

SANTAQUIN CITY

WATER RECLAMATION FACILITY PHASE II IMPROVEMENTS

Screw Press Sludge Dewatering Equipment Procurement



January 2018



Prepared by

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DEWATERING SCREW PRESS
EQUIPMENT PROCUREMENT

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SECTION 00010
INVITATION TO BID

Separate sealed Bids for the procurement of Sludge Dewatering Equipment for the:

**SANTAQUIN CITY CORPORATION
WATER RECLAMATION FACILITY (WRF) – PHASE 2 IMPROVEMENTS
SCREW PRESS SLUDGE DEWATERING EQUIPMENT PROCUREMENT
UTAH COUNTY, UTAH**

will be received by **Santaquin City Office, 275 West Main Street, Santaquin, UT 84655 until 2 p.m., prevailing local time on Thursday, January 25, 2018. No Public Bid Opening will occur.** Bids received after this date and time will be returned unopened. Bids will be received, reviewed, and evaluated in accordance with the Bidding Documents. Bids shall be submitted in accordance with the Instructions to Bidders (00200).

The Issuing Office of the Bidding Documents is: **Santaquin City Corporation, Engineering Department, 275 West Main Street, Santaquin, Utah 84655. Contact is: Norm Beagley, P.E., Santaquin City Engineer: 801-754-1011 or nbeagley@santaquin.org.**

No printed copies of the bidding documents will be made available either for purchase or to be removed from the issuing office. All Bidding documents for Bidding purposes must be obtained from either the SciQuest website at:

(<https://bids.sciquest.com/apps/Router/PublicEvent?CustomerOrg=StateOfUtah>)

or electronically only from the Santaquin City Engineering Office (Issuing Office). Partial sets of the Bidding Documents **will not be available** from the Issuing Office.

This Invitation is for the Procurement of Shop Drawings, Goods and Special Services for Screw Press Sludge Dewatering Equipment as described in the Bidding Documents. **The selection will be based on monetary and non-monetary considerations as described in the Bidding Documents.** The City reserves the right to execute agreements with a prospective Bidder from the bids received. The selection process schedule is expected to proceed as outlined in Table 1. However, the City reserves the right to revise the selection schedule, extend the Bid submission period, or to cancel the original invitation for bid and issue a new one at any time during the selection period. The City reserves the right to waive any informality or technicality or to reject any or all Bids when in the best interest of the City.

Table 1 Selection Schedule

Date	Selection Process
January 3, 2018	Issue Invitation to Bid
January 19, 2018	End of inquiries, questions and interpretation period (5 p.m. MST)
January 22, 2018	Final Addendum Issued (if required)
January 25, 2018	Bid submittal due (2 p.m. MST)
January 30, 2018	Initial bid evaluations complete
February 2018	Notice of award anticipated

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INSTRUCTIONS TO BIDDERS

ARTICLE 1 - DEFINED TERMS

1.01 Terms used in these Instructions to Bidders will have the meanings indicated in the General Conditions and Supplementary Conditions. Additional terms used in these Instructions to Bidders have the meanings indicated below.

A. *Issuing Office* – The office from which the Bidding Documents are to be issued and where the bidding procedures are to be administered. The Issuing Office is:

Santaquin City Corporation, Engineering Department,
275 West Main Street, Santaquin, Utah 84655
Contact is Norm Beagley, P.E., Santaquin City Engineer: 801-754-1011 or
nbeagley@santaquin.org

B. *Santaquin City Corporation shall act in the role of “Buyer.”*

C. *The Screw Press Sludge Dewatering Equipment Manufacturer shall act in the role of “Seller.”*

ARTICLE 2 - BIDS RECEIVED

2.01 Refer to *Section 00010 Invitation to Bid* for information on receipt of Bids.

ARTICLE 3 - COPIES OF BIDDING DOCUMENTS

3.01 ~~Complete sets of the Bidding Documents in the number and for the deposit sum, if any, stated in the advertisement or invitation to bid may be obtained from the Issuing Office. The deposit will be refunded to each document holder of record who returns a complete set of Bidding Documents in good condition within 30 days after opening of Bids.~~ *Refer to Section 00010 Invitation to Bid for information on availability of Bidding Documents.*

3.02 Complete sets of the Bidding Documents shall be used in preparing Bids; neither Buyer nor Engineer assumes any responsibility for errors or misinterpretations resulting from the use of incomplete sets of Bidding Documents.

A. *Information and questions regarding the Screw Press Sludge Dewatering Equipment Procurement or these Bidding Documents shall be directed to:*

Santaquin City Corporation, Engineering Department,
275 West Main Street, Santaquin, Utah 84655
Contact is Norm Beagley, P.E., Santaquin City Engineer: 801-754-1011 or
nbeagley@santaquin.org

- 3.03 Buyer and Engineer have made copies of Bidding Documents available on the above terms only for the purpose of obtaining Bids for furnishing Goods and Special Services and do not authorize or confer a license for any other use.

ARTICLE 4 - QUALIFICATIONS OF BIDDERS

- 4.01 To demonstrate Bidder's qualifications to furnish Goods and Special Services, ~~within five days of Buyer's request Bidder shall submit written evidence, such as financial data and previous experience.~~ *the bidder shall submit a Bid that provides the information requested by the Buyer in Section 00310.*
- 4.02 Bidder is advised to carefully review those portions of the Bid Form requiring Bidder's representations and certifications.

ARTICLE 5 - EXAMINATION OF BIDDING DOCUMENTS, OTHER RELATED DATA, AND POINT OF DESTINATION

- 5.01 Upon request Buyer will provide Bidder access to the Point of Destination and the site where Goods are to be installed or Special Services are to be provided so that Bidder may conduct such investigations, examinations, tests, and studies as Bidder deems necessary for submission of a Bid.
- 5.02 It is the responsibility of each Bidder before submitting a Bid to:
- A. examine and carefully study the Bidding Documents, including any Addenda, and the related data identified in the Bidding Documents;
 - B. visit the Point of Destination and the site where the Goods are to be installed and Special Services are to be provided to become familiar with the local conditions if required by the Bidding Documents to do so, or if, in Bidder's judgment, any local condition may affect cost, progress, or the furnishing of Goods and Special Services;
 - C. become familiar with and satisfy itself as to all Laws and Regulations that may affect cost, progress, or the furnishing of the Goods and Special Services;
 - D. carefully study, consider, and correlate the information known to Bidder; information commonly known to sellers of similar goods doing business in the locality of the Point of Destination and the site where the Goods will be installed or where Special Services will be provided; information and observations obtained from Bidder's visits, if any, to the Point of Destination and the site where the Goods are to be installed or Special Services are to be provided; and any reports and drawings identified in the Bidding Documents regarding the Point of Destination and the site where the Goods will be installed or where Special Services will be provided, with respect to the effect of such information, observations, and documents on the cost, progress, and performance of Seller's obligations under the Contract Documents;

- E. promptly give Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder discovers in the Bidding Documents and confirm that the written resolution (if any) thereof by Engineer is acceptable to Bidder; and
 - F. determine that the Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for furnishing Goods and Special Services.
- 5.03 The submission of a Bid will constitute an incontrovertible representation by Bidder that Bidder has complied with every requirement of this Article 5, that without exception the Bid is premised upon furnishing Goods and Special Services required by the Bidding Documents, that Bidder has given Engineer written notice of all conflicts, errors, ambiguities and discrepancies that Bidder has discovered in the Bidding Documents and the written resolutions (if any) thereof by Engineer are acceptable to Bidder, and that the Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for furnishing Goods and Special Services.

ARTICLE 6 - PRE-BID CONFERENCE

- 6.01 ~~A pre-bid conference will be held at [] [a.m.][p.m.] on [] at []. Representatives of Buyer and Engineer will be present to discuss the Goods and Special Services to be furnished. Bidders are [required] [encouraged] to attend and participate in the conference. Engineer will transmit to all prospective Bidders of record such Addenda as Engineer considers necessary in response to questions arising at the conference. Oral statements may not be relied upon and will not be binding or legally effective.~~

ARTICLE 7 - INTERPRETATIONS AND ADDENDA

- 7.01 All questions about the meaning or intent of the Bidding Documents are to be submitted to Engineer in writing. Interpretations or clarifications considered necessary by Engineer in response to such questions will be issued by Addenda mailed or delivered to all parties recorded by Engineer as having received the Bidding Documents. Questions received less than four days prior to the date for opening of Bids will not be answered. Only answers in the Addenda will be binding. Oral statements, interpretations, and clarifications may not be relied upon and will not be binding or legally effective.
- 7.02 Addenda may be issued to clarify, correct, or change the Bidding Documents as deemed advisable by Buyer or Engineer.

ARTICLE 8 - BID SECURITY

- 8.01 A Bid must be accompanied by Bid security made payable to Buyer in an amount of *at least 5 percent (5%) of Bidder's maximum Bid price Total Contract Price for Special Engineering Services and Goods and Special Services as shown in Section*

00400 Bid Form, Article 5 and in the form of a Bid Bond (on form attached) issued by a surety meeting the requirements of Paragraph 4.01.B of the General Conditions.

- 8.02 The Bid security of the Successful Bidder will be retained until such Bidder has executed the Contract Documents, furnished the required contract security, and met the other conditions of the Notice of Award, whereupon the Bid security will be returned. If the Successful Bidder fails to execute and deliver the Contract Documents and furnish the required contract security within 15 days after the Notice of Award, Buyer may consider Bidder to be in default, annul the Notice of Award, and the Bid security of that Bidder will be forfeited. The Bid security of other Bidders that Buyer believes to have a reasonable chance of receiving the award may be retained by Buyer until the earlier of 7 days after the Effective Date of the Agreement or 61 days after the Bid opening, whereupon Bid security furnished by such Bidders will be returned.
- 8.03 Bid security of other Bidders that Buyer believes do not have a reasonable chance of receiving the award will be returned within seven days after the Bid opening.

ARTICLE 9 - CONTRACT TIMES

- 9.01 See applicable provisions in the Agreement.

ARTICLE 10 - LIQUIDATED DAMAGES

- 10.01 Any provisions for liquidated damages, such as those for *Seller's* failure to attain a Milestone, or to deliver the Goods *or furnish Special Services within the Contract Times*, are set forth in the Agreement.

ARTICLE 11 - "OR-EQUAL" ITEMS

- 11.01 The Contract, if awarded, will be on the basis of material and equipment specified or described in the Bidding Documents without consideration of possible "or-equal" items. Whenever it is specified or described in the Bidding Documents that an "or-equal" item of material or equipment may be furnished or used by Seller if acceptable to Engineer, application for such acceptance will not be considered by Engineer until after the Effective Date of the Agreement. The procedure for submittal of any such application by Seller and consideration by Engineer is set forth in the General Conditions and may be supplemented in the General Requirements.

ARTICLE 12 - PREPARATION OF BID

- 12.01 The Bid Form is included with the Bidding Documents. ~~Additional copies of Bidding Documents may be obtained from the Issuing Office.~~

- 12.02 All blanks on the Bid Form shall be completed in ink and the Bid Form signed in ink. Erasures or alterations shall be initialed in ink by the person signing the Bid Form. A Bid price shall be indicated for each item listed therein. In the case of optional alternates the words “No Bid,” “No Change,” or “Not Applicable” may be entered.
- 12.03 A Bid by a corporation shall be executed in the corporate name by the president or a vice-president or other corporate officer accompanied by evidence of authority to sign. The corporate seal shall be affixed and attested by the secretary or an assistant secretary. The corporate address and state of incorporation shall be shown.
- 12.04 A Bid by a partnership shall be executed in the partnership name and signed by a partner (whose title must appear under the signature), accompanied by evidence of authority to sign. The official address of the partnership shall be shown.
- 12.05 A Bid by a limited liability company shall be executed in the name of the firm by a member and accompanied by evidence of authority to sign. The state of formation of the firm and the official address of the firm shall be shown.
- 12.06 A Bid by an individual shall show the Bidder’s name and official address.
- 12.07 A Bid by a joint venture shall be executed by each joint venturer in the manner indicated on the Bid Form. The official address of the joint venture shall be shown.
- 12.08 All names must be typed or printed in ink below the signature.
- 12.09 The Bid shall contain an acknowledgment of receipt of all Addenda, the numbers of which shall be filled in on the Bid Form.
- 12.10 Each Bidder shall list the postal address, e-mail address, and telephone number for communications regarding the Bid.

ARTICLE 13 - BASIS OF BID; COMPARISON OF BIDS

- 13.01 Series of Lump Sums
- A. Bidder shall submit a Bid for each lump sum item as set forth on the Bid Form, and shall compute and enter the total of all lump sum items in the space provided on the Bid Form.
- B. ~~For determination of the apparent low Bid, Bids will be compared on the basis of the total of all lump sum items.~~ *The total of all lump sum items will be used to determine the Screw Press Sludge Dewatering Equipment Capital Cost, which is one of the evaluation criteria described in Section 00310.*
- C. Discrepancies between the indicated sum of any column of figures and the correct sum thereof will be resolved in favor of the arithmetically correct sum.

13.02 *The Buyer's intent is to enter into an Agreement with the Seller who meets all of the Pass/Fail Criteria and has the highest total number of Bid points from the Weighted Criteria as described in Section 00310.*

ARTICLE 14 - SUBMITTAL OF BID

14.01 ~~With each copy of the Bidding Documents, a Bidder is furnished one separate unbound copy of the Bid Form, and, if required, the Bid Bond. The unbound copy of the Bid Form is to be completed and submitted with the Bid security. Also submit the following documents:~~

Each prospective Bidder shall submit three (3) hard copies of all Bid submittal requirements and one electronic copy. The Bid shall be submitted in a 3-ring binder with specified tabs and separated into multiple volumes if necessary. Table 14-1 summarizes the tabs and content that shall be included in the Bid submittal. Bidders shall include clearly marked and labeled tabs (e.g. "B – Bid Security") in the Bid submittals. Bids submitted in formats other than the format shown in Section 00200 Article 14, Table 14-1 may be deemed unresponsive and may be rejected without evaluation. Section 00310 describes the evaluation criteria for each Bid submittal requirement tab and describes the Bid submittal requirements and evaluation of Bidder submitted content in more detail.

Table 14-1 Bid Submittal Requirements

<i>Tab</i>	<i>Bid Content</i>
<i>A</i>	<i>Cover letter</i>
<i>B</i>	<i>Bid Security</i>
<i>C</i>	<i>Experience</i>
<i>D</i>	<i>Warranty/Guarantee</i>
<i>E</i>	<i>Capital Cost</i>
<i>F</i>	<i>Operation and Maintenance</i>
<i>G</i>	<i>Equipment Support/Warranty</i>
<i>H</i>	<i>Drawings/Proposal Details</i>

14.02 A Bid shall be submitted no later than the date and time prescribed and at the place indicated in the ~~advertisement or invitation to bid~~, and shall be enclosed in a plainly marked envelope with the Project title (and, if applicable, the designated portion of the Project for which the Bid is submitted) and the name and address of Bidder, and shall be accompanied by the Bid security and other required documents *as presented in Article 14, Table 14-1*. If a Bid is sent by mail or other delivery system, the sealed envelope containing the Bid shall be enclosed in a separate package plainly marked on the outside with the notation "BID ENCLOSED". *Mailed Bids must arrive by the date and time prescribed and at the place indicated in the Invitation to Bid. Buyer assumes no responsibility for Bids that do not arrive prior to the date and time prescribed at the place indicated in the Invitation to Bid. A mailed Bid shall be addressed to insert address.*

ARTICLE 15 - MODIFICATION OR WITHDRAWAL OF BID

- 15.01 A Bid may be modified or withdrawn by an appropriate document duly executed in the same manner that a Bid must be executed and delivered to the place where Bids are to be submitted prior to the date and time for the opening of Bids.
- 15.02 If, within 24 hours after Bids are opened, any Bidder files a duly signed written notice with Buyer and promptly thereafter demonstrates to the reasonable satisfaction of Buyer that there was a material and substantial mistake in the preparation of its Bid, that Bidder may withdraw its Bid, and the Bid security will be returned. Thereafter, if the Goods and Special Services are rebid, that Bidder will be disqualified from further bidding on the Goods and Special Services.

ARTICLE 16 - OPENING OF BIDS

- 16.01 No public opening of Bids will occur. *All bids will be evaluated privately and in accordance with Section 00310. The evaluation criteria detailed in Section 00310 will be used by the Buyer to select a Successful Bidder to enter into Agreement with as the Seller; the evaluation criteria include both monetary and non-monetary criteria.* An abstract of the amounts of the ~~Base Bids and Alternate Bids, if any,~~ *and the evaluation scoring* will be made available to Bidders after the ~~opening of Bids~~ *Buyer has issued a Notice of Award.*

ARTICLE 17 - BIDS TO REMAIN SUBJECT TO ACCEPTANCE

- 17.01 All Bids will remain subject to acceptance for the period of time stated in the Bid Form, but Buyer may, in its sole discretion, release any Bid and return the Bid security prior to the end of this period.

ARTICLE 18 - EVALUATION OF BIDS AND AWARD OF CONTRACT

- 18.01 Buyer reserves the right to reject any and all Bids, including without limitation, nonconforming, nonresponsive, unbalanced, or conditional Bids. Buyer further reserves the right to reject the Bid of any Bidder that Buyer finds, after reasonable inquiry and evaluation, to be nonresponsive. Buyer may also reject the Bid of any Bidder if Buyer believes that it would not be in the best interest of the Project to make an award to that Bidder. Buyer also reserves the right to waive all informalities not involving price, time, or changes in the Goods and Special Services, and to negotiate contract terms with the Successful Bidder.
- 18.02 More than one Bid for the same Goods and Special Services from an individual or entity under the same or different names will not be considered. Reasonable grounds for believing that any Bidder has an interest in more than one Bid for the Goods and Special Services shall be cause for disqualification of that Bidder and the rejection of all Bids in which that Bidder has an interest.
- 18.03 In evaluating Bids, Buyer will consider whether or not the Bids comply with the prescribed requirements, and such alternates, unit prices, and other data as may be

requested in the Bid Form or may be requested from Bidders prior to a Notice of Award.

18.04 Buyer may conduct such investigations as Buyer deems necessary to establish the responsibility, qualifications, and financial ability of Bidder.

18.05 If the Contract is to be awarded, Buyer will award the Contract to the Bidder whose Bid is in the best interest of the Project.

18.06 *The award of the contract will be based on consideration of evaluation criteria as described in Section 00310.*

ARTICLE 19 - CONTRACT SECURITY AND INSURANCE

19.01 Article 4 of the General Conditions and Article 4 of the Supplementary Conditions set forth Buyer's requirements as to performance and payment bonds and insurance. When the Successful Bidder delivers the executed Agreement to Buyer, it must be accompanied by such bonds.

ARTICLE 20 - SIGNING OF AGREEMENT

20.01 When Buyer issues a Notice of Award to the Successful Bidder, it shall be accompanied by the required number of unsigned counterparts of the Agreement with the other Contract Documents that are to be identified in the Agreement and attached thereto. Within 15 days thereafter, Successful Bidder shall sign and deliver the required number of counterparts of the Agreement and attached documents to Buyer. Within 10 days thereafter, Buyer shall deliver one fully signed counterpart to Successful Bidder with a complete set of Drawings with appropriate identification.

ARTICLE 21 - SALES AND USE TAXES

21.01 The Buyer is tax exempt and sales taxes shall not be included in the Bid.

ARTICLE 22 - RETAINAGE

22.01 Provisions concerning Seller's rights to deposit securities in lieu of retainage are set forth in the Agreement.

ARTICLE 23 - CONTRACT TO BE ASSIGNED

23.01 Bidder's attention is directed to the provisions of Paragraph 11.02 of the Agreement which provide for the assignment of the Contract to a construction contractor designated by the Buyer to construct the *[facilities and install the goods]*. Bidder will be obligated to perform the application of the terms and conditions of the

Contract Documents after assignment, and is advised of this continuous duty to continue to perform the Contract after it has been assigned to the construction contractor. Timing of the assignment is set forth in the Agreement. Forms documenting the assignment of the Contract and for the agreement of the Seller's surety to such assignment are included as attachments to the Agreement.

SECTION 00310

PROCUREMENT BID EVALUATION

ARTICLE 1: Bid EVALUATION

1.01 Bidders shall provide all of the information required by the Bid Documents. This information, along with other design and equipment information contained in the Bid Documents or available to the Buyer through information included in the Bid will be used by the Buyer to determine the apparent Successful Bidder.

1.02 Evaluation: The Bids will be scored based on their conformance to the requirements of the Bidding Documents. Table 00310-1 provides detail on what the Bidder shall submit as part of the Bid for the Buyer to evaluate the Bidder's Goods and Special Services. Table 00310-1 also provides evaluation criteria, which includes both Pass/Fail Criteria and Weighted Criteria. The scoring system for the Weighted Criteria will be based on scores ranging from 0 to 5 (in one decimal place increments), with a score of 5 being given to the Bid that best meets the evaluation criteria. For the Weighted Criteria, those scores will be multiplied by the evaluation criteria weighting factors to determine the total Bid points. The Bidder acknowledges that the Buyer and Engineer shall be the sole judge of the scoring and that all scores and total Bid points are Final.

- **Pass/Fail Criteria**

Bids shall meet all the pass/fail evaluation criteria described in Table 00310-1 in order to be considered responsive. Bids not meeting all Pass/Fail Criteria will not be scored in the Weighted Criteria.

- **Weighted Criteria**

Those Bids meeting all Pass/Fail Criteria will be further evaluated using the Weighted Criteria. A selection committee will score the ability of the submitted Manufacturer to meet the weighted criteria based on the required Bid information provided by the Bidder as specified in Table 00310-1.

The Bid that meets all of the Pass/Fail Criteria and has the highest overall bid point total from the Weighted Criteria will be the selected Seller. The Buyer's intent is to award a Contract to the most qualified, highest scoring Bidder. However, the Buyer is not obligated to review or evaluate Bids, or to award a Contract to a Bidder. The Buyer reserves the right to reject all bids at any time.

Table 00310-1 Bid Requirements and Evaluation Criteria

Criteria	Weighting Factor	Description of Minimum Requirements and Criteria	Bid Submittal Requirement	Bid Tab
Cover Letter	NA	Cover letter.	Provide letter that certifies the Supplier's Bid is submitted in accordance with the Bid Documents and states that all Pass/Fail Criteria are met. Submit in Tab A.	A
Pass/Fail Criteria				
Bid Security	NA	To pass this criteria, Bidder shall provide bid security in accordance with Section 00200 Article 8.	Provide bid security in accordance with 00200 Article 8. Submit in Tab B.	B
Experience	NA	To pass this criteria, Bidder shall demonstrate they have installed at least five (5) screw press installations of the same models that are proposed. The experience criterion will be evaluated based on the Bidder's direct experience with the installations referenced.	Provide list of installations with information provided in supplied Form 00310-1. Provide a list of installations to show compliance with the pass/fail criteria. Submit Form 00310-1 in Tab C.	C
Warranty/ Guarantee	NA	To pass this criteria, Bidders shall provide minimum 1-year warranty for the screw press dewatering equipment with beginning of the warranty period and other requirements in accordance with those given in Attachment 1.	Provide description of complete screw press equipment warranty terms. Submit in Tab D.	D
Weighted Criteria				
Experience	30	Bidder has successful experience with similar installations (screw press sludge dewatering equipment for municipal wastewater treatment). This criterion will be scored based on the number and similarity of installations to the Buyers project relative to other Bidders. Scoring will take into account feedback from	Provide list of installations with information provided in supplied Form 00310-1. Bidders may submit as many pages of Form 00310-1 as Bidder deems necessary to show experience. Submit	C

Criteria	Weighting Factor	Description of Minimum Requirements and Criteria	Bid Submittal Requirement	Bid Tab
		reference installations regarding the satisfactory operation of their equipment. Experience will also take into account the percent solids achieved at the reference installations.	Form 00310-1 in Tab C.	
Total Screw Press Dewatering Equipment Capital Cost	40	<p>Bidder has the ability to minimize capital cost for the proposed Screw Press Sludge Dewatering System. The Total Capital costs include:</p> <ul style="list-style-type: none"> ○ Bidder's Special Engineering Services (Item 1) and Goods and Special Services (Item 2) (provided by Bidder); and Polymer Feed System (Item 3) <p>The lowest Total Capital Cost will be awarded a score of 5. Subsequent higher bidders will be scored based on a ratio of Total Capital Cost. An example calculation for Bidder A with a cost of \$250,000 and Bidder B with a cost of \$300,000 follows.</p> <p>Bid Points for Bidder "A" = 5 (score) * 50 (weight) = 250 bid points.</p> <p>Bid Points for Bidder "B" = 5 (baseline score for lowest Total Cost) * \$250,000/\$300,000 (ratio of Total Costs) * 50 (weight) = 208 bid points.</p> <p>Each Bidder meeting all the pass criteria will be compared to the Bidder with the lowest Total Cost as shown in the example.</p> <p>Additional capital cost may be added to the bid if in the opinion of the engineer an enlarged equipment footprint, additional piping, or other ancillary work by</p>	<p>Provide a clear presentation of the capital costs in accordance with Bid Form 00400. Submit Bid Form 00400 within Tab E.</p> <p>Provide capital costs for each alternative the Bidder is proposing on.</p>	E

Criteria	Weighting Factor	Description of Minimum Requirements and Criteria	Bid Submittal Requirement	Bid Tab
		the contractor is required that will increase the overall cost of the project relative to the other bidders.		
O&M	10	Supplier shall submit information on expected motor size in terms of horsepower. Pressure requirements for feed sludge and washwater. Describe the routine and scheduled maintenance requirements, their intervals, spare parts required and current costs, and an estimate of the man-hours required to complete such maintenance. List any special equipment required for maintenance. Provide an expected range of polymer dose required for the screw press.	Provide an itemized list of schedule maintenance tasks, typical intervals for such maintenance, spare parts requirements and costs, estimated person-hours. Provide suggested polymer dosing range to achieve desired cake dryness. Provide washwater flow and pressure requirements.	F
Equipment Support/Warranty	10	Submit availability and number of field technicians, where they are located, and spare parts availability. Submit name and address of local representative. Higher scores will be awarded to Suppliers who in the view of the Buyer can best support the equipment and the Owner during the life of the installation.	Provide a clear presentation of the equipment support availability and documentation. Provide the terms of the Suppliers standard warranty for the proposed equipment.	G
Drawings/ Proposal Details	10	Supplier has developed a well thought out approach to designing the Screw Press Dewatering System with specific attention to how this press will fit within Santaquin's existing facility. Higher scores will be awarded to Suppliers who in the view of the Buyer have provided Drawings and Proposals that are specific to the needs of the Buyer and comply with the procurement specifications.	Provide the following that reflect the Supplier's proposed approach to the project: <ul style="list-style-type: none"> ○ General Arrangement Drawings (11 x 17) – Plans and Sections ○ Process and Instrumentation 	H

Criteria	Weighting Factor	Description of Minimum Requirements and Criteria	Bid Submittal Requirement	Bid Tab
			Diagram (11 x 17) Submit in Tab H.	

ARTICLE 2: Capital costs determination

2.01 The Bidder acknowledges that the calculation of Capital Cost includes only the items identified in this section. Capital Cost will include:

- A. Total Contract Price for Special Engineering Services (Item 1) and Goods and Special Services (Item 2) and Polymer Feed System Goods and Special Services (Item 3) (00400 Bid Form). This price is shown in 00400 and shall be provided by the Bidder. The Special Engineering Services and Goods and Special Services and Polymer Feed System Goods and Special Services are described in detail in Attachment 1.**
- B. Additional capital cost may be added to the bid if in the opinion of the engineer an enlarged equipment footprint, additional piping, or other ancillary work by the contractor is required that will increase the overall cost of the project relative to the other bidders.**

FORM 00310-1

EXPERIENCE (Supplier can provide as many Facilities as Supplier deems necessary)

Facility Name	Facility Address	Facility Contact Name	Facility Contact Email Address	Facility Contact Phone Number	Month and Year Commissioned	Description and Size of Facility

++ END OF SECTION ++

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BID FORM

ARTICLE 1 - BID RECIPIENT

1.01 This Bid is submitted to:

*Santaquin City Corporation
Engineering Department
Norm Beagley, Santaquin City Engineer
275 West Main St
Santaquin, Utah 84655*

1.02 The undersigned Bidder proposes and agrees, if this Bid is accepted, to enter into a Contract with Buyer in the form included in the Bidding Documents to furnish the Goods and Special Services as specified or indicated in the Bidding Documents, for the prices and within the times indicated in this Bid, and in accordance with the other terms and conditions of the Bidding Documents.

ARTICLE 2 - BIDDER'S ACKNOWLEDGMENTS

2.01 Bidder accepts all of the terms and conditions of the Instructions to Bidders, including without limitation those dealing with the disposition of Bid security. This Bid will remain subject to acceptance for 60 days after the Bid opening, or for such longer period of time that Bidder may agree to in writing upon request of Buyer.

2.02 Bidder accepts that the Buyer retains the right to issue a "Notice to Proceed" for the Project. The Bidder acknowledges that until the Notice to Proceed is issued, the Buyer is not obligated to any monetary commitment associated with this Contract. A Notice to Proceed may be issued at any time for a period of up to one hundred and eighty (180) days after the effective date of the Agreement.

ARTICLE 3 - BIDDER'S REPRESENTATIONS

3.01 In submitting this Bid, Bidder represents that:

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

Addendum No.	Addendum Date
--------------	---------------

B. Bidder has visited the Point of Destination and site where the Goods are to be installed or Special Services will be provided and become familiar with and is satisfied as to the observable local conditions that may affect cost, progress, or the furnishing of Goods and

Special Services, if required to do so by the Bidding Documents, or if, in Bidder's judgment, any local condition may affect cost, progress, or the furnishing of Goods and Special Services.

C. Bidder is familiar with and is satisfied as to all Laws and Regulations in effect as of the date of the Bid that may affect cost, progress, and the furnishing of Goods and Special Services.

D. Bidder has carefully studied, considered, and correlated the information known to Bidder; information commonly known to sellers of similar goods doing business in the locality of the Point of Destination and the site where the Goods will be installed or where Special Services will be provided; information and observations obtained from Bidder's visits, if any, to the Point of Destination and the site where the Goods will be installed or where Special Services will be provided; and any reports and drawings identified in the Bidding Documents regarding the Point of Destination and the site where the Goods will be installed or where Special Services will be provided, with respect to the effect of such information, observations, and documents on the cost, progress, and performance of Seller's obligations under the Bidding Documents.

E. Bidder has given Engineer written notice of all conflicts, errors, ambiguities, and discrepancies that Bidder has discovered in the Bidding Documents, and the written resolution (if any) thereof by Engineer is acceptable to Bidder.

F. The Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for furnishing the Goods and Special Services for which this Bid is submitted.

ARTICLE 4 - BIDDER'S CERTIFICATIONS

4.01 Bidder certifies that:

A. This Bid is genuine and not made in the interest of or on behalf of any undisclosed individual or entity and is not submitted in conformity with any collusive agreement or rules of any group, association, organization, or corporation;

B. Bidder has not directly or indirectly induced or solicited any other Bidder to submit a false or sham Bid;

C. Bidder has not solicited or induced any individual or entity to refrain from bidding; and

D. Bidder has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for the Contract. For the purposes of this Paragraph 4.01.D:

1. "corrupt practice" means the offering, giving, receiving, or soliciting of any thing of value likely to influence the action of a public official in the bidding process;
2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the bidding process to the detriment of Buyer, (b) to establish bid prices

at artificial non-competitive levels, or (c) to deprive Buyer of the benefits of free and open competition;

3. “collusive practice” means a scheme or arrangement between two or more Bidders, with or without the knowledge of Buyer, a purpose of which is to establish bid prices at artificial, non-competitive levels; and
4. “coercive practice” means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process.

ARTICLE 5 - BASIS OF BID

5.01 Bidder will furnish the Goods and Special Services in accordance with the Contract Documents for the following price(s):

ALTERNATIVE 1- Screw Press Sludge Dewatering System capable of meeting the required performance at 20 hrs/week of operation.

ITEM 1-1: CONTRACT PRICE FOR SPECIAL ENGINEERING SERVICES (TO BE USED IN CAPITAL COST SCORING)

Enter the Contract Price for Special Engineering Services as defined in Attachment 1. The Contract Price for Special Engineering Services shall not exceed 5 percent (5%) of the Contract Price for the work outlined in Item 2.

<i>ITEM 1-1 Lump Sum Bid Price For Special Engineering Services</i> <i>(words)</i> _____	<i>\$</i> _____ <i>(figures)</i>
---	---

ITEM 1-2: CONTRACT PRICE FOR GOODS AND SPECIAL SERVICES (TO BE USED IN CAPITAL COST SCORING)

Enter the Contract Price for Supply of Goods and Special Services as defined in Attachment 1. This is the Screw Press Sludge Dewatering Equipment.

<i>ITEM 1-2 Lump Sum Bid Price For Goods and Special Services</i> <i>(words)</i> _____	<i>\$</i> _____ <i>(figures)</i>
---	---

ITEM 1-3: CONTRACT PRICE FOR POLYMER SYSTEM GOODS AND SPECIAL SERVICES (TO BE USED IN CAPITAL COST SCORING)

Enter the Contract Price for Polymer System Supply of Goods and Special Services as defined in Attachment 1. This is the Polymer Feed System.

<i>ITEM 1-3 Lump Sum Bid Price For Polymer System Goods and Special Services</i>	<i>\$</i> _____ <i>(figures)</i>
---	---

(words) _____ 95 _____	
---------------------------	--

ALTERNATIVE 2- Screw Press Sludge Dewatering System capable of meeting the required performance at 40 hrs/week of operation.

ITEM 2-1: CONTRACT PRICE FOR SPECIAL ENGINEERING SERVICES (TO BE USED IN CAPITAL COST SCORING)

Enter the Contract Price for Special Engineering Services as defined in Attachment 1. The Contract Price for Special Engineering Services shall not exceed 5 percent (5%) of the Contract Price for the work outlined in Item 2.

<i>ITEM 2-1 Lump Sum Bid Price For Special Engineering Services</i> (words) _____	<i>\$ _____</i> (figures)
---	-------------------------------------

ITEM 2-2: CONTRACT PRICE FOR GOODS AND SPECIAL SERVICES (TO BE USED IN CAPITAL COST SCORING)

Enter the Contract Price for Supply of Goods and Special Services as defined in Attachment 1. This is the Screw Press Sludge Dewatering Equipment.

<i>ITEM 2-2 Lump Sum Bid Price For Goods and Special Services</i> (words) _____	<i>\$ _____</i> (figures)
---	-------------------------------------

ITEM 2-3: CONTRACT PRICE FOR POLYMER SYSTEM GOODS AND SPECIAL SERVICES (TO BE USED IN CAPITAL COST SCORING)

Enter the Contract Price for Polymer System Supply of Goods and Special Services as defined in Attachment 1. This is the Polymer Feed System.

<i>ITEM 2-3 Lump Sum Bid Price For Polymer System Goods and Special Services</i> (words) _____	<i>\$ _____</i> (figures)
--	-------------------------------------

ARTICLE 6 - TIME OF COMPLETION

6.01 Bidder agrees that the furnishing of Goods and Special Services will conform to the schedule set forth in Article 5 of the Agreement.

6.02 Bidder accepts the provisions of the Agreement as to liquidated damages.

ARTICLE 7 - ATTACHMENTS TO THIS BID

7.01 The following documents are attached to and made a condition of this Bid:

A. ~~Required Bid security in the form of _____.~~

B. ~~List of Proposed Major Suppliers;~~

C. ~~Required Bidder Qualification Statement with Supporting Data; and~~

D. The Bid submittal requirements in accordance with Section 00200 Article 14.

ARTICLE 8 - DEFINED TERMS

8.01 The terms used in this Bid with initial capital letters have the meanings stated in the Instructions to Bidders, the General Conditions, and the Supplementary Conditions.

ARTICLE 9 - BID SUBMITTAL

9.01 This Bid submitted by:

If Bidder is:

An Individual

Name (typed or printed): _____

By: _____
(Individual's signature)

Doing business as: _____

Business address: _____

Phone: _____ Facsimile: _____

E-mail address: _____

A Partnership

Partnership Name: _____
_____(SEAL)

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

Name (typed or printed): _____

Business address: _____

Phone: _____ Facsimile: _____

E-mail address: _____

A Corporation

Corporation Name: _____

State of Incorporation: _____

Type (General Business, Professional, Service, other): _____

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

Name (typed or printed): _____

Title: _____

(CORPORATE SEAL)

Attest _____
(Signature of Corporate Secretary)

Business address: _____

Phone: _____ Facsimile: _____

E-mail address: _____

A Limited Liability Company (LLC)

LLC Name: _____

State in which organized: _____

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

Name (typed or printed): _____

Title: _____

Business address: _____

Phone: _____ Facsimile: _____

E-mail address: _____

A Joint Venture

First Joint Venturer Name: _____ (SEAL)

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

Name (typed or printed): _____

Title: _____

Business address: _____

Phone: _____ Facsimile: _____

E-mail address: _____

Second Joint Venturer Name: _____ (SEAL)

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

Name (typed or printed): _____

Title: _____

Business address: _____

Phone: _____ Facsimile: _____

E-mail address: _____

Phone and Facsimile Number, and Address for receipt of official communications to Joint Venture: _____

(Each joint venturer must sign. The manner of signing for each individual, partnership, corporation, and limited liability company that is a party to the joint venture should be in the manner indicated above.)

00430 - BID BOND

Any singular reference to Bidder, Surety, Owner or other party shall be considered plural where applicable.

BIDDER (*Name and Address*):

SURETY (*Name and Address of Principal Place of Business*):

OWNER (*Name and Address*):

SANTAQUIN CITY CORPORATION
275 WEST MAIN STREET
SANTAQUIN, UTAH 84655

BID

Bid Due Date: JANUARY 10, 2018

Description (*Project Name and Include Location*):

WATER TREATMENT FACILITY – PHASE 2 IMPROVEMENTS
SCREW PRESS SLUDGE DEWATERING EQUIPMENT PROCUREMENT

BOND

Bond Number:

Date (*Not earlier than Bid due date*):

Penal sum	_____	\$	_____
	(Words)		(Figures)

Surety and Bidder, intending to be legally bound hereby, subject to the terms set forth below, do each cause this Bid Bond to be duly executed by an authorized officer, agent, or representative.

BIDDER

SURETY

_____ (Seal)	_____ (Seal)
Bidder's Name and Corporate Seal	Surety's Name and Corporate Seal

By: _____
Signature

By: _____
Signature (Attach Power of Attorney)

Print Name

Print Name

Title

Title

Attest: _____
Signature

Attest: _____
Signature

Title

Title

Note: Above addresses are to be used for giving any required notice. Provide execution by any additional parties, such as joint venturers, if necessary.

1. Bidder and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors, and assigns to pay to Owner upon default of Bidder the penal sum set forth on the face of this Bond. Payment of the penal sum is the extent of Bidder's and Surety's liability. Recovery of such penal sum under the terms of this Bond shall be Owner's sole and exclusive remedy upon default of Bidder.
2. Default of Bidder shall occur upon the failure of Bidder to deliver within the time required by the Bidding Documents (or any extension thereof agreed to in writing by Owner) the executed Agreement required by the Bidding Documents and any performance and payment bonds required by the Bidding Documents.
3. This obligation shall be null and void if:
 - 3.1 Owner accepts Bidder's Bid and Bidder delivers within the time required by the Bidding Documents (or any extension thereof agreed to in writing by Owner) the executed Agreement required by the Bidding Documents and any performance and payment bonds required by the Bidding Documents, or
 - 3.2 All Bids are rejected by Owner, or
 - 3.3 Owner fails to issue a Notice of Award to Bidder within the time specified in the Bidding Documents (or any extension thereof agreed to in writing by Bidder and, if applicable, consented to by Surety when required by Paragraph 5 hereof).
4. Payment under this Bond will be due and payable upon default of Bidder and within 30 calendar days after receipt by Bidder and Surety of written notice of default from Owner, which notice will be given with reasonable promptness, identifying this Bond and the Project and including a statement of the amount due.
5. Surety waives notice of any and all defenses based on or arising out of any time extension to issue Notice of Award agreed to in writing by Owner and Bidder, provided that the total time for issuing Notice of Award including extensions shall not in the aggregate exceed 120 days from Bid due date without Surety's written consent.
6. No suit or action shall be commenced under this Bond prior to 30 calendar days after the notice of default required in Paragraph 4 above is received by Bidder and Surety and in no case later than one year after Bid due date.
7. Any suit or action under this Bond shall be commenced only in a court of competent jurisdiction located in the state in which the Project is located.
8. Notices required hereunder shall be in writing and sent to Bidder and Surety at their respective addresses shown on the face of this Bond. Such notices may be sent by personal delivery, commercial courier, or by United States Registered or Certified Mail, return receipt requested, postage pre-paid, and shall be deemed to be effective upon receipt by the party concerned.
9. Surety shall cause to be attached to this Bond a current and effective Power of Attorney evidencing the authority of the officer, agent, or representative who executed this Bond on behalf of Surety to execute, seal, and deliver such Bond and bind the Surety thereby.
10. This Bond is intended to conform to all applicable statutory requirements. Any applicable requirement of any applicable statute that has been omitted from this Bond shall be deemed to be included herein as if set forth at length. If any provision of this Bond conflicts with any applicable statute, then the provision of said statute shall govern and the remainder of this Bond that is not in conflict therewith shall continue in full force and effect.

11. The term “Bid” as used herein includes a Bid, offer, or proposal as applicable.

Notice of Award

Date: _____

Project: Santaquin City Water Reclamation Facility Phase 2 Improvements – Screw Press Sludge Dewatering Equipment

Owner: Santaquin City Corporation

Owner's Contract No.:

Contract: Screw Press Dewatering Equipment Procurement

Engineer's Project No.: 83-17-059

Bidder:

Bidder's Address:

You are notified that your Bid dated January 25, 2018 for the above Contract has been considered. You are the Successful Bidder and are awarded a Contract for Santaquin City Water Reclamation Facility Phase 2 Improvements – Screw Press Sludge Dewatering Equipment Procurement.

The Contract Price of your Contract is _____ Dollars (\$_____).

2 copies of the proposed Contract Documents accompany this Notice of Award.

You must comply with the following conditions precedent within [15] days of the date you receive this Notice of Award.

1. Deliver to the Owner [2] fully executed counterparts of the Contract Documents.
2. Deliver with the executed Contract Documents the Contract security [Bonds] as specified in the Instructions to Bidders (Article 20), General Conditions (Paragraph 5.01), and Supplementary Conditions (Paragraph SC-5.01).
3. Other conditions precedent:

Failure to comply with these conditions within the time specified will entitle Owner to consider you in default, annul this Notice of Award, and declare your Bid security forfeited.

Within ten days after you comply with the above conditions, Owner will return to you one fully executed counterpart of the Contract Documents.

Santaquin City Corporation

Owner

By: _____

Authorized Signature

Title

Copy to Engineer

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AGREEMENT

THIS AGREEMENT is by and between Santaquin City Corporation (“Buyer”) and _____ (“Seller”).

Buyer and Seller hereby agree as follows:

ARTICLE 1 – GOODS AND SPECIAL SERVICES

ARTICLE 2 – SELLER SHALL FURNISH THE GOODS AND SPECIAL SERVICES AS SPECIFIED OR INDICATED IN THE CONTRACT DOCUMENTS. THE GOODS AND SPECIAL SERVICES TO BE FURNISHED ARE DESCRIBED IN 11322. THE PROJECT

2.01 The Project, of which the Goods and Special Services may be the whole or only a part, is identified as follows:

SANTAQUIN CITY CORPORATION - SCREW PRESS SLUDGE DEWATERING EQUIPMENT PROCUREMENT. Includes the provision of Goods and Special Services for Phase II Improvements at the Water Reclamation Facility in Santaquin, Utah. The Goods and Special Services are described in Attachment 1

2.02 The Buyer shall execute the Agreement and *work with Seller with respect to* the Special Engineering Services associated with preparation of Shop Drawings and other Submittals required for the project.

2.03 The Buyer is not obligated under this Agreement beyond Special Engineering Services until it issues a “Notice to Commence Fabrication” to the Seller. A Notice to Commence Fabrication may be issued at any time for a maximum of **one (1) year** after the Effective Date of the Agreement.

2.04 The Seller shall deliver the required Bonds and Insurance Certificates in accordance with Article 4 of the General and Supplementary Conditions.

ARTICLE 3 – ENGINEER

3.01 The Contract Documents for the Goods and Special Services have been prepared by **J-U-B Engineers, Inc. 2875 South Decker Lake Dr, Suite 575, Salt Lake City, UT 84119** ("Engineer"), which is to act as Buyer's representative, assume all duties and responsibilities, and have the rights and authority assigned to Engineer in the Contract Documents in connection with Seller's furnishing of Goods and Special Services.

ARTICLE 4 – POINT OF DESTINATION

4.01 The Point of Destination is designated as:

Santaquin City WRF
1215 North Center Street
Santaquin, UT 84655

ARTICLE 5 – CONTRACT TIMES

5.01 *Time of the Essence*

- A. All time limits for Milestones, if any, including the submittal of Shop Drawings and Samples, the delivery of Goods, and the furnishing of Special Services as stated in the Contract Documents, are of the essence of the Contract.

5.02 *Milestones*

- A. *Date for Submittal of Shop Drawings and Samples:* Seller shall submit all Shop Drawings and Samples required by the Contract Documents to Buyer for Engineer's review and approval in accordance with the following schedule:

<i>Special Engineering Services</i>		
<i>Item</i>	<i>Notice to Begin Contract Times</i>	<i>Maximum Contract Time Beyond Notice (days)</i>
<i>First Shop Drawing Submittal</i>	<i>Notice to Proceed</i>	<i>30 days</i>
<i>Second Shop Drawing</i>	<i>- Within 14 days of receipt of Engineer's comments on the First Shop Drawing Submittal</i>	

It is the intent of the parties that (1) Engineer conduct such review and issue its approval, or a denial accompanied by substantive comments regarding information needed to gain approval, within __14__ days of Seller's submittal of such Shop Drawings and Samples; and (2) resubmittals be limited whenever possible. If more than one resubmittal is necessary for reasons not the fault and beyond the control of Seller, then Seller shall be entitled to seek appropriate relief under Paragraph 7.02.B of the General Conditions.

- B. *Date for Delivery of Goods:* The Goods are to be delivered to the Point of Destination and ready for Buyer's receipt of delivery in accordance with the following schedule.

<i>Goods</i>		
<i>Item</i>	<i>Notice to Begin Contract Times</i>	<i>Maximum Contract Time Beyond Notice (days)</i>
<i>Goods</i>	<i>Notice to Commence Fabrication</i>	<i>200 days</i>
<i>Spare Parts</i>	<i>Notice of Completed Installation</i>	<i>30 days</i>

C. *Days for Furnishing Special Services:* The furnishing of Special Services to Buyer will commence in accordance with the following schedule:

<i>Special Services</i>		
<i>Item</i>	<i>Notice to Begin Contract Times</i>	<i>Maximum Contract Time Beyond Notice (days)</i>
<i>Installation Manuals</i>	<i>Notice to Commence Fabrication</i>	<i>60 days</i>
<i>Inspection/Certificate of Completed Installation</i>	<i>Notice of Completed Installation</i>	<i>14 days</i>
<i>Operator Training</i>	<i>Notice of Completed Installation</i>	<i>21 days</i>
<i>Preliminary O&M Manual</i>	<i>Notice of Completed Installation</i>	<i>7 days</i>
<i>Final O&M Manual</i>	<i>Notice of Substantial Completion</i>	<i>14 days</i>

5.03 *Buyer's Final Inspection*

A. Days to Achieve Final Inspection: Buyer shall make its final inspection of the Goods pursuant to Paragraph 8.01.C of the General Conditions within 45 days after Buyer's acknowledgement of receipt of delivery of the Goods and Seller's completion of furnishing Special Services, if any.

5.04 *Liquidated Damages*

A. Buyer and Seller recognize that Buyer will suffer financial loss if the Special Services are not complete and the Goods are not delivered at the Point of Destination and ready for receipt of delivery by Buyer within the times specified in Paragraph 5.02 above, plus any extensions thereof allowed in accordance with Article 7 of the General Conditions. The parties also recognize that the timely performance of services by others involved in the Project is materially dependent upon Seller's specific compliance with the requirements of Paragraph 5.02. Further, they recognize the delays, expense, and difficulties involved in proving the actual loss suffered by Buyer if complete acceptable Goods are not delivered on time. Accordingly, instead of requiring such proof, Buyer and Seller agree that as liquidated damages for delay (but not as a penalty) Seller shall pay Buyer the

amounts shown in the table immediately following this paragraph for each day that expires after the time specified in Paragraph 5.02.A for delivery of acceptable Goods.

.

<i>Reference</i>	<i>Item</i>	<i>Daily Damages</i>
<i>5.02A</i>	<i>Special Engineering Services/Shop Drawings</i>	<i>\$500</i>
<i>5.02B</i>	<i>Goods</i>	<i>\$1,000</i>
<i>5.02C</i>	<i>Special Services</i>	<i>\$500</i>

ARTICLE 6 – CONTRACT PRICE

6.01 Buyer shall pay Seller for furnishing the Goods and Special Services in accordance with the Contract Documents as follows:

- A. The prices stated in Seller's Bid, attached hereto as an exhibit.
- B. The Contract Price for the Goods and Services shall remain valid for 365 days after the Effective Date of the Agreement,

ARTICLE 7 – PAYMENT PROCEDURES

7.01 *Submittal and Processing of Payment*

- A. Seller shall submit Applications for Payment in accordance with Article 10 of the General Conditions. Applications for Payment will be processed by Engineer as provided in the General Conditions.

7.02 *Progress Payments; Retainage*

- A. Buyer shall make progress payments on account of the Contract Price on the basis of Seller's Applications for Payment as follows:
 - 1. Progress Payments for Special Engineering Services
 - a. Upon receipt of the first Application for Payment submitted in accordance with Paragraph 10.01.A.1 of the General Conditions and accompanied by Engineer's recommendation of payment in accordance with Paragraph 10.02.A of the General Conditions, an amount equal to 25 percent of the Contract Price, less such amounts as Engineer may determine in accordance with Paragraph 10.02.A.3 of the General Conditions. The first Application for Payment will be considered by the Engineer after submittal of the first Shop Drawing under 5.02.A.

- b. Upon receipt of the second such Application for Payment accompanied by Engineer's recommendation of payment in accordance with Paragraph 10.01.A.2 of the General Conditions, an amount sufficient to increase total payments to Seller to 100 percent of the Contract Price, less such amounts as Engineer may determine in accordance with Paragraph 10.02.A.3 of the General Conditions. The second Application for Payment will be considered by the Engineer after approval of all shop drawing submittals.

2. Progress Payments for Goods and Special Services

- a. Upon receipt of the first Application for Payment submitted in accordance with Paragraph 10.01.A.1 of the General Conditions and accompanied by Engineer's recommendation of payment in accordance with Paragraph 10.02.A of the General Conditions, an amount equal the percent values shown in the table immediately following this paragraph of the Contract Price, less such amounts as Engineer may determine in accordance with Paragraph 10.02.A.3 of the General Conditions.

<i>Payment</i>	<i>Contract Milestone(s)</i>	<i>Percent of Total Contract Price for Goods and Special Services</i>
<i>First Application</i>	<i>Notice to Commence Fabrication</i>	<i>20 percent</i>
<i>Second Application</i>	<i>Delivery of Goods</i>	<i>70 percent</i>
<i>Third Application</i>	<i>Notice of Completed Installation</i>	<i>90 percent</i>
<i>Fourth Application</i>	<i>Delivery of Final O&M Manuals and Spare Parts</i>	<i>95 percent</i>

7.03 *Final Payment*

- A. Upon receipt of the final Application for Payment accompanied by Engineer's recommendation of payment, Buyer shall pay Seller the amount recommended by Engineer, less any sum Buyer is entitled to set off against Engineer's recommendation, including but not limited to liquidated damages.

ARTICLE 8 – INTEREST

8.01 All monies not paid when due as provided in Article 10 of the General Conditions shall bear interest at the statutory rate.

ARTICLE 9 – SELLER’S REPRESENTATIONS

9.01 In order to induce Buyer to enter into this Agreement, Seller makes the following representations:

- A. Seller has examined and carefully studied the Contract Documents and the other related data identified in the Bidding Documents, as applicable to Seller's obligations identified in Article 1 above.
- B. If required by the Bidding Documents to visit the Point of Destination and site where the Goods are to be installed or Special Services will be provided, or if, in Seller’s judgment, any local condition may affect cost, progress, or the furnishing of the Goods and Special Services, Seller has visited the Point of Destination and site where the Goods are to be installed or Special Services will be provided and become familiar with and is satisfied as to the observable local conditions that may affect cost, progress, and the furnishing of the Goods and Special Services.
- C. Seller is familiar with and is satisfied as to all Laws and Regulations that may affect cost, progress, and the furnishing of the Goods and Special Services.
- D. Seller has carefully studied, considered, and correlated the information known to Seller; information commonly known to sellers of similar goods doing business in the locality of the Point of Destination and the site where the Goods will be installed or where Special Services will be provided; information and observations obtained from Seller’s visits, if any, to the Point of Destination and site where the Goods are to be installed or Services will be provided; and any reports and drawings identified in the Bidding Documents regarding the Point of Destination and the site where the Goods will be installed or where Special Services will be provided, with respect to the effect of such information, observations, and documents on the cost, progress, and performance of Seller's obligations under the Contract Documents.
- E. Seller has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Seller has discovered in the Contract Documents, and the written resolution (if any) thereof by Engineer is acceptable to Seller.
- F. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for furnishing Goods and Special Services.

ARTICLE 10 – CONTRACT DOCUMENTS

10.01 *Contents*

- A. The Contract Documents consist of the following:
 - 1. This Agreement (pages __ to __, inclusive);

2. Performance Bond (pages __ to __, inclusive);
3. Payment Bond (pages __ to __, inclusive);
4. Other bonds
 - 1) a. _____ (pages ____ to ____, inclusive);
 - 2) b. _____ (pages ____ to ____, inclusive);
 - 3) c. _____ (pages ____ to ____, inclusive);
5. General Conditions (pages __ to __, inclusive);
6. Supplementary Conditions (pages __ to __, inclusive);
7. Specifications as listed in table of contents of the Project Manual;
8. Drawings, consisting of a cover sheet and sheets numbered 1, 2, & 3
9. Addenda (Numbers ____ to ____, inclusive);
10. Exhibits to this Agreement (enumerated as follows):
 - 4) a. Exhibit A-1 to Agreement between Buyer and Seller dated _____, Assignment of Contract; Consent to Assignment; and Acceptance of Assignment.
 - 5) b. Exhibit A-2 to Agreement between Buyer and Seller dated _____, Agreement to Assignment by Seller's Surety.
 - 6) c. Seller's Bid, solely as to the prices set forth therein (pages ____ to ____, inclusive);
 - 7) d. Documentation submitted by Seller prior to Notice of Award (pages __ to __, inclusive);
11. The following which may be delivered or issued on or after the Effective Date of the Agreement and are not attached hereto:
 - 8) a. Notice to Proceed;
 - 9) b. Change Order(s);
 - 10) c. Work Change Directive(s).

B. The documents listed in Paragraph 10.01.A are attached to this Agreement (except as expressly noted otherwise above).

C. There are no Contract Documents other than those listed above in this Article 10.

- D. The Contract Documents may only be amended, or supplemented as provided in Paragraph 3.04 of the General Conditions.

ARTICLE 11 – MISCELLANEOUS

11.01 Terms

- A. Terms used in this Agreement will have the meanings indicated in the General Conditions and the Supplementary Conditions.

11.02 Assignment of Contract

- A. Buyer has the right to assign this Contract for furnishing Goods and Special Services, but only to a person or entity with sufficient ability to satisfy all of Buyer's obligations under this Contract, and Seller hereby consents to such assignment. Forms documenting the assignment of the Contract, and consent of Seller's surety to the assignment, have been executed by Buyer, Seller, and Seller's surety, and are attached as exhibits to this Agreement.

1. The Contract will be executed in the name of Buyer initially, and will be assigned by Buyer to a construction contractor designated by Buyer. Such construction contractor's responsibilities will include the installation and storage (if required) of the Goods. The assignment will occur on the effective date of the agreement between Buyer and the construction contractor, which is expected to occur on or about [_____]. As of the date of acceptance of assignment by the construction contractor, all references in the Contract Documents to Buyer shall mean the designated construction contractor.
2. The assignment of the Contract shall relieve the Buyer from all further obligations and liabilities under this Contract. After assignment, Seller shall become a subcontractor or supplier to the construction contractor and, except as noted herein, all rights, duties, and obligations of Buyer under the Contract shall become the rights, duties, and obligations of the construction contractor.

3. After assignment:

- 11)
 - a. All performance warranties, guarantees, and indemnifications required by the Contract Documents will continue to run for the benefit of Buyer and, in addition, for the benefit of the construction contractor. However, if Buyer and construction contractor make the same warranty or guarantee claim, then Seller shall only be liable once for such claim.
 - b. Except as provided in this Paragraph 11.02.A.3.b, all rights, duties, and obligations of Engineer to construction contractor and Seller under this Contract will cease.
- a)
 - 1) Engineer will review Seller's Applications for Payment and make recommendations to construction contractor for payments as provided in Paragraphs 10.02 and 10.06 of the General Conditions.

- b) 2) Upon the written request of either the construction contractor or Seller, Engineer will issue with reasonable promptness clarifications or interpretations of the Contract Documents pursuant to the terms of Paragraph 9.02.A of the General Conditions.

- B. No other assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound. Specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by Laws and Regulations).

11.03 *Successors and Assigns*

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

11.04 *Severability*

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

11.05 *Seller's Certifications*

- A. Seller certifies that it has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for or in executing the Contract. For the purposes of this Paragraph 11.05:
1. "corrupt practice" means the offering, giving, receiving, or soliciting of any thing of value likely to influence the action of a public official in the bidding process or in the Contract execution;
 2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the bidding process or the execution of the Contract to the detriment of Buyer, (b) to establish Bid or Contract prices at artificial non-competitive levels, or (c) to deprive Buyer of the benefits of free and open competition;
 3. "collusive practice" means a scheme or arrangement between two or more Bidders, with or without the knowledge of Buyer, a purpose of which is to establish Bid prices at artificial, non-competitive levels; and
 4. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

11.06 *Limitations*

- A. Buyer and Seller waive against each other, and against the other's officers, directors, members, partners, employees, agents, consultants, and subcontractors, any and all claims for or entitlement to incidental, indirect, or consequential damages arising out of, resulting from, or related to the Contract. Upon assignment the terms of this Paragraph 11.06.A shall be binding upon the assignee with respect to Seller and assignor. The terms of this mutual waiver do not apply to or limit any claim by either Buyer or Seller against the other based on any of the following: (a) contribution or indemnification, (b) costs, losses, or damages attributable to personal or bodily injury, sickness, disease, or death, or to injury to or destruction of the tangible property of others, (c) intentional or reckless wrongful conduct, or (d) rights conferred by any bond provided by Seller under this Contract.

- B. Upon assignment the terms of this Paragraph 11.06.B shall be binding upon both the assignor and assignee with respect to Seller's liability, and upon Seller with respect to both assignor's and assignee's liabilities. The terms of this mutual limitation do not apply to or limit any claim by either Buyer or Seller against the other based on any of the following: (a) contribution or indemnification with respect to third-party claims, losses, and damages; (b) costs, losses, or damages attributable to personal or bodily injury, sickness, disease, or death, or to injury to or destruction of the tangible property of others, (c) intentional or reckless wrongful conduct, or (d) rights conferred by any bond provided by Seller under this Contract.

IN WITNESS WHEREOF, Buyer and Seller have signed this Agreement. Counterparts have been delivered to Buyer and Seller. All portions of the Contract Documents have been signed or identified by Buyer and Seller or on their behalf.

This Agreement will be effective on *[insert date]* (which is the Effective Date of the Agreement).

Buyer: _____

Seller: _____

By: _____

By: _____

[Corporate Seal]

[Corporate Seal]

Attest: _____

Attest: _____

Address for giving notice:

Address for giving notice:

(If Buyer is a corporation, attach evidence of authority to sign. If Buyer is a public body, attach evidence of authority to sign and resolution or other documents authorizing execution of Buyer-Seller Agreement.)

Agent for service of process:

(If Seller is a corporation or a partnership, attach evidence of authority to sign.)

Designated Representative:

Name: _____

Title: _____

Address: _____

Phone: _____

Facsimile: _____

Designated Representative:

Name: _____

Title: _____

Address: _____

Phone: _____

Facsimile: _____

**EXHIBIT A-1 to Agreement Between
Buyer and Seller dated _____**

**ASSIGNMENT OF CONTRACT; CONSENT TO ASSIGNMENT;
AND ACCEPTANCE OF ASSIGNMENT**

This assignment will be effective on the Effective Date of the Agreement between Buyer and Construction Contractor.

The Contract between Santaquin City Corporation (“Buyer”) and _____ (“Seller”) for furnishing Goods and Special Services under the Contract Documents entitled SANTAQUIN CITY WATER RECLAMATION FACILITY PHASE 2 IMPROVEMENTS – SCREW PRESS SLUDGE DEWATERING EQUIPMENT PROCUREMENT is hereby assigned, transferred, and set over to _____ (“Construction Contractor”). Construction Contractor shall be totally responsible for the performance of Seller and for the duties, rights and obligations of Buyer, not otherwise retained by Buyer, under the terms of the Contract between Buyer and Seller.

ASSIGNMENT DIRECTED BY:

(If Buyer is a corporation, attach evidence of authority to sign. If Buyer is a public body, attach evidence of authority to sign and resolution or other documents authorizing execution of Buyer-Seller Agreement.)

Buyer

By: _____
(Signature) (Title)

ASSIGNMENT

ACKNOWLEDGED AND ACCEPTED BY:

(If Seller is a corporation, attach evidence of authority to sign.)

Seller

By: _____
(Signature) (Title)

ASSIGNMENT ACCEPTED BY:

(If Construction Contractor is a corporation, attach evidence of authority to sign.)

Construction Contractor

By: _____

AGREEMENT TO ASSIGNMENT BY SELLER'S SURETY

Surety hereby acknowledges and agrees that the Contract for furnishing Goods and Special Services under the Contract Documents entitled SANTAQUIN CITY WATER RECLAMATION FACILITY PHASE 2 IMPROVEMENTS – SCREW PRESS SLUDGE DEWATERING EQUIPMENT PROCUREMENT

_____ by and between
Santaquin City Corporation _____ (“Buyer”) and

_____ (“Seller”) may be assigned, transferred, and set over to _____
_____ (“Construction Contractor”), in accordance with Paragraph 11.02 of Agreement between Buyer and Seller.

Surety further agrees that, upon assignment of the Contract, the Construction Contractor shall have all the rights of the Buyer under the Performance Bond.

(Corporate Seal)

Surety

Company: _____

By: _____

Signature and Title
(Attach Power of Attorney)

Notice to Proceed

Date: _____

Project: Santaquin City Water Reclamation Facility Phase 2 Improvements – Screw Press Sludge Dewatering Equipment

Owner: Santaquin City Corporation

Owner's Contract No.:

Contract: Screw Press Dewatering Equipment Procurement

Engineer's Project No.: 83-17-059

Seller:

Seller's Address:

You are notified that the Contract Times under the above Contract will commence to run on _____. On or before that date, you are to start performing your obligations under the Contract Documents. The Contract Times are detailed in Article 5 of the Agreement. Additional requirements are provided elsewhere including the General Conditions.

Santaquin City Corporation

Owner

Given by:

Authorized Signature

Title

Date

Copy to Engineer

Seller

Given by:

Authorized Signature

Title

Date

PERFORMANCE BOND FOR PROCUREMENT CONTRACTS

Any singular reference to Seller, Surety, Buyer, or other party shall be considered plural where applicable.

SELLER (Name and Address):

SURETY (Name and Address of Principal
Place of Business):

BUYER (Name and Address):

CONTRACT

Date:

Amount:

Description (Name and Location):

BOND

Date (Not earlier than Contract Date):

Bond Number:

Amount:

Modifications to this Bond Form:

Surety and Seller, intending to be legally bound hereby, subject to the terms set forth below, do each cause this Performance Bond to be duly executed on its behalf by its authorized officer, agent, or representative.

Seller as Principal

Company: (Corp. Seal)

Signature:

Name and Title:

Surety

Company: (Corp. Seal)

Signature:

Name and Title:

(Attach Power of Attorney)

Address:

Telephone Number:

(Space is provided below for signatures of additional parties, if required.)

Seller as Principal

Company: (Corp. Seal)

Signature:

Name and Title:

Surety

Company: (Corp. Seal)

Signature:

Name and Title:

Address:

Telephone Number:

1. Seller and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to Buyer for the performance of the Contract, which is incorporated herein by

reference. For purposes of this bond, Buyer means Buyer's assigns, if and when Buyer has assigned the Contract.

2. If Seller performs the Contract, Surety and Seller have no obligation under this Bond, except to participate in conferences as provided in Paragraph 3.1.
3. If there is no Buyer Default, Surety's obligation under this Bond shall arise after:
 - 3.1. Buyer has notified Seller and Surety pursuant to Paragraph 10 that Buyer is considering declaring a Seller Default and has requested and attempted to arrange a conference with Seller and Surety to be held not later than 15 days after receipt of such notice to discuss methods of performing the Contract. (If Buyer, Seller, and Surety agree, Seller shall be allowed a reasonable time to perform the Contract, but such an agreement shall not waive Buyer's right, if any, subsequently to declare a Seller Default); and
 - 3.2. Buyer has declared a Seller Default and formally terminated Seller's right to complete the Contract. Such Seller Default shall not be declared earlier than 20 days after Seller and Surety have received notice as provided in Paragraph 3.1; and
 - 3.3. Buyer has agreed to pay the Balance of the Contract Price to:
 - a. Surety in accordance with the terms of the Contract;
 - b. Another seller selected pursuant to Paragraph 4.3 to perform the Contract.
4. When Buyer has satisfied the conditions of Paragraph 3, Surety shall promptly and at Surety's expense take one of the following actions:
 - 4.1. Arrange for Seller, with consent of Buyer, to perform and complete the Contract; or
 - 4.2. Undertake to perform and complete the Contract itself, through its agents or through independent contractors; or
 - 4.3. Obtain bids or negotiated proposals from qualified sellers acceptable to Buyer for a contract for performance and completion of the Contract, arrange for a contract to be prepared for execution by Buyer and a seller selected with Buyer's concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the Bonds issued on the Contract, and pay to Buyer the amount of damages as described in Paragraph 6 in excess of the Balance of the Contract Price incurred by Buyer resulting from Seller Default; or
 - 4.4. Waive its right to perform and complete, arrange for completion, or obtain a new seller, and with reasonable promptness under the circumstances, either:
 - a. determine the amount for which it may be liable to Buyer and, as soon as practicable after the amount is determined, tender payment therefor to Buyer; or
 - b. deny liability in whole or in part and notify Buyer citing reasons therefor.
5. If Surety does not proceed as provided in Paragraph 4 with reasonable promptness, Surety shall be deemed to be in default on this Bond 15 days after receipt of an additional written notice from Buyer

to Surety demanding that Surety perform its obligations under this Bond, and Buyer shall be entitled to enforce any remedy available to Buyer. If Surety proceeds as provided in paragraph 4.4, and Buyer refuses the payment tendered or Surety has denied liability, in whole or in part, without further notice Buyer shall be entitled to enforce any remedy available to Buyer.

6. After Buyer has terminated Seller's right to complete the Contract, and if Surety elects to act under Paragraph 4.1, 4.2, or 4.3, then the responsibilities of Surety to Buyer shall not be greater than those of Seller under the Contract, and the responsibilities of Buyer to Surety shall not be greater than those of Buyer under the Contract. To a limit of the amount of this Bond, but subject to commitment by Buyer of the Balance of the Contract Price to mitigation of costs and damages on the Contract, Surety is obligated without duplication for:
 - 6.1. the responsibilities of Seller for correction or replacement of defective Goods and Special Services and completion of the Contract;
 - 6.2. Additional legal, design professional, and delay costs resulting from Seller's Default, and resulting from the actions of or failure to act of Surety under Paragraph 4; and
 - 6.3. Liquidated damages, or if no liquidated damages are specified in the Contract, actual damages caused by delayed performance or non-performance of Seller.
7. Surety shall not be liable to Buyer or others for obligations of Seller that are unrelated to the Contract, and the Balance of the Contract Price shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than Buyer or its heirs, executors, administrators, successors, or assigns.
8. Surety hereby waives notice of any change, including changes of time, to the Contract or to related subcontracts, purchase orders and other obligations.
9. Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location of the Point of Destination, and shall be instituted within two years after Seller Default or within two years after Seller ceased working or within two years after Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.
10. Notice to Surety, Buyer or Seller shall be mailed or delivered to the address shown on the signature page.
11. When this Bond has been furnished to comply with a statutory or other legal requirement in the location of the Point of Destination, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. The intent is that this Bond shall be construed as a statutory bond and not as a common law bond.
12. Definitions.
 - 12.1. *Balance of the Contract Price:* The total amount payable by Buyer to Seller under the Contract after all proper adjustments have been made, including allowance to Seller of any amounts received or to be received by Buyer in settlement of insurance or other Claims for damages to

which Seller is entitled, reduced by all valid and proper payments made to or on behalf of Seller under the Contract.

12.2. *Contract*: The agreement between Buyer and Seller identified on the signature page, including all Contract Documents and changes thereto.

12.3. *Seller Default*: Failure of Seller, which has neither been remedied nor waived, to perform or otherwise to comply with the terms of the Contract.

12.4. *Buyer Default*: Failure of Buyer, which has neither been remedied nor waived, to pay Seller as required by the Contract or to perform and complete or comply with the other terms thereof.

PAYMENT BOND FOR PROCUREMENT CONTRACTS

Any singular reference to Seller, Surety, Buyer or other party shall be considered plural where applicable.

SELLER (Name and Address):

SURETY (Name and Address of Principal
Place of Business):

BUYER (Name and Address):

CONTRACT

Date:

Amount:

Description (Name and Location):

BOND

Date (Not earlier than Contract Date):

Bond Number:

Amount:

Modifications to this Bond Form:

Surety and Seller, intending to be legally bound hereby, subject to the terms set forth below, do each cause this Payment Bond to be duly executed on its behalf by its authorized officer, agent, or representative.

Seller as Principal

Company: (Corp. Seal)

Signature:

Name and Title:

Surety

Company: (Corp. Seal)

Signature:

Name and Title:

(Attach Power of Attorney)

Address:

Telephone Number:

(Space is provided below for signatures of additional parties, if required.)

Seller as Principal

Company: (Corp. Seal)

Signature:

Name and Title:

Surety

Company: (Corp. Seal)

Signature:

Name and Title:

Address:

Telephone Number:

1. Seller and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to Buyer to pay for labor, materials and equipment furnished for use in the performance of the Contract, which is incorporated herein by reference. For purposes of this bond, Buyer means Buyer's assigns, if and when Buyer has assigned the Contract.
2. With respect to Buyer, this obligation shall be null and void if Seller:
 - 2.1. Promptly makes payment, directly or indirectly, for all sums due Claimants, and
 - 2.2. Defends, indemnifies and holds harmless Buyer from all claims, demands, liens or suits by any person or entity who furnished labor, materials or equipment for use in the performance of the Contract, provided Buyer has promptly notified Seller and Surety (at the addresses described in Paragraph 12) of any claims, demands, liens or suits and tendered defense of such claims, demands, liens or suits to Seller and Surety, and provided there is no Buyer Default.
3. With respect to Claimants, this obligation shall be null and void if Seller promptly makes payment, directly or indirectly, for all sums due.
4. Surety shall have no obligation to Claimants under this Bond until:
 - 4.1. Claimants who are employed by or have a direct contract with Seller have given notice to Surety (at the address described in Paragraph 12) and sent a copy, or notice thereof, to Buyer stating that a claim is being made under this Bond and, with substantial accuracy, the amount of the claim.
 - 4.2. Claimants who do not have a direct contract with Seller:
 - a. Have furnished written notice to Seller and sent a copy, or notice thereof, to Buyer, within 90 days after having last performed labor or last furnished materials or equipment included in the claim stating, with substantial accuracy, the amount of the claim and the name of the party to whom the materials were furnished or supplied or for whom the labor was done or performed; and
 - b. Have either received a rejection in whole or in part from Seller or not received within 30 days of furnishing the above notice any communication from Seller by which Seller had indicated the claim will be paid directly or indirectly; and
 - c. Not having been paid within the above 30 days, have sent a written notice to Surety (at the address described in Paragraph 12) and sent a copy, or notice thereof, to Buyer stating that a claim is being made under this Bond and enclosing a copy of the previous written notice furnished to Seller.
5. If a notice required by Paragraph 4 is given by Buyer to Seller or to Surety, that is sufficient compliance.
6. Reserved.
7. Surety's total obligation shall not exceed the amount of this Bond, and the amount of this bond shall be credited for any payments made in good faith by Surety.
8. Amounts owed by Buyer to Seller under the Contract shall be used for the performance of the Contract and to satisfy claims, if any, under any Performance Bond. By Seller furnishing and Buyer accepting this Bond, they agree that all funds earned by Seller in the performance of the Contract are dedicated to

satisfy obligations of Seller and Surety under this Bond, subject to Buyer's priority to use the funds for the completion of the furnishing the Goods and Special Services.

9. Surety shall not be liable to Buyer, Claimants or others for obligations of Seller that are unrelated to the Contract. Buyer shall not be liable for payment of any costs or expenses of any Claimant under this Bond, and shall have under this Bond no obligation to make payments to, give notices on behalf of, or otherwise have obligations to Claimants under this Bond.
10. Surety hereby waives notice of any change, including changes of time, to the Contract or to related subcontracts, purchase orders, and other obligations.
11. No suit or action shall be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the location in which the Goods relevant to the claim are located or after the expiration of one year from the date (1) on which the Claimant gave the notice required by Paragraph 4.1 or paragraph 4.2.3, or (2) on which the last labor or service was performed by anyone or the last materials or equipment were furnished by anyone under the Contract, whichever of (1) or (2) first occurs. If the provisions of this paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.
12. Notice to Surety, Buyer or Seller shall be mailed or delivered to the addresses shown on the signature page. Actual receipt of notice by Surety, Buyer or Seller, however accomplished, shall be sufficient compliance as of the date received at the address shown on the signature page.
13. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the Contract was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. The intent is that this Bond shall be construed as a statutory Bond and not as a common law bond.
14. Upon request of any person or entity appearing to be a potential beneficiary of this Bond, Seller shall promptly furnish a copy of this Bond or shall permit a copy to be made.
15. Definitions
 - 15.1 *Claimant*: An individual or entity having a direct contract with Seller or with a Subcontractor of Seller to furnish labor, materials or equipment for use in the performance of the Contract. The intent of this Bond shall be to include without limitation in the terms "labor, materials or equipment" that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental equipment used in the Contract, architectural and engineering services required for furnishing the Goods and Special Services by Seller and Seller's Subcontractors, and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials or equipment were furnished.
 - 15.2. *Contract*: The agreement between Buyer and Seller identified on the signature page, including all Contract Documents and changes thereto.
 - 15.3. *Buyer Default*: Failure of Buyer, which has neither been remedied nor waived, to pay Seller as required by the Contract or to perform and complete or comply with the other terms thereof.

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STANDARD GENERAL CONDITIONS FOR PROCUREMENT CONTRACTS

ARTICLE 1 – DEFINITIONS AND TERMINOLOGY

1.01 Defined Terms

- A. Whenever used in the Bidding Requirements or Contract Documents and printed with initial capital letters, the terms listed below will have the meanings indicated which are applicable to the singular or plural thereof. In addition to terms specifically defined, terms with initial capital letters in the Contract Documents include references to identified articles and paragraphs, and the titles of other documents or forms.
1. *Addenda*—Written or graphic instruments issued prior to the opening of Bids which clarify, correct, or change the Bidding Requirements or the proposed Contract Documents.
 2. *Agreement*—The written instrument signed by both Buyer and Seller covering the Goods and Special Services and which lists the Contract Documents in existence on the Effective Date of the Agreement.
 3. *Application for Payment*—The form acceptable to Buyer which is used by Seller in requesting progress and final payments and which is accompanied by such supporting documentation as is required by the Contract Documents.
 4. *Bid*— The offer or proposal of a Seller submitted on the prescribed form setting forth the prices for the Goods and Special Services to be provided.
 5. *Bidder*—The individual or entity that submits a Bid directly to Buyer.
 6. *Bidding Documents*—The Bidding Requirements and the proposed Contract Documents (including all Addenda).
 7. *Bidding Requirements*—The advertisement or invitation to bid, Instructions to Bidders, Bid security of acceptable form, if any, and Bid Form with any supplements.
 8. *Buyer*—The individual or entity purchasing the Goods and Special Services.
 9. *Change Order*—A document which is signed by Seller and Buyer and authorizes an addition, deletion, or revision to the Contract Documents or an adjustment in the Contract Price or the Contract Times, issued on or after the Effective Date of the Agreement. Change Orders may be the result of mutual agreement by Buyer and Seller, or of resolution of a Claim.

10. *Claim*—A demand or assertion by Buyer or Seller seeking an adjustment of Contract Price or Contract Times, or both, or other relief with respect to the terms of the Contract. A demand for money or services by a third party is not a Claim.
11. *Contract*—The entire and integrated written agreement between Buyer and Seller concerning the Goods and Special Services. The Contract supersedes prior negotiations, representations, or agreements, whether written or oral.
12. *Contract Documents*—Those items so designated in the Agreement. Shop Drawings and other Seller submittals are not Contract Documents, even if accepted, reviewed, or approved by Engineer or Buyer.
13. *Contract Price*—The moneys payable by Buyer to Seller for furnishing the Goods and Special Services in accordance with the Contract Documents as stated in the Agreement.
14. *Contract Times*—The times stated in the Agreement by which the Goods must be delivered and Special Services must be furnished.
15. *Drawings*—That part of the Contract Documents prepared or approved by Engineer which graphically shows the scope, extent, and character of the Goods and Special Services to be furnished by Seller. Shop Drawings and other Seller submittals are not Drawings as so defined.
16. *Effective Date of the Agreement*—The date indicated in the Agreement on which it becomes effective, but if no such date is indicated, it means the date on which the Agreement is signed and delivered by the last of the two parties to sign and deliver.
17. *Engineer*—The individual or entity designated as such in the Agreement.
18. *Field Order*—A written order issued by Engineer which requires minor changes in the Goods or Special Services but which does not involve a change in the Contract Price or Contract Times.
19. *General Requirements*—Sections of Division 1 of the Specifications. The General Requirements pertain to all sections of the Specifications.
20. *Goods*—The tangible and movable personal property that is described in the Contract Documents, regardless of whether the property is to be later attached to realty.
21. *Goods and Special Services*—The full scope of materials, equipment, other items, and services to be furnished by Seller, including Goods, as defined herein, and Special Services, if any, as defined herein. This term refers to both the Goods and the Special Services, or to either the Goods or the Special Services, and to any portion of the Goods or the Special Services, as the context requires.
22. *Laws and Regulations; Laws or Regulations*—Any and all applicable laws, rules, regulations, ordinances, codes, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.

23. *Milestone*—A principal event specified in the Contract Documents relating to an intermediate completion date or time prior to the Contract Times.
24. *Notice of Award*—The written notice by Buyer to the Successful Bidder stating that upon timely compliance by the Successful Bidder with the conditions precedent listed therein, Buyer will sign and deliver the Agreement.
25. *Notice to Proceed*—A written notice given by Buyer to Seller fixing the date on which the Contract Times commence to run and on which Seller shall start to perform under the Contract.
26. *Point of Destination*—The specific address of the location where delivery of the Goods shall be made, as stated in the Agreement.
27. *Project*—The total undertaking of which the Goods and Special Services may be the whole, or only a part.
28. *Project Manual*—The documentary information prepared for bidding and furnishing the Goods and Special Services. A listing of the contents of the Project Manual is contained in its table of contents.
29. *Samples*—Physical examples of materials, equipment, or workmanship that are representative of some portion of the Goods and Special Services and which establish the standards by which such portion of the Goods and Special Services will be judged.
30. *Seller*—The individual or entity furnishing the Goods and Special Services.
31. *Shop Drawings*—All drawings, diagrams, illustrations, schedules, and other data or information which are specifically prepared or assembled by or for Seller and submitted by Seller to illustrate some portion of the Goods and Special Services.
32. *Special Services*—Services associated with the Goods to be furnished by Seller as required by the Contract Documents.
33. *Specifications*—That part of the Contract Documents consisting of written requirements for materials, equipment, systems, standards and workmanship as applied to the furnishing of the Goods and Special Services, and certain administrative requirements and procedural matters applicable thereto.
34. *Successful Bidder*—The Bidder submitting a responsive Bid, to whom Buyer makes an award.
35. *Supplementary Conditions*—That part of the Contract Documents which amends or supplements these General Conditions.
36. *Work Change Directive*—A written statement to Seller issued on or after the Effective Date of the Agreement and signed by Buyer ordering an addition, deletion, or other revision in the Contract Documents with respect to the Goods and Special Services. A

Work Change Directive will not change the Contract Price or the Contract Times but is evidence that the parties expect that the change ordered or documented by a Work Change Directive will be incorporated in a subsequently issued Change Order following negotiations by the parties as to its effect, if any, on the Contract Price or Contract Times.

1.02 Terminology

A. The words and terms discussed in Paragraphs 1.02.B and 1.02.C are not defined, but have the indicated meanings when used in the Bidding Requirements or Contract Documents.

B. *Intent of Certain Terms or Adjectives:*

1. The Contract Documents include the terms “as allowed,” “as approved,” “as ordered,” “as directed” or terms of like effect or import to authorize an exercise of professional judgment by Engineer. In addition, the adjectives “reasonable,” “suitable,” “acceptable,” “proper,” “satisfactory,” or adjectives of like effect or import are used to describe an action or determination of Engineer as to the Goods and Special Services. It is intended that such exercise of professional judgment, action, or determination will be commercially reasonable and will be solely to evaluate, in general, the Goods and Special Services for compliance with the requirements of and information in the Contract Documents and conformance with the design concept of the completed Project as a functioning whole as shown or indicated in the Contract Documents (unless there is a specific statement indicating otherwise). The use of any such term or adjective shall not be effective to assign to Engineer any duty or authority to supervise or direct the furnishing of Goods or Special Services or any duty or authority to undertake responsibility contrary to any other provision of the Contract Documents.
2. The word “non-conforming” when modifying the words “Goods and Special Services,” “Goods,” or “Special Services,” refers to Goods and Special Services that fail to conform to the Contract Documents.
3. The word “receipt” when referring to the Goods, shall mean the physical taking and possession by the Buyer under the conditions specified in Paragraph 8.01.B.3.
4. The word “day” means a calendar day of 24 hours measured from midnight to the next midnight.
5. The word “furnish,” when used in connection with the Goods and Special Services shall mean to supply and deliver said Goods to the Point of Destination (or some other specified location) and to perform said Special Services fully, all in accordance with the Contract Documents.

C. Unless stated otherwise in the Contract Documents, words or phrases that have a well-known technical or construction industry or trade meaning are used in the Contract Documents in accordance with such recognized meaning.

ARTICLE 2 – PRELIMINARY MATTERS

2.01 Delivery of Bonds

- A. When Seller delivers the executed counterparts of the Agreement to Buyer, Seller also shall deliver such bonds as Seller may be required to furnish.

2.02 Evidence of Insurance

- A. When Seller delivers the executed counterparts of the Agreement to Buyer, Seller shall deliver to Buyer, with copies to each additional insured identified by name in the Supplementary Conditions, certificates of insurance (and other evidence of insurance which either of them or any additional insured may reasonably request) which Seller is required to purchase and maintain in accordance with Article 4.

2.03 Copies of Documents

- A. Buyer shall furnish Seller up to five printed or hard copies of the Contract Documents. Additional copies will be furnished upon request at the cost of reproduction.

2.04 Commencement of Contract Times; Notice to Proceed

- A. The Contract Times will commence to run on the thirtieth day after the Effective Date of the Agreement or, if a Notice to Proceed is given, on the day indicated in the Notice to Proceed. A Notice to Proceed may be given at any time within 30 days after the Effective Date of the Agreement. In no event will the Contract Times commence to run later than the sixtieth day after the day of Bid opening or the thirtieth day after the Effective Date of the Agreement, whichever date is earlier.

2.05 Designated Representatives

- A. Buyer and Seller shall each designate its representative at the time the Agreement is signed. Each representative shall have full authority to act on behalf of and make binding decisions in any matter arising out of or relating to the Contract.

2.06 Progress Schedule

- A. Within 15 days after the Contract Times start to run, Seller shall submit to Buyer and Engineer an acceptable progress schedule of activities, including at a minimum, Shop Drawing and Sample submittals, tests, and deliveries as required by the Contract Documents. No progress payment will be made to Seller until an acceptable schedule is submitted to Buyer and Engineer.

- B. The progress schedule will be acceptable to Buyer and Engineer if it provides an orderly progression of the submittals, tests, and deliveries to completion within the specified Milestones and the Contract Times. Such acceptance will not impose on Buyer or Engineer responsibility for the progress schedule, for sequencing, scheduling, or progress of the work nor interfere with or relieve Seller from Seller's full responsibility therefor. Such acceptance shall not be deemed to acknowledge the reasonableness and attainability of the schedule.

2.07 Preliminary Conference

A. Within 20 days after the Contract Times start to run, a conference attended by Seller, Buyer, Engineer and others as appropriate will be held to establish a working understanding among the parties as to the Goods and Special Services and to discuss the schedule referred to in Paragraph 2.06.A, procedures for handling Shop Drawings and other submittals, processing Applications for Payment, and maintaining required records.

2.08 Safety

A. Buyer and Seller shall comply with all applicable Laws and Regulations relating to the safety of persons or property, or to the protection of persons or property from damage, injury, or loss. When Seller's personnel, or the personnel of any subcontractor to Seller, are present at the Point of Destination or any work area or site controlled by Buyer, the Seller shall be responsible for the compliance by such personnel with any applicable requirements of Buyer's safety programs that are made known to Seller.

ARTICLE 3 – CONTRACT DOCUMENTS: INTENT AND AMENDING

3.01 Intent

A. The Contract Documents are complementary; what is called for by one is as binding as if called for by all.

B. Any labor, documentation, services, materials, or equipment that may reasonably be inferred from the Contract Documents or from prevailing custom or trade usage as being required to produce or furnish the indicated Goods and Special Services will be provided, whether or not specifically called for, at no additional cost to Buyer.

C. Clarifications and interpretations of, or notifications of minor variations and deviations in, the Contract Documents, will be issued by Engineer as provided in Article 9.

3.02 Standards, Specifications, Codes, Laws and Regulations

A. Reference to standards, specifications, manuals, or codes of any technical society, organization, or association, or to Laws and Regulations, whether such reference be specific or by implication, shall mean the standard, specification, manual, code, or Laws and Regulations in effect at the time of opening of Bids (or on the Effective Date of the Agreement if there were no Bids), except as may be otherwise specifically stated in the Contract Documents.

B. No provision of any such standard, specification, manual or code, or any instruction of a supplier shall be effective to change the duties or responsibilities of Buyer or Engineer, or any of their subcontractors, consultants, agents, or employees from those set forth in the Contract Documents, nor shall any such provision or instruction be effective to assign to Buyer or Engineer, or any of their consultants, agents, or employees any duty or authority to supervise or direct the performance of Seller's obligations or any duty or authority to undertake responsibility inconsistent with the provisions of the Contract Documents.

3.03 Reporting and Resolving Discrepancies

A. *Reporting Discrepancies:*

1. *Seller's Review of Contract Documents Before the Performance of the Contract:* Before performance of the Contract, Seller shall carefully study and compare the Contract Documents and check and verify pertinent figures therein and all applicable field measurements. Seller shall promptly report in writing to Engineer any conflict, error, ambiguity, or discrepancy which Seller discovers or has actual knowledge of and shall obtain a written interpretation or clarification from Engineer before proceeding with the furnishing of any Goods and Special Services affected thereby.
2. *Seller's Review of Contract Documents During the Performance of the Contract:* If, during the performance of the Contract, Seller discovers any conflict, error, ambiguity, or discrepancy within the Contract Documents or between the Contract Documents and any provision of any Law or Regulation applicable to the performance of the Contract, any standard, specification, manual or code, or of any instruction of any Supplier, Seller shall promptly report it to Engineer in writing. Seller shall not proceed with the furnishing of the Goods and Special Services affected thereby until an amendment to or clarification of the Contract Documents has been issued.
3. Seller shall not be liable to Buyer or Engineer for failure to report any conflict, error, ambiguity, or discrepancy in the Contract Documents unless Seller had actual knowledge thereof.

B. *Resolving Discrepancies:* Except as may be otherwise specifically stated in the Contract Documents, the provisions of the Contract Documents shall take precedence in resolving any conflict, error, ambiguity, or discrepancy between the provisions of the Contract Documents and:

1. the provisions of any standard, specification, manual, code, or instruction (whether or not specifically incorporated by reference in the Contract Documents); or
2. the provisions of any Laws or Regulations applicable to the furnishing of the Goods and Special Services (unless such an interpretation of the provisions of the Contract Documents would result in violation of such Law or Regulation).

3.04 Amending and Clarifying Contract Documents

A. The Contract Documents may be amended to provide for additions, deletions, and revisions to the Goods and Special Services or to modify contractual terms and conditions by a Change Order.

B. Buyer may issue a Work Change Directive providing for additions, deletions, or revisions to the Goods and Special Services, in which case (1) the Contract Price shall be equitably adjusted to account for any reasonable and necessary credits to Buyer for any such deletion, or for costs (including reasonable overhead and profit) incurred by Seller to accommodate such an addition or revision and (2) the Contract Times shall be equitably adjusted to account for any impact on progress and completion of performance. Such adjustments subsequently shall be duly set forth in a Change Order.

C. The requirements of the Contract Documents may be supplemented, and minor variations and deviations in the Goods and Special Services may be authorized, by one or more of the following ways:

1. A Field Order;
2. Engineer's approval of a Shop Drawing or Sample (subject to the provisions of Paragraph 5.06.D.3); or
3. Engineer's written interpretation or clarification.

ARTICLE 4 – BONDS AND INSURANCE

4.01 Bonds

A. Seller shall furnish to Buyer performance and payment bonds, each in an amount at least equal to the Contract Price, as security for the faithful performance and payment of all of Seller's obligations under the Contract Documents. These bonds shall remain in effect until 1) one year after the date when final payment becomes due or 2) completion of the correction period specified in Paragraph 8.03, whichever is later, except as provided otherwise by Laws or Regulations or by the Contract Documents. Seller shall also furnish such other bonds as are required by the Contract Documents.

B. All bonds shall be in the form prescribed by the Contract Documents except as provided otherwise by Laws or Regulations, and shall be executed by such sureties as are named in the current list of "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Circular 570 (amended) by the Financial Management Service, Surety Bond Branch, U.S. Department of the Treasury. All bonds signed by an agent or attorney-in-fact must be accompanied by a certified copy of that individual's authority to bind the surety. The evidence of authority shall show that it is effective on the date the agent or attorney-in-fact signed each bond.

C. If the surety on any bond furnished by Seller is declared bankrupt or becomes insolvent or its right to do business is terminated in any state where any part of the Project is located or it ceases to meet the requirements of Paragraph 4.01.B, Seller shall promptly notify Buyer and Engineer and shall, within 20 days after the event giving rise to such notification, provide another bond and surety, both of which shall comply with the requirements of Paragraphs 4.01.B and 4.02.

4.02 Insurance

A. Seller shall provide insurance of the types and coverages and in the amounts stipulated in the Supplementary Conditions.

B. Failure of Buyer to demand certificates of insurance or other evidence of Seller's full compliance with these insurance requirements or failure of Buyer to identify a deficiency in compliance from the evidence provided shall not be construed as a waiver of Seller's obligation to maintain such insurance.

C. Upon assignment of this Contract, Seller shall comply with the written request of assignee to provide certificates of insurance to assignee.

D. Buyer does not represent that insurance coverage and limits established in this Contract necessarily will be adequate to protect Seller.

E. The insurance and insurance limits required herein shall not be deemed as a limitation on Seller's liability under the indemnities granted to Buyer in the Contract Documents.

4.03 Licensed Sureties and Insurers

A. All bonds and insurance required by the Contract Documents to be purchased and maintained by Buyer or Seller shall be obtained from surety or insurance companies that are duly licensed or authorized in the jurisdiction in which the Project is located to issue bonds or insurance policies for the limits and coverages so required. Such surety and insurance companies shall also meet such additional requirements and qualifications as may be provided in the Supplementary Conditions.

ARTICLE 5 – SELLER'S RESPONSIBILITIES

5.01 Supervision and Superintendence

A. Seller shall supervise, inspect, and direct the furnishing of the Goods and Special Services competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform its obligations in accordance with the Contract Documents. Seller shall be solely responsible for the means, methods, techniques, sequences, and procedures necessary to perform its obligations in accordance with the Contract Documents. Seller shall not be responsible for the negligence of Buyer or Engineer in the design or specification of a specific means, method, technique, sequence, or procedure that is shown or indicated in and expressly required by the Contract Documents.

5.02 Labor, Materials and Equipment

A. Seller shall provide competent, qualified and trained personnel in all aspects of its performance of the Contract.

B. All Goods, and all equipment and material incorporated into the Goods, shall be as specified, and unless specified otherwise in the Contract Documents, shall be:

1. new, and of good quality;
2. protected, assembled, connected, cleaned, and conditioned in accordance with the original manufacturer's instructions; and
3. shop assembled to the greatest extent practicable.

5.03 Laws and Regulations

A. Seller shall give all notices required by and shall comply with all Laws and Regulations applicable to the performance of its obligations in accordance with the Contract Documents. Except where otherwise expressly required by such Laws and Regulations, neither Buyer nor Engineer shall be responsible for monitoring Seller's compliance with any Laws or Regulations.

B. If Seller furnishes Goods and Special Services knowing or having reason to know that such furnishing is contrary to Laws or Regulations, Seller shall bear all claims, 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 performance. It shall not be Seller's responsibility to make certain that the Specifications and Drawings are in accordance with Laws and Regulations, but this provision shall not relieve Seller of Seller's obligations under Paragraph 3.03.

C. Changes in Laws or Regulations not known at the time of opening of Bids (or, on the Effective Date of the Agreement if there were no Bids) having an effect on the cost or time of performance shall be the subject of an adjustment in Contract Price or Contract Times. If Buyer and Seller are unable to agree on entitlement to or on the amount or extent, if any, of any such adjustment, a Claim may be made therefor as provided in Paragraph 9.06.

5.04 Or Equals

A. Whenever the Goods, or an item of material or equipment to be incorporated into the Goods, are specified or described in the Contract Documents by using the name of a proprietary item or the name of a particular supplier or manufacturer, the specification or description is intended to establish the type, function, appearance, and quality required. Unless the specification or description contains or is followed by words reading that no like, equivalent, or "or-equal" item is permitted, other items of material or equipment or material or equipment of other suppliers or manufacturers may be submitted to Buyer for Engineer's review.

1. If in Engineer's sole discretion, such an item of material or equipment proposed by Seller is functionally equal to that named and sufficiently similar so that no change in related work will be required, it may be considered by Engineer as an "or-equal" item.
2. For the purposes of this paragraph, a proposed item of material or equipment may be considered functionally equal to an item so named only if:
 - a. in the exercise of reasonable judgment, Engineer determines that: 1) it is at least equal in quality, durability, appearance, strength, and design characteristics; 2) it will reliably perform at least equally well the function imposed by the design concept of the completed Project as a functioning whole; 3) it has an acceptable record of performance and availability of responsive service; and
 - b. Seller certifies that if approved: 1) there will be no increase in any cost, including capital, installation or operating costs, to Buyer; and 2) the proposed item will conform substantially to the detailed requirements of the item named in the Contract Documents.

B. *Engineer's Evaluation:* Engineer will be allowed a reasonable time within which to evaluate each proposal or submittal made pursuant to Paragraph 5.04.A. Engineer will be the sole judge of whether to accept or reject such a proposal or submittal. No "or-equal" will be ordered, manufactured or utilized until Engineer's review is complete, which will be evidenced by an approved Shop Drawing. Engineer will advise Buyer and Seller in writing of any negative

determination. Notwithstanding Engineer's approval of an "or-equal" item, Seller shall remain obligated to comply with the requirements of the Contract Documents.

C. *Special Guarantee:* Buyer may require Seller to furnish at Seller's expense a special performance guarantee or other surety with respect to any such proposed "or-equal."

D. *Data:* Seller shall provide all data in support of any such proposed "or-equal" at Seller's expense.

5.05 Taxes

A. The Buyer is a tax-exempt entity and the Seller shall not be responsible for any taxes arising out of the sale of Goods and furnishing Special Services. Seller is responsible for any duties or other fees associated with the sale or delivery of the Goods. ~~Seller shall be responsible for all taxes and duties arising out of the sale of the Goods and the furnishing of Special Services. All taxes are included in the Contract Price, except as noted in the Supplementary Conditions.~~

5.06 Shop Drawings and Samples

A. Seller shall submit Shop Drawings and Samples to Buyer for Engineer's review and approval in accordance with the schedule required in Paragraph 2.06.A. All submittals will be identified as required and furnished in the number of copies specified in the Contract Documents. The data shown on the Shop Drawings will be complete with respect to quantities, dimensions, specified performance and design criteria, materials, and similar data to show Engineer the services, materials, and equipment Seller proposes to provide.

B. Where a Shop Drawing or Sample is required by the Contract Documents, any related work performed prior to Engineer's approval of the pertinent submittal will be at the sole expense and responsibility of Seller.

C. *Submittal Procedures:*

1. Before submitting each Shop Drawing or Sample, Seller shall have determined and verified:
 - a. all field measurements (if required), quantities, dimensions, specified performance criteria, installation requirements, materials, catalog numbers, and similar information with respect thereto; and
 - b. that all materials are suitable with respect to the indicated application, fabrication, shipping, handling, storage, assembly, and installation pertaining to the furnishing of Goods and Special Services.
2. Seller shall also have reviewed and coordinated each Shop Drawing or Sample with the Contract Documents.
3. Each submittal shall bear a stamp or include a written certification from Seller that Seller has reviewed the subject submittal and confirmed that it is in compliance with the requirements of the Contract Documents. Both Buyer and Engineer shall be entitled to rely on such certification from Seller.

4. With each submittal, Seller shall give Buyer and Engineer specific written notice of any variations that the Shop Drawing or Sample may have from the requirements of the Contract Documents. This notice shall be both in a written communication separate from the submittal and by specific notation on each Shop Drawing or Sample.

D. *Engineer's Review:*

1. Engineer will provide timely review of Shop Drawings and Samples.
2. Engineer's review and approval will be only to determine if the Goods and Special Services covered by the submittals will, after installation or incorporation in the Project, conform to the information given in the Contract Documents and be compatible with the design concept of the completed Project as a functioning whole.
3. Engineer's review and approval shall not relieve Seller from responsibility for any variation from the requirements of the Contract Documents unless Seller has complied with the requirements of Paragraph 5.06.C.4 and Engineer has given written approval of each such variation by specific written notation thereof incorporated in or accompanying the Shop Drawing or Sample. Engineer's review and approval shall not relieve Seller from responsibility for complying with the requirements of Paragraph 5.06.C.1.

E. *Resubmittal Procedures:*

1. Seller shall make corrections required by Engineer and shall return the required number of corrected copies of Shop Drawings and submit, as required, new Samples for review and approval. Seller shall direct specific attention in writing to any revisions other than the corrections called for by Engineer on previous submittals.

5.07 Continuing Performance

- A. Seller shall adhere to the progress schedule established in accordance with Paragraph 2.06.A., and the Goods shall be delivered and the Special Services furnished within the Contract Times specified in the Agreement.
- B. Seller shall carry on furnishing of the Goods and Special Services and adhere to the progress schedule during all disputes or disagreements with Buyer. No furnishing of Goods and Special Services shall be delayed or postponed pending resolution of any disputes or disagreements, except as permitted by Paragraphs 11.03 or 11.04, or as Buyer and Seller may otherwise agree in writing.

5.08 Seller's Warranties and Guarantees

- A. Seller warrants and guarantees to Buyer that the title to the Goods conveyed shall be proper, its transfer rightful, and free from any security interest, lien, or other encumbrance. Seller shall defend, indemnify, and hold Buyer harmless against any liens, claims, or demands contesting or affecting title of the Goods conveyed.
- B. Seller warrants and guarantees to Buyer that all Goods and Special Services will conform with the Contract Documents, and with the standards established by any Samples approved by Engineer. Engineer shall be entitled to rely on Seller's warranty and guarantee. If the Contract

Documents do not otherwise specify the characteristics or the quality of the Goods, the Goods shall comply with the requirements of Paragraph 5.02.B.

C. Seller's warranty and guarantee hereunder excludes defects or damage caused by:

1. abuse, improper modification, improper maintenance, or improper operation by persons other than Seller; or
2. corrosion or chemical attack, unless corrosive or chemically-damaging conditions were disclosed by Buyer in the Contract Documents and the Contract Documents required the Goods to withstand such conditions;
3. use in a manner contrary to Seller's written instructions for installation, operation, and maintenance; or
4. normal wear and tear under normal usage.

D. Seller's obligation to furnish the Goods and Special Services in accordance with the Contract Documents shall be absolute. None of the following will constitute an acceptance of Goods and Special Services that are non-conforming, or a release of Seller's obligation to furnish the Goods and Special Services in accordance with the Contract Documents:

1. observations by Buyer or Engineer;
2. recommendation by Engineer or payment by Buyer of any progress or final payment;
3. use of the Goods by Buyer;
4. any acceptance by Buyer (subject to the provisions of Paragraph 8.02.D.1) or any failure to do so;
5. the issuance of a notice of acceptance by Buyer pursuant to the provisions of Article 8;
6. any inspection, test or approval by others; or
7. any correction of non-conforming Goods and Special Services by Buyer.

B. E. Buyer shall promptly notify Seller of any breach of Seller's warranties or guarantees.

C. F. Seller makes no implied warranties under this Contract.

5.09 Indemnification

- A. To the fullest extent permitted by Laws and Regulations, Seller shall indemnify and hold harmless Buyer and Engineer, and the officers, directors, members, partners, employees, agents, consultants, contractors, 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, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to the performance of Seller's obligations under the

Contract Documents, provided that any such claim, cost, loss, or damages attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Goods themselves), including the loss of use resulting therefrom, but only to the extent caused by any negligent act or omission of Seller, or any individual or entity directly or indirectly employed by Seller or anyone for whose acts Seller may be liable.

B. In any and all claims against Buyer or Engineer or any of their respective assignees, consultants, agents, officers, directors, members, partners, employees, agents, consultants, contractors, or subcontractors, by any employee (or the survivor or personal representative of such employee) of Seller, any subcontractor, any supplier, or any individual or entity directly or indirectly employed by any of them to furnish any of the Goods and Special Services, or anyone for whose acts any of them may be liable, the indemnification obligation under Paragraph 5.09.A shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for seller or any such subcontractor, supplier, or other individual or entity under workers' compensation acts, disability benefit acts, or other employee benefit acts.

C. The indemnification obligations of Seller under Paragraph 5.09.A shall not extend to the liability of Engineer and Engineer's officers, directors, partners, employees, agents, and consultants arising out of:

1. the preparation or approval of, or the failure to prepare or approve, maps, Drawings, opinions, reports, surveys, Change Orders, designs, or Specifications; or
2. giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage.

5.10 Delegation of Professional Design Services

A. Seller will not be required to provide professional design services unless such services are specifically required by the Contract Documents or unless such services are required to carry out Seller's responsibilities for furnishing the Goods and Special Services. Seller shall not be required to provide professional services in violation of applicable law.

B. If professional design services or certifications by a design professional related to the Goods and Special Services are specifically required of Seller by the Contract Documents, Buyer and Engineer will specify all performance and design criteria that such services must satisfy. Seller shall cause such services or certifications to be provided by a properly licensed professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings and other submittals prepared by such professional. Shop Drawings and other submittals related to the Goods and Special Services designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to Engineer.

C. Buyer and Engineer shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications or approvals performed by such design professionals, provided Buyer and Engineer have specified to Seller all performance and design criteria that such services must satisfy.

D. Pursuant to this Paragraph 5.10, Engineer's review and approval of design calculations and design drawings will be only for the limited purpose of checking for conformance with

performance and design criteria given and the design concept expressed in the Contract Documents. Engineer's review and approval of Shop Drawings and other submittals (except design calculations and design drawings) will be only for the purpose stated in Paragraph 5.06.D.2.

E. Seller shall not be responsible for the adequacy of the performance or design criteria required by the Contract Documents.

ARTICLE 6 – SHIPPING AND DELIVERY

6.01 Shipping

A. Seller shall select the carrier and bear all costs of packaging, transportation, insurance, special handling and any other costs associated with shipment and delivery.

6.02 Delivery

A. Seller shall deliver the Goods F.O.B. the Point of Destination in accordance with the Contract Times set forth in the Agreement, or other date agreed to by Buyer and Seller.

B. Seller shall provide written notice to Buyer at least 10 days before shipment of the manner of shipment and the anticipated delivery date. The notice shall also include any instructions concerning special equipment or services required at the Point of Destination to unload and care for the Goods. Seller shall also require the carrier to give Buyer at least 24 hours notice by telephone prior to the anticipated time of delivery.

C. Buyer will be responsible and bear all costs for unloading the Goods from carrier.

D. Buyer will assure that adequate facilities are available to receive delivery of the Goods during the Contract Times for delivery set forth in the Agreement, or another date agreed by Buyer and Seller.

E. No partial deliveries shall be allowed, unless permitted or required by the Contract Documents or agreed to in writing by Buyer.

6.03 Risk of Loss

A. Risk of loss and insurable interests transfer from Seller to Buyer upon Buyer's receipt of the Goods.

B. Notwithstanding the provisions of Paragraph 6.03.A, if Buyer rejects the Goods as non-conforming, the risk of loss on such Goods shall remain with Seller until Seller corrects the non-conformity or Buyer accepts the Goods. If rejected Goods remain at the Point of Destination pending modification and acceptance, then Seller shall be responsible for arranging adequate protection and maintenance of the Goods at Seller's expense.

6.04 Progress Schedule

A. Seller shall adhere to the progress schedule established in accordance with Paragraph 2.06 as it may be adjusted from time to time as provided below.

1. Seller shall submit to Engineer for acceptance (to the extent indicated in Paragraph 2.06) proposed adjustments in the progress schedule that will not result in changing the Contract Times. Such adjustments will comply with any provisions of the General Requirements applicable thereto.
2. Proposed adjustments in the progress schedule that will change the Contract Times shall be submitted in accordance with the requirements of Article 7. Adjustments in Contract Times may only be made by a Change Order.

ARTICLE 7 – CHANGES: SCHEDULE AND DELAY

7.01 Changes in the Goods and Special Services

- A. Buyer may at any time, without notice to any surety, make an addition, deletion, or other revision to the Contract Documents with respect to the Goods and Services, within the general scope of the Contract, by a Change Order or Work Change Directive. Upon receipt of any such document, Seller shall promptly proceed with performance pursuant to the revised Contract Documents (except as otherwise specifically provided).
- B. If Seller concludes that a Work Change Directive issued by Buyer affects the Contract Price or Contract Times, then Seller shall notify Buyer within 15 days after Seller has received the Work Change Directive, and submit written supporting data to Buyer within 45 days after such receipt. If Seller fails to notify Buyer within 15 days, Seller waives any Claim for such adjustment. If Buyer and Seller are unable to agree on entitlement to, or on the amount or extent, if any, of an adjustment in the Contract Price or Contract Times, or both, that should be allowed as a result of a Work Change Directive, a Claim may be made therefor as provided in Paragraph 9.06.
- C. Seller shall not suspend performance while Buyer and Seller are in the process of making such changes and any related adjustments to Contract Price or Contract Times.

7.02 Changing Contract Price or Contract Times

- A. The Contract Price or Contract Times may only be changed by a Change Order.
- B. Any Claim for an adjustment in the Contract Price or Contract Times shall be based on written notice submitted by the party making the Claim to the Engineer and the other party to the Contract in accordance with the provisions of Paragraph 9.06.
- C. If Seller is prevented from delivering the Goods or performing the Special Services within the Contract Times for any unforeseen reason beyond its control and not attributable to its actions or inactions, then Seller shall be entitled to an adjustment of the Contract Times to the extent attributable to such reason. Such reasons include but are not limited to acts or neglect by Buyer, inspection delays, fires, floods, epidemics, abnormal weather conditions, acts of God, and other like matters. If such an event occurs and delays Seller's performance, Seller shall notify Buyer in writing within 15 days of knowing or having reason to know of the beginning of the event causing the delay, stating the reason therefor.

D. Seller shall not be entitled to an adjustment in Contract Price or Contract Times for delays within the control of Seller. Delays attributable to and within the control of Seller's subcontractors or suppliers shall be deemed to be delays within the control of Seller.

E. If Seller is prevented from delivering the Goods or furnishing the Special Services within the Contract Times due to the actions or inactions of Buyer, Seller shall be entitled to any reasonable and necessary additional costs arising out of such delay to the extent directly attributable to Buyer.

F. Neither Buyer nor Seller shall be entitled to any damages arising from delays which are beyond the control of both Buyer and Seller, including but not limited to fires, floods, epidemics, abnormal weather conditions, acts of God, and other like matters.

ARTICLE 8 – BUYER'S RIGHTS

8.01 Inspections and Testing

A. General:

1. The Contract Documents specify required inspections and tests. Buyer shall have the right to perform, or cause to be performed, reasonable inspections and require reasonable tests of the Goods at Seller's facility, and at the Point of Destination. Seller shall allow Buyer a reasonable time to perform such inspections or tests.
2. Seller shall reimburse Buyer for all expenses, except for travel, lodging, and subsistence expenses of Buyer's and Engineer's representatives, for inspections and tests specified in the Contract Documents. If as the result of any such specified testing the Goods are determined to be non-conforming, then Seller shall also bear the travel, lodging, and subsistence expenses of Buyer's and Engineer's representatives, and all expenses of re-inspection or retesting.
3. Buyer shall bear all expenses of inspections and tests that are not specified in the Contract Documents (other than any re-inspection or retesting resulting from a determination of non-conformity, as set forth in Paragraph 8.01.A.2 immediately above); provided, however, that if as the result of any such non-specified inspections or testing the Goods are determined to be non-conforming, then Seller shall bear all expenses of such inspections and testing, and of any necessary re-inspection and retesting.
4. Seller shall provide Buyer timely written notice of the readiness of the Goods for all inspections, tests, or approvals which the Contract Documents specify are to be observed by Buyer prior to shipment.
5. Buyer will give Seller timely notice of all specified tests, inspections, and approvals of the Goods which are to be conducted at the Point of Destination.
6. If, on the basis of any inspections or testing, the Goods appear to be conforming, Buyer will give Seller prompt notice thereof. If on the basis of said inspections or testing, the Goods appear to be non-conforming, Buyer will give Seller prompt notice thereof and will advise Seller of the remedy Buyer elects under the provisions of Paragraph 8.02.

7. Neither payments made by Buyer to Seller prior to any tests or inspections, nor any tests or inspections shall constitute acceptance of non-conforming Goods, or prejudice Buyer's rights under the Contract.

B. Inspection on Delivery:

1. Buyer or Engineer will visually inspect the Goods upon delivery solely for purposes of identifying the Goods and general verification of quantities and observation of apparent condition in order to provide a basis for a progress payment. Such visual inspection will not be construed as final or as receipt of any Goods and Special Services that, as a result of subsequent inspections and tests, are determined to be non-conforming.
2. Within ten days of such visual inspection, Buyer shall provide Seller with written notice of Buyer's determination regarding conformity of the Goods. In the event Buyer does not provide such notice, it will be presumed that the Goods appear to be conforming and that Buyer has acknowledged their receipt upon delivery.
3. If, on the basis of the visual inspection specified in Paragraph 8.01.B.1, the Goods appear to be conforming, Buyer's notice thereof to Seller will acknowledge receipt of the Goods.

C. Final Inspection:

1. After all of the Goods have been incorporated into the Project, tested in accordance with such testing requirements as are specified, and are functioning as indicated, Buyer or Engineer will make a final inspection.
2. If, on the basis of the final inspection, the Goods are conforming, Buyer's notice thereof will constitute Buyer's acceptance of the Goods.
3. If, on the basis of the final inspection, the Goods are non-conforming, Buyer will identify the non-conformity in writing.

8.02 Non-Conforming Goods and Special Services

A. If, on the basis of inspections and testing prior to delivery, the Goods and Special Services are found to be non-conforming, or if at any time after Buyer has acknowledged receipt of delivery and before the expiration of the correction period described in Paragraph 8.03, Buyer determines that the Goods and Special Services are non-conforming, then Seller shall promptly, without cost to Buyer and in response to written instructions from Buyer, either correct such non-conforming Goods and Special Services, or, if Goods are rejected by Buyer, remove and replace the non-conforming Goods with conforming Goods, including all work required for reinstallation.

B. Buyer's Rejection of Non-Conforming Goods:

1. If Buyer elects to reject the Goods in whole or in part, Buyer's notice to Seller will describe in sufficient detail the non-conforming aspect of the Goods. If Goods have been delivered to Buyer, Seller shall promptly, and within the Contract Times, remove and replace the rejected Goods.

2. Seller shall bear all costs, losses and damages attributable to the removal and replacement of the non-conforming Goods as provided in Paragraph 8.02.E.
3. Upon rejection of the Goods, Buyer retains a security interest in the Goods to the extent of any payments made and expenses incurred in their testing and inspection.

C. Remedying Non-Conforming Goods and Special Services:

1. If Buyer elects to permit the Seller to modify the Goods to correct the non-conformance, then Seller shall promptly provide a schedule for such modifications and shall make the Goods conforming within a reasonable time.
2. If Buyer notifies Seller in writing that any of the Special Services are non-conforming, Seller shall promptly provide conforming services acceptable to Buyer. If Seller fails to do so, Buyer may delete the Special Services and reduce the Contract Price a commensurate amount.

D. Buyer's Acceptance of Non-Conforming Goods:

Instead of requiring correction or removal and replacement of non-conforming Goods discovered either before or after final payment, Buyer may accept the non-conforming Goods. Seller shall bear all reasonable costs, losses, and damages attributable to Buyer's evaluation of and determination to accept such non-conforming Goods as provided in Paragraph 8.02.E.

- E. Seller shall pay all claims, costs, losses, and damages, including but not limited to all fees and charges for re-inspection, retesting and for any engineers, architects, attorneys and other professionals, and all court or arbitration or other dispute resolution costs arising out of or relating to the non-conforming Goods and Special Services. Seller's obligations shall include the costs of the correction or removal and replacement of the non-conforming Goods and the replacement of property of Buyer and others destroyed by the correction or removal and replacement of the non-conforming Goods, and obtaining conforming Special Services from others.

F. *Buyer's Rejection of Conforming Goods:*

If Buyer asserts that Goods and Special Services are non-conforming and such Goods and Special Services are determined to be conforming, or if Buyer rejects as non-conforming Goods and Special Services that are later determined to be conforming, then Seller shall be entitled to reimbursement from Buyer of costs incurred by Seller in inspecting, testing, correcting, removing, or replacing the conforming Goods and Special Services, including but not limited to fees and charges of engineers, architects, attorneys and other professionals, and all court or arbitration or other dispute resolution costs associated with the incorrect assertion of non-conformance or rejection of conforming Goods and Special Services.

8.03 Correction Period

- A. Seller's responsibility for correcting all non-conformities in the Goods and Special Services will extend for a period of one year after the earlier of the date on which Buyer has placed the Goods in continuous service or the date of final payment, or for such longer period of time as may be

prescribed by Laws or Regulations or by the terms of any specific provisions of the Contract Documents.

ARTICLE 9 – ROLE OF ENGINEER

9.01 Duties and Responsibilities

- A. The duties and responsibilities and the limitations of authority of Engineer are set forth in the Contract Documents.

9.02 Clarifications and Interpretations

- A. Engineer will issue with reasonable promptness such written clarifications or interpretations of the Contract Documents as Engineer may determine necessary, which shall be consistent with or reasonably inferable from the overall intent of the Contract Documents. Such written clarifications and interpretations will be binding on Buyer and Seller. If either Buyer or Seller believes that a written clarification or interpretation justifies an adjustment in the Contract Price or Contract Times, either may make a Claim therefor.

9.03 Authorized Variations

- A. Engineer may authorize minor deviations or variations in the Contract Documents by: 1) written approval of specific variations set forth in Shop Drawings when Seller has duly noted such variations as required in Paragraph 5.06.C.4, or 2) a Field Order.

9.04 Rejecting Non-Conforming Goods and Special Services

- A. Engineer will have the authority to disapprove or reject Goods and Special Services that Engineer believes to be non-conforming. Engineer will also have authority to require special inspection or testing of the Goods or Special Services as provided in Paragraph 8.01 whether or not the Goods are fabricated or installed, or the Special Services are completed.

9.05 Decisions on Requirements of Contract Documents

- A. Engineer will be the initial interpreter of the Contract Documents and judge of the acceptability of the Goods and Special Services. Claims, disputes and other matters relating to the acceptability of the Goods and Special Services or the interpretation of the requirements of the Contract Documents pertaining to Seller's performance will be referred initially to Engineer in writing with a request for a formal decision in accordance with this paragraph.
- B. When functioning as interpreter and judge under this Paragraph 9.05, Engineer will not show partiality to Buyer or Seller and will not be liable in connection with any interpretation or decision rendered in good faith in such capacity. The rendering of a decision by Engineer pursuant to this Paragraph 9.05 with respect to any such Claim, dispute, or other matter (except any which have been waived by the making or acceptance of final payment as provided in Paragraph 10.07) will be a condition precedent to any exercise by Buyer or Seller of such rights or remedies as either may otherwise have under the Contract Documents or by Laws or Regulations in respect of any such Claim, dispute, or other matter.

9.06 Claims and Disputes

- A. *Notice:* Written notice of each Claim relating to the acceptability of the Goods and Special Services or the interpretation of the requirements of the Contract Documents pertaining to either party's performance shall be delivered by the claimant to Engineer and the other party to the Agreement within 15 days after the occurrence of the event giving rise thereto, and written supporting data shall be submitted to Engineer and the other party within 45 days after such occurrence unless Engineer allows an additional period of time to ascertain more accurate data.
- B. *Engineer's Decision:* Engineer will review each such Claim and render a decision in writing within 30 days after receipt of the last submittal of the claimant or the last submittal of the opposing party, if any.
- C. If Engineer does not render a formal written decision on a Claim within the time stated in Paragraph 9.06.B., Engineer shall be deemed to have issued a decision denying the Claim in its entirety 31 days after receipt of the last submittal of the claimant or the last submittal of the opposing party, if any.
- D. Engineer's written decision on such Claim or a decision denying the Claim in its entirety that is deemed to have been issued pursuant to Paragraph 9.06.C, will be final and binding upon Buyer and Seller 30 days after it is issued unless within 30 days of issuance Buyer or Seller appeals Engineer's decision by initiating the mediation of such Claim in accordance with the dispute resolution procedures set forth in Article 13.
- E. If Article 13 has been amended to delete the mediation requirement, then Buyer or Seller may appeal Engineer's decision within 30 days of issuance by following the alternative dispute resolution process set forth in Article 13, as amended; or if no such alternative dispute resolution process has been set forth, Buyer or Seller may appeal Engineer's decision by 1) delivering to the other party within 30 days of the date of such decision a written notice of intent to submit the Claim to a court of competent jurisdiction, and 2) within 60 days after the date of such decision instituting a formal proceeding in a court of competent jurisdiction.
- F. No Claim for an adjustment in Contract Price or Contract Times will be valid if not submitted in accordance with this Paragraph 9.06.
- G. The parties agree to endeavor to avoid or resolve Claims through direct, good faith discussions and negotiations whenever practicable. Such discussions and negotiations should at the outset address whether the parties mutually agree to suspend the time periods established in this Paragraph 9.06; if so, a written record of such mutual agreement should be made and jointly executed.

ARTICLE 10 – PAYMENT

10.01 Applications for Progress Payments

- A. Seller shall submit to Buyer for Engineer's review Applications for Payment filled out and signed by Seller and accompanied by such supporting documentation as is required by the Contract Documents and also as Buyer or Engineer may reasonably require. The timing and amounts of progress payments shall be as stipulated in the Agreement.

1. The first application for Payment will be submitted after review and approval by Engineer of all Shop Drawings and of all Samples required by the Contract Documents.
2. The second Application for Payment will be submitted after receipt of the Goods has been acknowledged in accordance with Paragraph 8.01.B and will be accompanied by a bill of sale, invoice, or other documentation reasonably satisfactory to Buyer warranting that Buyer has rightfully received good title to the Goods from Seller and that, upon payment, the Goods will be free and clear of all liens. Such documentation will include releases and waivers from all parties with viable lien rights. In the case of multiple deliveries of Goods, additional Applications for Payment accompanied by the required documentation will be submitted as Buyer acknowledges receipt of additional items of the Goods.

10.02 Review of Applications for Progress Payments

A. Engineer will, within ten days after receipt of each Application for Payment, either indicate in writing a recommendation of payment and present the Application to Buyer, or return the Application to Seller indicating in writing Engineer's reasons for refusing to recommend payment. In the latter case, Seller may make the necessary corrections and resubmit the Application.

1. Engineer's recommendation of payment requested in the first Application for Payment will constitute a representation by Engineer, based on Engineer's review of the Application for Payment and the accompanying data, that the Shop Drawings and Samples have been reviewed and approved as required by the Contract Documents and Seller is entitled to payment of the amount recommended.
2. Engineer's recommendation of payment requested in the Application for Payment submitted upon Buyer's acknowledgment of receipt of the Goods will constitute a representation by Engineer, based on Engineer's review of the Application for Payment and the accompanying data Seller is entitled to payment of the amount recommended. Such recommendation will not constitute a representation that Engineer has made a final inspection of the Goods, that the Goods are free from non-conformities, acceptable or in conformance with the Contract Documents, that Engineer has made any investigation as to Buyer's title to the Goods, that exhaustive or continuous inspections have been made to check the quality or the quantity of the Goods beyond the responsibilities specifically assigned to Engineer in the Contract Documents or that there may not be other matters or issues between the parties that might entitle Seller to additional payments by Buyer or Buyer to withhold payment to Seller.
3. Engineer may refuse to recommend that all or any part of a progress payment be made, or Engineer may nullify all or any part of any payment previously recommended if, in Engineer's opinion, such recommendation would be incorrect or if on the basis of subsequently discovered evidence or subsequent inspections or tests Engineer considers such refusal or nullification necessary to protect Buyer from loss because the Contract Price has been reduced, Goods are found to be non-conforming, or Seller has failed to furnish acceptable Special Services.

10.03 Amount and Timing of Progress Payments

A. Subject to Paragraph 10.02.A., the amounts of the progress payments will be as provided in the Agreement. Buyer shall within 30 days after receipt of each Application for Payment with Engineer's recommendation pay Seller the amount recommended; but, in the case of the Application for Payment upon Buyer's acknowledgment of receipt of the Goods, said 30-day period may be extended for so long as is necessary (but in no event more than 60 days) for Buyer to examine the bill of sale and other documentation submitted therewith. Buyer shall notify Seller promptly of any deficiency in the documentation and shall not unreasonably withhold payment.

10.04 Suspension of or Reduction in Payment

A. Buyer may suspend or reduce the amount of progress payments, even though recommended for payment by Engineer, under the following circumstances:

1. Buyer has reasonable grounds to conclude that Seller will not furnish the Goods or the Special Services in accordance with the Contract Documents, and
2. Buyer has requested in writing assurances from Seller that the Goods and Special Services will be delivered or furnished in accordance with the Contract Documents, and Seller has failed to provide adequate assurances within ten days of Buyer's written request.

B. If Buyer refuses to make payment of the full amount recommended by Engineer, Buyer will provide Seller and Engineer immediate written notice stating the reason for such action and promptly pay Seller any amount remaining after deduction of the amount withheld. Buyer shall promptly pay Seller the amount withheld when Seller corrects the reason for such action to Buyer's satisfaction.

10.05 Final Application for Payment

A. After Seller has corrected all non-conformities to the reasonable satisfaction of Buyer and Engineer, furnished all Special Services, and delivered all documents required by the Contract Documents, Engineer will issue to Buyer and Seller a notice of acceptance. Seller may then make application for final payment following the procedure for progress payments. The final Application for Payment will be accompanied by all documentation called for in the Contract Documents, a list of all unsettled Claims, and such other data and information as Buyer or Engineer may reasonably require.

10.06 Final Payment

A. If, on the basis of final inspection and the review of the final Application for Payment and accompanying documentation, Engineer is reasonably satisfied that Seller has furnished the Goods and Special Services in accordance with the Contract Documents, and that Seller's has fulfilled all other obligations under the Contract Documents, then Engineer will, within ten days after receipt of the final Application for Payment, recommend in writing final payment subject to the provisions of Paragraph 10.07 and present the Application to Buyer. Otherwise, Engineer will return the Application to Seller, indicating the reasons for refusing to recommend final

payment, in which case Seller shall make the necessary corrections and resubmit the Application for payment. If the Application and accompanying documentation are appropriate as to form and substance, Buyer shall, within 30 days after receipt thereof, pay Seller the amount recommended by Engineer, less any sum Buyer is entitled to set off against Engineer's recommendation, including but not limited to liquidated damages to which Buyer is entitled.

10.07 Waiver of Claims

A. The making and acceptance of final payment will constitute:

1. a waiver of all Claims by Buyer against Seller, except Claims arising from unsettled liens from non-conformities in the Goods or Special Services appearing after final payment, from Seller's failure to comply with the Contract Documents or the terms of any special guarantees specified therein, or from Seller's continuing obligations under the Contract Documents; and
2. a waiver of all Claims by Seller against Buyer (other than those previously made in accordance with the requirements herein and listed by Seller as unsettled as required in Paragraph 10.05.A, and not resolved in writing).

ARTICLE 11 – CANCELLATION, SUSPENSION, AND TERMINATION

11.01 Cancellation

A. Buyer has the right to cancel the Contract, without cause, at any time prior to delivery of the Goods by written notice. Cancellation pursuant to the terms of this paragraph shall not constitute a breach of contract by Buyer. Upon cancellation:

1. Buyer shall pay Seller for the direct costs incurred in producing any Goods that Seller has specially manufactured for the Project, plus a fair and reasonable amount for overhead and profit.
2. For Goods that are not specially manufactured for the Project, Seller shall be entitled to a restocking charge of 10 percent of the unpaid Contract Price of such Goods.

11.02 Suspension of Performance by Buyer

A. Buyer has the right to suspend performance of the Contract for up to a maximum of ninety days, without cause, by written notice. Upon suspension under this paragraph, Seller shall be entitled to an increase in the Contract Times and Contract Price caused by the suspension, provided that performance would not have been suspended or delayed for causes attributable to Seller.

11.03 Suspension of Performance by Seller

A. Subject to the provisions of Paragraph 5.07.B, Seller may suspend the furnishing of the Goods and Special Services only under the following circumstance:

1. Seller has reasonable grounds to conclude that Buyer will not perform its future payment obligations under the Contract; and,

2. Seller has requested in writing assurances from Buyer that future payments will be made in accordance with the Contract, and Buyer has failed to provide such assurances within ten days of Seller's written request.

11.04 Breach and Termination

A. Buyer's Breach:

1. Buyer shall be deemed in breach of the Contract if it fails to comply with any material provision of the Contract Documents, including but not limited to:
 - a. wrongful rejection or revocation of Buyer's acceptance of the Goods,
 - b. failure to make payments in accordance with the Contract Documents, or
 - c. wrongful repudiation of the Contract.
2. Seller shall have the right to terminate the Contract for cause by declaring a breach should Buyer fail to comply with any material provisions of the Contract. Upon termination, Seller shall be entitled to all remedies provided by Laws and Regulations.
 - a. In the event Seller believes Buyer is in breach of its obligations under the Contract, Seller shall provide Buyer with reasonably prompt written notice setting forth in sufficient detail the reasons for declaring that it believes a breach has occurred. Buyer shall have seven days from receipt of the written notice declaring the breach (or such longer period of time as Seller may grant in writing) within which to cure or to proceed diligently to cure such alleged breach.

B. Seller's Breach:

1. Seller shall be deemed in breach of the Contract if it fails to comply with any material provision of the Contract Documents, including, but not limited to:
 - a. failure to deliver the Goods or perform the Special Services in accordance with the Contract Documents,
 - b. wrongful repudiation of the Contract, or
 - c. delivery or furnishing of non-conforming Goods and Special Services.
2. Buyer may terminate Seller's right to perform the Contract for cause by declaring a breach should Seller fail to comply with any material provision of the Contract Documents. Upon termination, Buyer shall be entitled to all remedies provided by Laws and Regulations.
 - a. In the event Buyer believes Seller is in breach of its obligations under the Contract, and except as provided in Paragraph 11.04.B.2.b, Buyer shall provide Seller with reasonably prompt written notice setting forth in sufficient detail the reasons for declaring that it believes a breach has occurred. Seller shall have seven days from receipt of the written notice declaring the breach (or such longer period of time as

Buyer may grant in writing) within which to cure or to proceed diligently to cure such alleged breach.

- b. If and to the extent that Seller has provided a performance bond under the provisions of Paragraph 4.01, the notice and cure procedures of that bond, if any, shall supersede the notice and cure procedures of Paragraph 11.04.B.2.a.

ARTICLE 12 – LICENSES AND FEES

12.01 Intellectual Property and License Fees

A. Unless specifically stated elsewhere in the Contract Documents, Seller is not transferring any intellectual property rights, patent rights, or licenses for the Goods delivered. However, in the event the Seller is manufacturing to Buyer's design, Buyer retains all intellectual property rights in such design.

B. Seller shall pay all license fees and royalties and assume all costs incident to the use or the furnishing of the Goods, unless specified otherwise by the Contract Documents.

12.02 Seller's Infringement

A. Subject to Paragraph 12.01.A, Seller shall indemnify and hold harmless Buyer, Engineer and their officers, directors, members, partners, employees, agents, consultants, contractors, and subcontractors from and against all claims, costs, losses, damages, and judgments (including but not limited to all reasonable 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 any infringement or alleged infringement of any United States or foreign patent or copyright by any of the Goods as delivered hereunder.

B. In the event of suit or threat of suit for intellectual property infringement, Buyer will promptly notify Seller of receiving notice thereof.

C. Seller shall promptly defend the claim or suit, including negotiating a settlement. Seller shall have control over such claim or suit, provided that Seller agrees to bear all expenses and to satisfy any adverse judgment thereof.

1. If Seller fails to defend such suit or claim after written notice by Buyer, Seller will be bound in any subsequent suit or claim against Seller by Buyer by any factual determination in the prior suit or claim.
2. If Buyer fails to provide Seller the opportunity to defend such suit or claim after written notice by Seller, Buyer shall be barred from any remedy against Seller for such suit or claim.

D. If a determination is made that Seller has infringed upon intellectual property rights of another, Seller may obtain the necessary licenses for Buyer's benefit, or replace the Goods and provide related design and construction as necessary to avoid the infringement at Seller's own expense.

12.03 Buyer's Infringement

A. Buyer shall indemnify and hold harmless Seller, and its officers, directors, partners, employees, agents, consultants, contractors, and subcontractors from and against all claims, costs, losses, damages, and judgments (including but not limited to all reasonable 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 any infringement or alleged infringement of any United States or foreign patent or copyright caused by Seller's compliance with Buyer's design of the Goods or Buyer's use of the Goods in combination with other materials or equipment in any process (unless intent of such use was known to Seller and Seller had reason to know such infringement would result).

B. In the event of suit or threat of suit for intellectual property infringement, Seller must after receiving notice thereof promptly notify Buyer.

C. Upon written notice from Seller, Buyer shall be given the opportunity to defend the claim or suit, including negotiating a settlement. Buyer shall have control over such claim or suit, provided that Buyer agrees to bear all expenses and to satisfy any adverse judgment thereof.

1. If Buyer fails to defend such suit or claim after written notice by Seller, Buyer will be bound in any subsequent suit or claim against Buyer by Seller by any factual determination in the prior suit or claim.
2. If Seller fails to provide Buyer the opportunity to defend such suit or claim after written notice by Buyer, Seller shall be barred from any remedy against Buyer for such suit or claim.

12.04 Reuse of Documents

A. Neither Seller nor any other person furnishing any of the Goods and Special Services under a direct or indirect contract with Seller shall: (1) acquire any title to or ownership rights in any of the Drawings, Specifications, or other documents (or copies of any thereof) prepared by or bearing the seal of Engineer or its consultants, including electronic media versions; or (2) reuse any of such Drawings, Specifications, other documents, or copies thereof on any other project without written consent of Buyer and Engineer and specific written verification or adaptation by Engineer. This prohibition will survive termination or completion of the Contract. Nothing herein shall preclude Seller from retaining copies of the Contract Documents for record purposes.

12.05 Electronic Data

A. Unless otherwise stated in the Supplementary Conditions, copies of data furnished by Buyer or Engineer to Seller, or by Seller to Buyer or Engineer that may be relied upon are limited to the printed copies (also known as hard copies). Files in electronic media format of text, data, graphics, or other types are furnished only for the convenience of the receiving party. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk. If there is a discrepancy between the electronic files and the hard copies, the hard copies govern.

B. Because data stored in electronic media format can deteriorate or be modified inadvertently or otherwise without authorization of the data's creator, the party receiving electronic files agrees that it will perform acceptance tests or procedures within 60 days, after which the receiving party shall be deemed to have accepted the data thus transferred. The transferring party will correct any errors detected within the 60-day acceptance period.

C. When transferring documents in electronic media format, the transferring party makes no representations as to long term compatibility, usability, or readability of documents resulting from the use of software application packages, operating systems, or computer hardware differing from those used by the data's creator.

ARTICLE 13 – DISPUTE RESOLUTION

13.01 Dispute Resolution Method

A. Either Buyer or Seller may initiate the mediation of any Claim decided in writing by Engineer under Paragraph 9.06.B or 9.06.C before such decision becomes final and binding. The mediation will be governed by the Construction Industry Mediation Rules of the American Arbitration Association in effect as of the Effective Date of the Agreement. The request for mediation shall be submitted in writing to the American Arbitration Association and the other party to the Contract. Timely submission of the request shall stay the Engineer's decision from becoming final and binding.

B. Buyer and Seller shall participate in the mediation process in good faith. The process shall be concluded within 60 days of filing of the request. The date of termination of the mediation shall be determined by application of the mediation rules referenced above.

C. If the mediation process does not result in resolution of the Claim, then Engineer's written decision under Paragraph 9.06.B or a denial pursuant to Paragraph 9.06.C shall become final and binding 30 days after termination of the mediation unless, within that time period, Buyer or Seller:

1. elects in writing to invoke any dispute resolution process provided for in the Supplementary Conditions, or
2. agrees with the other party to submit the Claim to another dispute resolution process, or
3. if no dispute resolution process has been provided for in the Supplementary Conditions, delivers to the other party written notice of the intent to submit the Claim to a court of competent jurisdiction, and within 60 days of the termination of the mediation institutes such formal proceeding.

ARTICLE 14 – MISCELLANEOUS

14.01 Giving Notice

A. Whenever any provision of the Contract Documents requires the giving of written notice, it will be deemed to have been validly given if: 1) delivered in person to the individual or to a member of the firm or to an officer of the corporation for whom it is intended, or 2) if delivered at or sent by registered or certified mail, postage prepaid, to the last business address known to the giver of the notice.

14.02 Controlling Law

- A. This Contract is to be governed by the law of the state in which the Point of Destination is located.
- B. In the case of any conflict between the express terms of this Contract and the Uniform Commercial Code, as adopted in the state whose law governs, it is the intent of the parties that the express terms of this Contract shall apply.

14.03 Computation of Time

- A. When any period of time is referred to in the Contract Documents by days, it will be computed to exclude the first and include the last day of such period. If the last day of any such period falls on a Saturday or Sunday or on a day made a legal holiday by the law of the applicable jurisdiction, such day shall be omitted from the computation.

14.04 Cumulative Remedies

- A. The duties and obligations imposed by these General Conditions and the rights and remedies available hereunder to the parties hereto are in addition to, and are not to be construed in any way as a limitation of, any rights and remedies available to any or all of them which are otherwise imposed or available by Laws or Regulations, by special warranty or guarantee, or by other provisions of the Contract Documents, and the provisions of this paragraph will be as effective as if repeated specifically in the Contract Documents in connection with each particular duty, obligation, right, and remedy to which they apply.

14.05 Survival of Obligations

- A. All representations, indemnifications, warranties and guarantees made in, required by, or given in accordance with the Contract Documents, as well as all continuing obligations indicated in the Contract Documents, will survive final payment, completion, and acceptance of the Goods and Special Services and termination or completion of the Agreement.

14.06 Entire Agreement

- A. Buyer and Seller agree that this Agreement is the complete and final agreement between them, and supersedes all prior negotiations, representations, or agreements, either written or oral. This Agreement may not be altered, modified, or amended except in writing signed by an authorized representative of both parties.

SECTION 00800

SUPPLEMENTARY CONDITIONS

These Supplementary Conditions amend or supplement the Standard General Conditions of the Procurement Contract (No. P-700, 2010 Edition) and other provisions of the Contract Documents as indicated below. All provisions that are not so amended or supplemented remain in full force and effect.

The terms used in these Supplementary Conditions will have the meanings indicated in the General Conditions. Additional terms used in these Supplementary Conditions have the meanings indicated below, which are applicable to both the singular and plural thereof.

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SC-1.01. Delete Paragraph 1.01 Item 34 Successful Bidder in its entirety and insert the following in its place:

34. Successful Bidder: The eligible Bidder submitting a responsive Bid to whom the City makes an award.

SC-1.01 Add the following new defined terms immediately after Paragraph 1.01:

1. Notice to Commence Fabrication: A written notice given by Buyer to Seller fixing the date(s) on which the Contract Times for the production and delivery of Goods commence to run and on which Seller shall start to perform under the applicable portion of the Contract.
2. Notice of Completed Installation: The written notice issued by the Engineer that the Seller has reviewed the installation of the Goods and identified all item to be corrected and that those items that require correction by the Contractor have been completed as to allow Commissioning of the Screw Press Dewatering Equipment to commence.
3. Notice to Proceed: A written notice given by the City to Seller fixing the date on which the Contract Times commence to run and on which Seller shall start to perform under the Contract.

4. Notice of Substantial Completion: The written notice issued by the Engineer to the Seller that Acceptance Testing has been successfully completed.

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

- A. Buyer shall furnish Seller up to three printed or hard copies of the Contract Documents. Additional copies will be furnished upon request at the cost of reproduction.

SC-4.01.A Modify Paragraph 4.01.A as follows:

- A. Seller shall furnish to Buyer performance and payment bonds, each in an amount at least equal to the Contract Price, as security for the faithful performance and payment of all of Seller's obligations under the Contract Documents. At the time of the Effective Date of Agreement a Performance Bond shall be provided for the Special Engineering Services for the Contract Price for Item #1 in 00400. Another Performance and Payment Bond shall be provided upon issuance of the Notice to Commence Fabrication for the Contract Price for Item #2 in 00400. These bonds shall remain in effect until 1) one year after the date when final payment becomes due or 2) completion of the correction period specified in Paragraph 8.03, whichever is later, except as provided otherwise by Laws or Regulations or by the Contract Documents. Seller shall also furnish such other bonds as are required by the Contract Documents.

SC-4.02. Add the following new paragraph immediately after Paragraph 4.02.A:

- A. The limits of liability for the insurance required by Paragraph 4.02 of the General Conditions shall provide coverage for not less than the following amounts or greater where required by Laws and Regulations:
 1. Workers' Compensation, and related coverages under Paragraph 4.02 of the General Conditions:
 - a. State: Statutory
 - b. Applicable Federal (e.g., Longshoremen's) Statutory
 - c. Employer's Liability \$ 1,000,000
 2. Seller's General Liability under Paragraphs 4.02 of the General Conditions which shall include completed operations and product

liability coverages and eliminate the exclusion with respect to property under the care, custody, and control of the Seller:

- a. General Aggregate *\$ 2,000,000*
- b. Products - Completed
 - 1) Operations Aggregate *\$ 5,000,000*
- c. Personal and Advertising
 - 1) Injury *\$ 2,000,000*
 - 2) Each Occurrence (Bodily Injury and Property Damage) *\$ 2,000,000*
- d. Property Damage liability insurance

will provide Explosion, Collapse,
and Underground coverages where
applicable.

- e. Excess or Umbrella Liability
 - 1) General Aggregate *\$ 5,000,000*
 - 2) Each Occurrence *\$ 5,000,000*

3. Automobile Liability under Paragraph 4.02 of the General Conditions:

- a. Bodily Injury:
 - 1) Each Person *\$ 2,000,000*
 - 2) Each Accident *\$ 2,000,000*
- b. Property Damage:
 - 1) Each Accident *\$ 1,000,000*
 - 2) Combined Single Limit of *\$ 2,000,000*

4. The Contractual Liability coverage required by paragraph 4.02 of the General Conditions shall provide coverage for not less than the following amounts:

- a. Bodily Injury:
 - Each Accident *\$ 2,000,000*
 - Annual Aggregate *\$ 3,000,000*
- b. Property Damage:
 - Each Accident *\$ 1,000,000*
 - Annual Aggregate *\$ 2,000,000*

5. Seller shall deliver to City, with copies to each additional insured identified in these Supplementary Conditions, certificates of insurance

(and other evidence of insurance requested by City or any other additional insured) which Seller is required to purchase and maintain.

6. Failure of the Owner to demand such certificates or other evidence of full compliance with these insurance requirements or failure of the Owner to identify a deficiency from evidence provided shall not be construed as a waiver of Seller's obligation to maintain such insurance.
7. All policies shall provide thirty (30) days written notice prior to any cancellation or non-renewal of insurance policies required herein. Such written notice shall be given to the City. "Will endeavor" and "but failure to mail such notice shall impose no obligation or liability of any kind upon the Company, its agents, or representatives" wording is to be deleted from certificates.
8. The Seller agrees to waive all right of subrogation against the City, its elected officials, its officers, its employees, officers and its agents for the work performed under this Agreement.
9. All required insurance shall be submitted to the City with the signed Agreement. Insurance shall be maintained by the Seller in full force and effect during the entire period of performance under contract. Failure to do so shall be cause for termination of the contract.
10. Subject to the mutual agreement of the Seller, the City reserves the right to review insurance coverage requirements and to require more or less insurance depending upon assessment of the risk of exposure, the Seller's past experience, and the availability and affordability of increased liability insurance coverage.

Attachment 1

Santaquin City Water Reclamation Facility- Phase II Improvements Project Screw Press Sludge Dewatering Equipment Procurement Design and Performance Criteria

1.0 PROJECT DESCRIPTION

Santaquin City is interested in procuring sludge dewatering equipment for its Water Reclamation Facility, WRF. The 0.65 mgd Membrane Bioreactor, MBR, facility wastes activated sludge at between 0.6-1.3% solids to an aerated sludge holding tank where it is held before being pumped to the dewatering facility. The WRF currently uses a Huber screw press and for consistency, the City desires to continue using screw press technology.

At present, sludge is dewatered to approximately 14 to 16% dry solids and then landfilled. The WRF currently produces about 150 dry tons of biosolids annually. The existing press has a functional capacity of about 140 lbs dry solids/hr and operates approximately 40 hrs/week. The City prefers not to operate the press any more than this and would like to increase dewatering capacity and provide redundancy by adding a second screw press.

The existing dewatering building was designed to accommodate a second dewatering unit and space is reserved for a future unit. The City does not plan to expand the existing building and any proposed equipment should fit in the available area. The attached plans illustrate the approximate area available and the existing configuration of the dewatering building.

The cake produced from the screw press is discharged directly to a trailer for load out and the City expects to continue this or a similar operation. Conveyance equipment for the proposed equipment is therefore not anticipated. If cake conveyance is anticipated, Bidders shall indicate this in their proposal and describe any additional equipment that may be required. Costs for such equipment shall be included with cost for Goods and Special Services.

2.0 BASIS OF BID

2.1 Existing Conditions

- A. The following information describes the existing equipment, conditions for the dewatering facility, and is for Bidder's use in developing their proposal.

SUMMARY OF EXISTING CONDITIONS	
<i>Sludge Quality</i>	
Type of Sludge	Waste Activated Sludge
% Solids in WAS (typ.)	0.6-1.3%
Temperature	14-25 deg C
pH	7.0-8.0
<i>Solids Holding Tank</i>	
Volume	106,000 gal
Mixing	Coarse Bubble Aeration, Continuous
Decanting/Thickening	None
<i>Sludge Feed Pumps</i>	
Type	Positive Displacement, Rotary Lobe
Quantity	2 (1 duty/1 standby)
Rated Capacity, each	120 gpm
TDH	54 psig
Motor	7.5 HP
Drive	VFD
<i>Polymer Feed System</i>	
Make/Model	Fluid Dynamics
Dilution Water Feed	60-600 gph
Neat Polymer Feed	0.12-1.2 gph
Solution Feed Pump	Progressive Cavity
Current Polymer	Polydyne 1374
Current Polymer Feed Rate	30 lbs/dry ton
<i>Existing Screw Press</i>	
Make/Model	Huber-Rotamat Model RoS3 size 2
Existing Capacity	150 lb DS/hr
Existing Sludge Feed Rate	45 gpm @ 0.7%
<i>Environment</i>	
Location	Indoors/Enclosed
Temperature	50-100 deg F
Humidity	30-95%
Power Supply	460/3/60

B. Sludge Samples

Bidders may request a sample of the Buyers sludge for in-house bench testing to help Bidder in preparing their Bid. Bidder shall make request to Buyer in writing and provide information regarding sample volume, preservation, shipping, etc.

All costs for packaging and shipping will be at Bidders expense and samples will be sent C.O.D.- Collect on Delivery. Bidders must provide an account number for their delivery service.

2.2 Capital Costs

A. The City would like to consider two alternatives for increasing dewatering capacity:

Alternative 1- Add a second press that would operate approximately 20 hrs/week to dewater all of the facility's WAS

Alternative 2- Add a second press that would operate approximately 40 hrs/week to dewater all of the facilities WAS

B. Sellers may provide bids for both or only one of these conditions at their discretion. The Bid Form includes individual entries for each condition and Suppliers must complete the appropriate sections.

C. For each alternative, separate costs are also requested in the Bid Form for a polymer makeup and feed system designed to meet the capacity of the proposed screw press. Minimum requirements for the Polymer Feed System are established in Section 4.

D. Scope of Supply and Services: In general, the successful Supplier shall be responsible for the supply of a complete screw press dewatering system. Installation of the system will be the responsibility of the Contractor. The Supplier shall be responsible for the design, fabrication, delivery, and start-up, in conjunction with the Contractor, of all screw press components to provide a complete and functional system. The Contractor shall be responsible for unloading, setting, installation, and initiating start-up of all mechanical components. The materials and equipment covered by this specification are intended to be standard equipment of proven ability.

For the purposes of equipment bidding and procurement, Costs for

the equipment are separated into three categories. The general scope of services, goods and work are described as:

1. Scope of Special Engineering Services: The Special Engineering Services supplied by the Supplier as outlined in the Contract Documents shall include, but are not limited to the following:
 - a. Design of the Goods provided by the Supplier
 - b. Preparation and Submittal of Shop Drawings
 - c. Provide General Arrangement Drawings
 - d. Provide electrical schematics and panel drawings
 - e. Provide P&ID's for the Screw Press System
 - f. Participate in meetings and provide assistance to the Owner and the Engineer during the design
2. Scope of Supply of the Goods: The Supplier shall supply the Goods to meet the Design Criteria, except where noted below. Supply of the Goods to be provided by the Supplier shall include but are not limited to the following:
 - a. Screw Press Sludge Dewatering System
 - b. Flocculation or Mixing Chamber- if required
 - c. Discharge Chute or Mechanism
 - d. Spare parts
 - e. Special Tools- specific for use on the equipment
 - f. Delivery of the equipment F.O.B. to the Buyers Facility
3. Scope of Special Services: The Special Services supplied by the Supplier shall include, but are not limited to the following:
 - a. Participate in meetings and provide assistance to the Owner, Contractor and the Engineer during the construction and commissioning of the Goods
 - b. Installation manuals
 - c. Commissioning of the Goods
 - d. Inspection/Certificate of Completed Installation
 - e. Operator Training
 - f. Preliminary and Final Operation and Maintenance Manuals
4. Scope of the Polymer System Goods and Special Services: The polymer feed system provided by the Seller shall include, but is not limited to the following:

- a. Design of the Goods provided by the Supplier
- b. Submittal of Shop Drawings
- c. General Arrangement Drawings
- d. Participate in meetings and provide assistance to the Owner and the Engineer during the design
- e. Supply of the Polymer System
- f. Delivery of the equipment F.O.B. to the Buyers facility
- g. Participate in meetings and provide assistance to the Owner, Contractor and the Engineer during the construction and commissioning of the Goods
- h. Installation manuals
- i. Commissioning of the Goods
- j. Inspection/Certificate of Completed Installation
- k. Operator Training
- l. Preliminary and Final Operation and Maintenance Manuals

2.3 Experience

Evaluation of the Bids will also be based on relevant experience.

- A. Minimum requirements: Bidders are required to have at least five installs of the equipment model proposed. Evidence of this shall be included in Form 00310-1 and may be supplemented with additional material at the Bidders discretion. Bids that do not clearly meet these minimum requirements shall be deemed to Fail this requirement and may be disqualified.
- B. Evaluated Experience: Scoring of experience shall be based on the following:
 - 1. Number of installs similar in application and size to that of the Buyer
 - 2. Number of installs dewatering Waste Activated Sludge
 - 3. Feedback from references regarding the performance and operation of the Bidders equipment
 - 4. Bidders years of experience in manufacturing screw press or other municipal wastewater sludge dewatering equipment
 - 5. Bidders total number of installs of screw press dewatering systems

2.4 O & M Considerations

Evaluation of O&M requirements will be based on the following factors:

- A. Expected power requirements for the system based on motor HP, operating pressures, and power requirements for any ancillary equipment required.
- B. Require maintenance and recommended intervals for maintenance
- C. Special equipment or considerations such as cranes, hoists or additional area required for maintenance
- D. Expected costs for labor and parts to perform the recommended maintenance
- E. Feedback from references regarding any required maintenance and operations costs.
- F. Anticipated polymer usage
- G. Washwater requirements

2.5 Equipment Support/Warranty

Evaluation of equipment support and the warranty will be based on the following criteria:

- A. Location and number of field technicians designated to service this facility
- B. Spare parts location and availability
- C. Feedback from references regarding available support and spare parts availability
- D. Warranty:
 - 1. Minimum Requirements: The Seller will warrant against any defects in material or workmanship to the screw press and framework for a minimum period of 12 months from date of substantial completion. This shall not exceed 24 months from delivery. Warranty's not meeting this minimum criteria will be deemed to have FAILED this criterion and may be disqualified.
 - 2. Scoring of the warranty will be based on the duration and conditions of the Sellers warranty as compared to other Sellers offers and with respect to the best interest of the Buyer.

2.6 Drawings/Proposal Details

Bidder shall furnish drawings that clearly illustrate the design and configuration of the proposed equipment. Scoring will be based on the amount of specific information and consideration given to how the proposed system will be integrated with the existing facilities.

- A. Provide General Arrangement drawings that clearly show the dimensions and configuration of screw press
- B. Provide P&ID for the screw press system proposed
- C. Provide drawings or information that describe how the proposed equipment may be integrated into the Buyers facility and what, if any, special considerations should be made to accommodate the proposed equipment.
- D. Indicate if any ancillary systems, i.e. cake discharge/conveyance, sludge feed pumps, building, electrical, may require improvements based on the proposed systems.

3 PERFORMANCE CRITERIA

3.1 Minimum Performance Criteria: The equipment shall meet the following minimum performance criteria:

Capacity:

Alternative 1- 20 hrs/wk operation	~300 lb DS/hr
Alternative 2 – 40 hrs/wk operation:	~150 lb DS/hr
Cake Dryness	≥ 16% dry solids
Minimum Solids Capture	93%
Maximum Polymer Consumption	30 lbs/ DT

3.2 The following additional performance information shall be provided in the bid for each alternative proposed on.

- A. Expected range of polymer dose, lb/DT
- B. Minimum and maximum Sludge Feed Rate, gpm
- C. Rated capacity of screw press considering Buyers sludge, lb DS / hr,
- D. Washwater requirements, gpm, psi
- E. Connected power, HP

3.3 Bidders shall provide the requested performance criteria and any supporting information regarding such under Bid Tab F- O&M.

3.4 Performance Testing

Performance testing of the screw press equipment will be conducted after start-up to verify the equipment meets the minimum performance criteria established in Section 3.1. Monetary penalties and reimbursement to the Owner shall be assessed for equipment that is not able to meet the minimum performance criteria. The following sections describe the Performance Testing procedures and the methods for determining reimbursement.

A. Pre-Performance Testing/Start-Up - The Seller's authorized personnel shall inspect the screw press system installation and provide start-up services and affirm that the equipment is properly installed and capable of operation as intended. Seller's personnel shall provide signed documentation for the inspection and start-up, which will indicate that the equipment is capable of its intended operation. Seller shall also have the opportunity to perform full scale testing of polymers to determine the optimum polymer and dose. Polymer for testing shall be provided by the Seller.

B. Performance Testing- Testing of the screw press system shall be conducted over a five day (Monday-Friday) testing period to demonstrate the screw press achieves the minimum performance criteria. Performance testing shall commence within 30 days following the completion of Pre-Performance Testing and Start-Up. Seller's personnel shall be responsible for operation of the screw press system over this testing period. Seller shall be responsible to provide ample polymer for the duration of the testing period. Buyer shall supply sludge pumping, polymer make down and polymer feed systems.

The screw press system shall be operated under two conditions during the performance testing:

- 1) At the rated capacity of the unit, lb DS/hr (as given under item 3.2.C above)
- 2) At half the rated capacity of the unit,

Operation under each condition shall have a duration of at least two days.

During the performance testing, samples or readings shall be taken at least twice daily by the Owner's personnel for the following parameters:

- 1) Feed sludge, % TSS
- 2) Dry solids content of the sludge cake, % DS
- 3) Filtrate, % TSS

Samples shall be delivered to a NELAC certified third party laboratory for testing. Owner shall be responsible for the costs of laboratory testing of samples taken during the Performance Testing.

Recordings and/or continuous monitoring of the following parameters shall also be taken by the Owner:

- 4) Feed Sludge Flow, gpm

- 5) Polymer Solution Feed Rate, gpm
- 6) Solids Capture, % Capture

The recorded values and lab results will be used to determine compliance with the minimum performance criteria as follows.

- 1) Cake Dryness, % DS – The arithmetic average of all lab results for %DS in the produced cake will establish the performance of the screw press with respect to this parameter.
- 2) Solids Loading Rate, lb DS/hr- The feed rate of sludge (gpm) (recorded by magnetic flow meter) and the lab results for the solids content of the feed sludge % TSS, will be used to determine the mass of solids fed to the press.
- 3) Polymer Dose, lb/DT – The feed rate of the polymer solution gph , and polymer solution concentration, % polymer, combined with the solids loading rate to the press will be used to determine the polymer dose. Polymer dose shall be based on the assumption that the polymer is 100% active.
- 4) Solids Capture, % - Solids capture is the percent of the feed solids that remains in the dewatered end product on a weight basis. For purposes of this specification, “capture” is defined as:

$$\% \text{ Capture} = (C/F) [(F-E)/(C-E)] \times 100\%$$

Where: C = Dewatered Sludge Total Solids (% TS)

F = Feed (% TSS); excluding any dilution from polymer solution flow

E = Filtrate (% TSS); excluding any dilution from polymer solution and wash water flows

C. Performance Re-Testing- Should the screw press system fail to meet any of the minimum performance criteria, a re-testing period shall be allowed. The same criteria and procedure as the initial performance-testing period shall apply to the re-testing period. The re-testing period shall commence within 30 days following the completion of the initial performance testing. Seller may make minor changes or modifications to their equipment prior to retesting at their discretion and at their cost. Depending on how the initial performance results compared to the minimum standards, the owner reserves the right to

reduce the duration of the re-testing period. Seller shall be responsible for all laboratory costs associated with the re-testing.

- D. Penalty Reimbursement- If the screw press equipment fails to meet the minimum performance criteria during the testing or re-testing periods, the Owner will be reimbursed a lump sum payment, payable as a Cashier's Check to the Owner, based on the following formula:

$$\text{Reimbursement} = ((\text{Polymer Cost} + \text{Disposal Cost} + \text{Filtrate Disposal Cost}) \times \text{Present Worth Factor}) + \text{Throughput Cost}$$

1) Cake Dryness:

$$\text{Disposal Cost} = (\text{DS}_m - \text{DS}_a) \times \$C$$

Where:

$$\begin{aligned}\text{DS}_m &= \text{Minimum Cake Dry Solids (xx.x\%)} \\ \text{DS}_a &= \text{Performance Testing Cake Dry Solids (xx.x\%)} \\ \$C &= \text{Annual Cost of each additional percent cake} \\ &(\$5,000/\%) \end{aligned}$$

2) Polymer Cost:

$$\text{Polymer Cost} = (\text{PD}_a - \text{PD}_m) \times \$P \times T$$

Where:

$$\begin{aligned}\text{PD}_a &= \text{Performance Testing Actual Polymer Dose (xx.x lb active/DT)} \\ \text{PD}_m &= \text{Maximum Polymer Dose (xx.x lb active/DT)} \\ \$P &= \text{Cost of Polymer (\$2.50/lb active)} \\ T &= \text{Dry Tons of Solids Annually (150 DT/yr)} \end{aligned}$$

3) Throughput Cost:

$$\text{Throughput Cost} = (\text{TP}_m - \text{TP}_a) \times \$CC / \text{TP}_r$$

Where:

$$\begin{aligned}\text{TP}_m &= \text{Minimum Screw Press Throughput (lbDS/hr)} \\ \text{TP}_a &= \text{Actual Screw Press Throughput (lbDS/hr)} \\ \text{TP}_r &= \text{Rated Screw Press Throughput (per item 3.2.C above) (lbDS/hr)} \\ \$CC &= \text{Equipment Capital Cost (as entered in the Bid Form) (\$)} \end{aligned}$$

4) Filtrate Disposal Cost:

$$\text{Filtrate Disposal Cost} = (\text{F}_m - \text{F}_a) \times \$F$$

Where:

$$\begin{aligned}\text{F}_m &= \text{Minimum Solids Capture (xx.x\%)} \\ \text{F}_a &= \text{Actual Solids Capture (xx.x\%)} \end{aligned}$$

$$\text{\$F} = \frac{\text{Annual Cost of each additional \% solids in filtrate}}{(\$5,000/\%)}$$

- 5) Present Worth Factor = 12.46 (Based on a 5.0% interest rate over a period of 20 years)

4 EQUIPMENT REQUIREMENTS

This section establishes the minimum requirements for the equipment with respect to anticipated service, equipment design and operational features.

4.1 Screw Press

- A. Screw press shall be specifically designed for the dewatering of municipal wastewater sludge
- B. All normally wetted parts shall be of corrosion resistant design
- C. Screw press shall accomplish the required dewatering without the need for pre-thickening of the sludge
- D. Screw press shall be capable of being installed in the space available in the existing building
- E. Must be capable of being operated in parallel with Buyers existing screw press
- F. Must be capable of unattended operation
- G. Must meet Class I Division 2 Electrical requirements per NEC.

4.2 Control Panel

Seller shall provide a control panel specifically designed to control and monitor the operation of the screw press system. The Control panel shall include at a minimum the following features:

- A. Manufactured in a UL listed facility and come with a UL listing
- B. 304 or 316 SS NEMA 4X Enclosure
- C. Touchscreen HMI with GUI
- D. Microprocessor Based PLC with minimum of 24 I/O points
- E. Programming to allow remote monitoring, control and operation of the screw press
- F. System monitoring
- G. H-O-A Switch
- H. ETM for hours of press operation
- I. ON/OFF/ALARM INDICATION

4.3 Polymer System

- A. Designed for blending and activating neat polymer emulsions

- B. Include a blending/activation system and a chemical metering pump for feed of the neat polymer
- C. Skid mounted system with all components engineered and integrated into a single skid
- D. Progressive cavity type polymer solution feed pump with variable speed capability
- E. Include calibration column
- F. Local power and control panel (120 VAC) designed specifically for operation of the polymer makeup and feed system
- G. Must meet Class 1 Div. 2 electrical requirements per NEC.