c.p.m.	SDS ☐ Yes ☐ No	Hazards: <u>1</u>
Date/Time Received by:	<u>-JP 13:15 4.15.2025 -alice</u>		
Shipping:	FedEx UPS USPS Other	Tracking:	Hazen ship: _____
Comments: _____			

Revised: December 2, 2024

25F01158

ANALYTICAL REQUEST FORM – SAMPLE INFORMATION (email this document to analytical@hazenresearch.com)

If you have more than 5 samples or other information, please include documentation, information, sample IDs attached to this form with shipment (check box below).

Additional Information

Sample ID	Composition/Matrix	4°C	Phase*	SDS	Exp. Values, Units, etc.
1	CC Cake	Sludge	☐	☐	
2			☐	☐	
3			☐	☐	
4			☐	☐	
5			☐	☐	

☐ I have included additional samples/info on another page. *So – Solid L – Liquid SI – Sludge C – Carbon O – Oil U – Unknown
Solids must be 75 µm (200 mesh) or finer for most analyses; additional charges apply if preparation and/or digestion are required.

MICROANALYSIS		FIRE ASSAY		FUEL and BIOMASS	
☐ Carbon	☐ Gold (Gravimetric)	☐ Ash preparation	☒ Moisture	☐ BTU	☐ Carbonate Carbon/Carbon Dioxide
☐ Hydrogen	☐ Gold/Silver (Gravimetric)	☒ Elemental Analysis of Ash		☐ C ☐ H ☐ N ☐ S (LECO) ☐ CHN	☐ Proximate (Volatile% Moisture% Ash% Fixed C)
☐ Nitrogen (Dumas)	☐ Gold (AA Finish)	☐ Proximate / BTU / S		☐ Ultimate** (CHN S Moisture% Ash% O by difference)	☐ Ultimate**/Proximate
☐ Nitrogen (Chemiluminescence)	☐ Gold (Bullion)	☒ Ultimate**/Proximate/BTU		☐ Fluorine (ISE)	
☐ Nitrogen (TKN)	☐ Silver				
☐ Sulfur (LECO)	☐ Pt/Pd/Rh (ICP Finish)				
☐ Oxygen	☐ Platinum				
☐ Basic Nitrogen	☐ Palladium				
☐ CHN ☐ CH	☐ Rhodium				
☐ Phosphorus					

WATER ANALYSIS		MINERALOGY	
☐ pH/Acidity	☐ Ammonia	☐ XRD	☐ TGA
☐ Alkalinity	☐ Conductance	☐ QXRD	
☐ TDS	☐ UV absorb	☐ XRF (Loose)	
☐ TSS	☐ Karl Fischer	☐ XRF (Whole)	
☐ TS		☐ PSA (Horiba)	

ORGANIC CARBON		ADDITIONAL DETERMINATIONS	
☐ TOC	☐ Trace TOC	☐ Acid, insoluble	☐ Hardness
☐ TOC (by difference)		☐ Ash %	☐ Chloride (solids)
☐ TOX		☐ Density	☐ Fluoride (ISE) (solids)
☐ EOX	☐ TX	☐ Loss on ignition	☐ Sulfide

ION CHROMATOGRAPHY		PACKAGE SCANS – Add to the scans by selecting elements on the right	
☐ Anion Scan		☐ ICP-OES SCAN	Al, As, Ba, Be, Bi, Ca, Cd, Ce, Co, Cr, Cu, Fe, K, La, Li, Mg, Mn, Mo, Na, Ni, P, Pb, Re, S, Sb, Se, Si, Sn, Sr, Te, Th, Ti, Tl, V, Y, Zn, Zr
☐ Fluoride (F ⁻)		☐ ICP-OES RARE EARTH SCAN	Al, Ce, Cr, Dy, Er, Eu, Gd, Hf, Ho, Ir, La, Lu, Mo, Nb, Nd, Ni, Pm, Pr, Rh, Sc, Si, Sm, Ta, Tb, Ti, Tm, Y, Yb, Zr
☐ Chloride (Cl ⁻)		☐ ICP-MS RARE EARTH SCAN	Ce, Dy, Er, Eu, Gd, Ho, La, Lu, Nd, Pr, Sc, Sm, Tb, Tm, Yb, Y
☐ Bromide (Br ⁻)		☐ ICP-FULL SCAN	Ag, Al, As, Au, B, Ba, Be, Bi, Ca, Cd, Ce, Co, Cr, Cu, Dy, Eu, Fe, Ga, Gd, Ge, Ho, In, Ir, K, La, Li, Lu, Mg, Mn, Mo, Na, Nb, Nd, Ni, P, Pb, Pd, Pr, Pt, Rb, Rh, Ru, S, Sb, Sc, Se, Sm, Sn, Sr, Tb, Th, Ti, Tl, Tm, U, V, Y, Yb, Zn, Zr

Select instrument:☐ ICP-OES (ppm)☐ ICP-MS(ppb)☐ AA**ELEMENTS**

- | | |
|-------------------------------------|---------------------------------------|
| ☐ Aluminum | ☐ Nickel |
| ☐ Antimony | ☐ Niobium |
| ☐ Arsenic | ☐ Osmium |
| ☐ Barium | ☐ Palladium |
| ☐ Beryllium | ☐ Phosphorus |
| ☐ Bismuth | ☐ Platinum |
| ☐ Boron | ☐ Potassium |
| ☐ Bromine | ☐ Praseodymium |
| ☐ Cadmium | ☐ Rhenium |
| ☐ Calcium | ☐ Rhodium |
| ☐ Cerium | ☐ Rubidium |
| ☐ Cesium | ☐ Ruthenium |
| ☐ Chromium | ☐ Samarium |
| ☐ Cobalt | ☐ Selenium |
| ☐ Copper | ☐ Silicon |
| ☐ Erbium | ☐ Silver |
| ☐ Europium | ☐ Sodium |
| ☐ Gadolinium | ☐ Strontium |
| ☐ Gallium | ☐ Sulfur |
| ☐ Germanium | ☐ Tantalum |
| ☐ Gold | ☐ Tellurium |
| ☐ Hafnium | ☐ Terbium |
| ☐ Holmium | ☐ Thallium |
| ☐ Indium | ☐ Thorium |
| ☐ Iron | ☐ Thulium |
| ☐ Lanthanum | ☐ Tin |
| ☐ Lead | ☐ Titanium |
| ☐ Lithium | ☐ Tungsten |
| ☐ Lutetium | ☐ Uranium |
| ☐ Magnesium | ☐ Vanadium |
| ☐ Manganese | ☐ Ytterbium |
| ☐ Mercury | ☐ Yttrium |
| ☐ Molybdenum | ☐ Zinc |
| ☐ Neodymium | ☐ Zirconium |

HAZEN**HAZEN RESEARCH**

Didn't find what you were looking for? Tell us more about your desired analysis:

Complete list of tests requested 1. Elemental Analysis of Ash 2. Ultimate**/Proximate/BTU 3. PSD (Sieve) 4. Bomb Calorimetry (ASTM D5865) – Calorific Value, BTU/lb 5. Moisture Content (ASTM D3173)

**Oxygen calculated by difference unless direct Oxygen selected.

Attach additional pages if you need more space for IDs or have more information about your desired analysis. Please include quotes, purchase orders, safety info (SDS), composition/matrix sheets with your submission.

This is not a complete list. Please inquire for additional analysis or a quote.

APPENDIX A – 7_Proposed Project Schedule

[illegible]

APPENDIX A-8_Budget Estimate for Six (6)-Month Operations

APPENDIX: Budget Estimate for Six (6)-Month Operations

	OPTION 1: 374Water Staff Only ¹ . No Olathe Staff	OPTION 2: 374Water and Olathe Staff as part of Operations Team
	<i>Monthly Cost</i>	<i>Monthly Cost</i>
Month 1	\$233,000	\$233,000
Month 2	\$233,000	\$233,000
Month 3	\$233,000	\$155,000
Month 4	\$233,000	\$78,000
Month 5	\$233,000	\$52,000
Month 6	\$233,000	\$52,000
Total Costs	\$1,398,000	\$803,000

¹ Option 1 operations by 374Water will always include a minimum of 2 operators per shift. The number of 374Water employees on-site may vary based on operational needs and skillsets required (e.g. engineers, maintenance crew, and/or managers).

All non-warranty parts are at the customers expense (including consumables and normal wear and tear parts). During the warranty period, maintenance and repair tasks will be provided by 374Water.

DETAILS OF OPTION 1 OPERATIONS

All non-warranty parts are at the customers expense (including consumables and normal wear and tear parts). During the warranty period, maintenance and repair tasks will be provided by 374Water.

First 6 months

- Operations by 374Water - Will include a minimum of 2 operators per shift.
- The number of 374Water employees on-site may vary based on need (e.g. engineers, maintenance crew, and/or managers, may visit periodically)
- During this period, customer's designated operators will shadow the 374Water team across all shifts.
- Shadowing will include full participation in system checks, operational procedures, safety protocols, troubleshooting, and maintenance routines.

Post 374 Operations

Month 6 +

- Customers operators will now lead daily operations, without 374Water operators present.
- Beyond the initial 6-month period, should the customer choose to retain 374Water staff, additional costs will be determined based on the type of operator and the specific roles and responsibilities required.

DETAILS OF OPTION 2 OPERATIONS

This schedule has been designed to transition 24/7 operation and routine maintenance to the customer. During each phase, at least 2 operators per shift are required to be on site to oversee operation of the system. The ratio of 374Water : Customers staff will be gradually decreased until the customer is capable of maintaining full control of operations and routine maintenance by the end of Phase 4. This schedule specifies the number of customers operators to ensure that, by the end of Phase 4, there are a sufficient number of customers operators to staff the unit. The number of 374Water employees on-site may vary based on need (e.g. engineers, maintenance crew, and/or managers, may visit periodically). All non-warranty parts are at the customers expense (including consumables and normal wear and tear parts). During the warranty period, maintenance and repair tasks will be provided by 374Water.

Phase 1: Initial Operation and On-the-Job Training

Month 1-2

- 374Water will deploy a team of trained operators to the site.
- Operations will be conducted 24 hours per day, 5 days per week, using a 3-shift schedule (morning, evening, and overnight).
- During this period, customer's designated operators will shadow the 374Water team across all shifts.
- Shadowing will include full participation in system checks, operational procedures, safety protocols, troubleshooting, and maintenance routines.

Phase 2: Supporting Role Transition - 374Water will reduce its on-site operators. - 3 to 6 customers operators (estimated at 1 to 2 per shift) will be integrated into the active operations team. Each customers operator will be fully embedded in the shift and take on increasing operational responsibility, supported and supervised by 374Water staff. - Additional customers staff may continue shadowing during off-shifts or rotate in for further cross-training.	Month 3
Phase 3: Lead Role Transition - 374Water will reduce its on-site operators. - The operational team will now include at least 3 customers operators (1 per shift) as primary leads, 3 Customers operators (1 per shift) as secondary/supporting, paired with 374Water staff in a supporting, backup capacity. - Customers operators will now lead daily operations, with 374Water operators present to provide oversight, support, and answer questions as needed. - This role reversal allows the customers team to demonstrate competence while still having expert guidance on-site.	Month 4
Phase 4: Full Transition/Handover - 374Water will reduce its on-site operators. - The customers 6 operators will take over all operational responsibilities and manage the system independently. - 374Water will remain available for remote support, troubleshooting, and consultation as needed. - If required, short-term site visits or refresher training can be arranged by mutual agreement.	Month 5-6
Post Phase 4 Beyond the initial 6-month period, should the customer choose to retain 374Water staff, additional costs will be determined based on the type of operator and the specific roles and responsibilities required.	Month 6 +

END OF DOCUMENT

pioneering a new era
in sustainability

374water.com



Attachment A

CMAR GENERAL CONDITIONS LIST



**Olathe Cedar Creek WWTP SCWO Pilot
Guaranteed Maximum Price (GMP) No.1
Attachment A
General Conditions List
October 7, 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.