

RIDER
to
STANDARD GENERAL CONDITIONS OF THE CONTRACT
BETWEEN OWNER AND DESIGN/BUILDER

1. **Rider.** This Rider ("Rider") amends EJCDC Form No. 1910-40, 1995 Edition ("Standard Form"). The Standard Form is hereby incorporated into this Rider by this reference and is made a part hereof as if it were fully set forth herein. Except as amended by this Rider, the Standard Form shall remain in full force and effect. This Rider shall supersede the Standard Form.

2. **Section 3.04.** This Section is hereby deleted in its entirety and the following is hereby substituted in its place:
 - (a) **Ownership and Copyright.** All Drawings and Specifications and other documents and electronic data prepared by DESIGN/BUILDER or any of its agents or consultants for this Project (collectively, the "Instruments of Service") are hereby transferred and assigned by DESIGN/BUILDER to OWNER and shall be the sole property of OWNER for its exclusive use and re-use at any time only for this Project without further compensation to DESIGN/BUILDER so long as OWNER removes DESIGN/BUILDER's name and stamps from the Instruments of Service prior to any such re-use.

 - (b) **Owner Use or Re-Use.** In the event of any such use or re-use of the Instruments of Service by OWNER only for this Project where OWNER terminates this Agreement prior to the completion of Contract Documents, the DESIGN/BUILDER shall not be liable for the Instruments of Service and OWNER shall indemnify, defend and hold the DESIGN/BUILDER harmless from and against any and all claims arising thereunder.

In the event of any such use of the Instruments of Service by OWNER only for this Project where OWNER terminates this Agreement after the completion of Contract Documents, the DESIGN/BUILDER shall remain liable for the Instruments of Service based on the laws, codes and ordinances in effect at the time they were prepared. If any changes are made by others to the Instruments of Service, DESIGN/BUILDER shall

bear no liability for those changes or anything affected by such changes and OWNER shall indemnify, defend and hold the DESIGN/BUILDER harmless from and against any and all claims arising thereunder.

- (c) Delivery to Owner. DESIGN/BUILDER shall deliver the Instruments of Service in the possession or control of DESIGN/BUILDER or its agents or consultants, including hard paper copies and computer disks where applicable, to OWNER within thirty (30) days after completion of the Project or with five (5) days after either termination or this Agreement or request of OWNER at any time, except that DESIGN/BUILDER shall retain on (1) copy of the Instruments of Service for its records for at least five (5) years after final completion of the Project.

DESIGN/BUILDER shall fully cooperate with OWNER in delivering the Instruments of Service and shall make every effort to provide current and accurate Instruments of Service when required as provided above; provided, however, that DESIGN/BUILDER shall not be responsible for hardware or software incompatibility or errors that may occur during transmission, reformatting and/or importation into other software programs other than the program in which the data originated.

3. Section 5.01. This Section is hereby amended as follows: "Bonds shall not be required hereunder; provided, however, that OWNER hereby reserves the right to require bonds as set forth under this Section 5.01 and, in that event, DESIGN/BUILDER shall promptly furnish such bonds to OWNER and the cost thereof shall be added to the Contract Price."
4. Section 6.01A. The last sentence of this Section, beginning with the words "The standard of care. . .", is hereby deleted in its entirety and the following is hereby substituted in its place: "The standard of care for all such services performed or furnished under this Agreement shall be that which prevails among the leading engineering firms engaged in the design of projects similar to the Project in type and scope located in the greater Chicago metropolitan area."

5. Section 6.19.A. This Section is hereby deleted in its entirety and the following is hereby substituted in its place:

"DESIGN/BUILDER shall indemnify, defend and hold harmless OWNER and its officers, directors, employees, agents and representatives (collectively, the "Indemnitees") from and against any and all claims, actions, damages, losses, liabilities liens, judgments and expenses, including reasonable attorneys' fees, expert witness fees and other related expenses, arising out of or relating to (i) the performance of the design services, construction work or other obligations hereunder by DESIGN/BUILDER or its agents, representatives, employees, consultants and contractors (collectively, the "Indemnitors"), (ii) the violation of, or failure to comply with, any applicable laws, codes or ordinances by any Indemnitor or (iii) the default of DESIGN/BUILDER hereunder, except to the extent caused by the Indemnitees or others for whom DESIGN/BUILDER is not responsible hereunder.

The provisions contained in this Section 6.19.A shall survive the termination of this Agreement and shall remain in full force and effect as long as permitted by applicable statutes of limitation.

6. Section 10.02.C.2.a. The number "15 percent" in this subsection is hereby deleted and the number "ten percent (10%)" is hereby substituted in its place.
7. Section 12.06. This Section is hereby amended by adding the following:

Upon written notice to the DESIGN/BUILDER, the DESIGN/BUILDER shall promptly correct, at its sole expense and without additional compensation, any defective Construction which is not in compliance with applicable laws, codes, ordinances and regulations in existence at the time of this Agreement is made or the provisions of this Agreement.

Upon written notice to the DESIGN/BUILDER, the DESIGN/BUILDER shall promptly correct, at its sole expense and without additional compensation, any Drawings or Specifications which are not in compliance with sound engineering practices, applicable laws, codes, ordinances and regulations in existence at the time of this Agreement is made or the provisions of this Agreement.

If the correction of Construction, Drawings or Specifications results in the Work not being completed on or before the Contract Time under Article 3 of the Agreement, then the DESIGN/BUILDER shall be subject to the liquidation damages provisions under paragraph SC11.05 of the Supplementary Conditions for such delay and OWNER shall reserve any and all damages other than those related to delay.

8. Section 14.03.A.3 and 4. These subsections shall be deleted in their entirety.
9. Article 15. This Article and Exhibit GC-A Dispute Resolution Agreement are hereby deleted in its entirety and the following is hereby substituted in their place:

Dispute Resolution Procedure. The parties agree to the following dispute resolution procedure:

- (a) Initial Meeting. In the event of a claim, dispute or other matter in question between the OWNER and DESIGN/BUILDER arising out of or relating to this Agreement, either party may give the other party written notice thereof and principals or executives of the parties (with or without accompanying legal counsel) shall meet in person or via telephone conference at a mutually agreed upon date and time (and location, if in person) within ten (10) days after the date of such notice and shall attempt in good faith to resolve the matter in a mutually agreed upon manner.

If such initial meeting or telephone conference does not result in a mutually agreed upon resolution of the matter, then either party may pursue binding arbitration as provided below.

- (b) Binding Arbitration. If the initial meeting or telephone conference provided above did not result in a mutually agreed upon resolution of the matter, then either party may submit the matter to binding arbitration as follows:
 - (i) Notice of Demand. A notice of demand for arbitration (the "Notice of Demand") shall be filed by the complaining party with the Regional Office of the American Arbitration Association ("AAA") nearest the location of the Project with a copy sent to

the other party within a reasonable time after the matter in question has arisen, which in no event shall be more than one (1) year after the occurrence or discovery of the event that gave rise to the matter. Failure to file a Notice of Demand within such one (1) year period of time shall be deemed to constitute a waiver of the matter in question.

- (ii) Arbitrator(s). For claims of Two Hundred Thousand Dollars (\$200,000) or less in the aggregate, the parties shall use one (1) arbitrator to resolve the matter. For claims of more than Two Hundred Thousand Dollars (\$200,000) in the aggregate, the parties shall use a panel of three (3) arbitrators to resolve the matter.

The arbitrator(s) shall (i) be certified by the AAA, (ii) have at least ten (10) years of experience in construction and design disputes, (iii) be independent and unrelated in business or otherwise to the parties hereto and (iv) have demonstrated a continuing commitment to arbitration education and training.

If one (1) arbitrator is required, then the parties shall attempt to mutually agree upon the arbitrator. If the parties are unable to agree upon the arbitrator within fifteen (15) days after the AAA issues a list of arbitrators to the parties, then the AAA shall be directed to make the appointment as soon as reasonably possible.

If a panel of three (3) arbitrators is required, then each party shall select one (1) arbitrator and the two (2) selected arbitrators shall be directed to select a third (3rd) arbitrator who shall serve as the chairperson of the arbitration panel. If any party does not select an arbitrator within thirty (30) days after the AAA issues a list of arbitrators to the parties, then the AAA shall be directed to make the appointment as soon as reasonably possible.

- (iii) Joinder of Parties. Any arbitration hereunder may include by consolidation, joinder or otherwise, any person or entity not a party hereto if it is claimed at the time the Notice of Demand is filed that (i) such person or entity is involved in a common

question of fact or law, (ii) the presence of such person or entity is reasonably required if complete relief is to be afforded in the arbitration and (iii) the interest or responsibility of such person or entity in the matter is not insubstantial; and such person consents to be joined in such arbitration. All claims that are related or dependent upon each other shall be heard by the same arbitrator(s) in the same arbitration.

- (iv) Location. Any arbitration commenced pursuant to this Agreement shall take place at a location within twenty five (25) miles of the Project site designated by OWNER (the "Hearing Location").
- (v) Discovery. Upon petition approved by the arbitrator, the parties may obtain discovery relevant to the matters in dispute only as follows: (i) depositions upon verbal examination conducted at the arbitration location, unless otherwise mutually agreed; provided that each party shall be limited to a total of eight (8) hours of depositions and a limit of four (4) persons to be deposed within such eight (8) hour time limit, and (ii) exchange of documents as permitted under the AAA rules.

Such discovery shall not involve privileged matters and shall be available for use as evidence in the same manner and for the same reasons as provided under the AAA rules. No other discovery shall be permitted in any arbitration hereunder.

All requests for discovery shall be delivered by written notice to the opposing party and to the AAA not later than fifteen (15) days after the selection of the arbitrator(s). All discovery shall be completed within thirty (30) days after written notice of the request for discovery. The arbitrator(s) shall resolve all disputes related to discovery and any such decision shall be final.

- (vi) Brief. Each party shall prepare and submit to the other party(ies) at least ten (10) days prior to the arbitration hearing a brief or memorandum of a reasonable length discussing the issues, facts, applicable law and/or contract provisions and their position on the matter with an attached copy of any documents

referenced therein, except that any statutes or judicial decisions may simply be cited without attaching a copy.

- (vii) Hearing. The arbitration hearing shall occur at the Hearing Location promptly after the selection of the arbitrator(s) and conclusion of discovery, if any, on specific date(s) reasonably convenient for the parties and their legal counsel.
 - (viii) Evidence. Subject to the limitation on discovery as provided above, the parties shall be permitted to introduce any and all evidence otherwise permitted under the AAA rules; provided, however, that each party may have no more than two (2) expert witnesses.
 - (ix) Written Opinion. The arbitrator(s) shall be directed to render to the parties upon conclusion of the arbitration a written, reasoned opinion regarding his decision of the matter in dispute.
 - (x) Fees and Expenses. The arbitrator(s) shall be authorized and directed to award the prevailing party in the arbitration with reimbursement of its arbitration fees and expenses or to otherwise apportion such fees and expenses between the parties in his reasonable discretion.
 - (xi) Final and Binding. The agreement to arbitrate set forth herein and any award entered thereon shall be final and incontestably binding upon the parties, and judgment may be entered upon them in any court having competent jurisdiction hereof.
- (c) Continuation of Services. During the pendency of any dispute including, without limitation, outstanding written or verbal claims, default notice and cure periods, settlement negotiations or arbitration, DESIGN/BUILDER shall continue performing all of its services hereunder and the OWNER shall continue to compensate DESIGN/BUILDER as provided herein, except that OWNER may reasonably withhold any payment to DESIGN/BUILDER to the extent that it is in dispute until such dispute has been resolved.

10. Section 16.01. This Section is hereby deleted in its entirety and the following is hereby substituted in its place:

Notice. Except as otherwise expressly provided herein, any notice of default, claim, demand or termination which any party is required or any party desires to give or deliver to or make upon any other party shall be in writing, and may be given by personal delivery, reputable overnight courier service or by United States, registered or certified mail, return receipt requested, with postage prepaid, addressed as follows:

If to OWNER: Terra Cotta Realty Co.
3703 South Route 31
Crystal Lake, Illinois 60012
Attn: Robert L. Eck, II

with a copy to: Bell, Boyd & Lloyd
70 W. Madison Street
Suite 3300
Chicago, Illinois 60602-4207
Attn: Gregory R. Andre, Esq.

If to CONTRACTOR: Joseph J. Henderson & Son, Inc.
4288 Grand Avenue
P.O. Box 9
Gurnee, Illinois 60031-0009
Attn: Mike Henderson

If to ENGINEER: Lintech Engineering, LLC
500 Coventry Lane, Suite 270
Crystal Lake, Illinois 60014
Attn: Jeremy C. Lin

Any party may designate a different address for itself by notice given in the same manner. Any such notice, consent of approval shall be deemed to have been given, and any item permitted or required to be delivered shall be deemed to have been delivered when personally delivered, or one (1) business day after delivery to a courier guaranteeing next-day delivery with delivery charges prepaid or four (4) business days after delivery to a United States Post Office, properly addressed and with postage prepaid, for delivery by United States registered or certified mail.

SUPPLEMENTARY CONDITIONS

PART 1 - GENERAL

1.1 SUPPLEMENTARY CONDITIONS

- A. These Supplementary Conditions modify, change, delete from or add to the "Standard General Conditions of the Contract between OWNER and DESIGN/BUILDER" EJCDC No. 1910-40, 1995 edition. Where any Article of the General Conditions is modified, or any Paragraph, Subparagraph, or Clause thereof is modified or deleted by these Supplementary Conditions, the unaltered provisions of that Article, Paragraph, Subparagraph, or Clause shall remain in effect.

The General Conditions also may be supplemented elsewhere in the Contract Documents by provisions located in, but not necessarily limited to Division 1 of the Specifications.

1.2 ARTICLE 1 - DEFINITIONS

- A. SC-1
1. The terms used in these Supplementary Conditions which are defined in the Standard General Conditions of the Contract between OWNER and DESIGN/BUILDER have the identical meaning assigned to them in said General Conditions.
- B. SC-1.52 through 1.54
1. Add the following definitions:
 - 1.52. Furnish - To supply and deliver to the project site ready for installation and in operable condition.
 - 1.53. Install - To place in final position, complete, anchored, connected, and in operable condition.
 - 1.54. Provide - To furnish and install complete.

1.3 ARTICLE 2 - PRELIMINARY MATTERS

- A. SC-2.02
1. Under paragraph 2.02, delete the last sentence in its entirety.

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B. SC-2.04.B

1. Delete paragraph 2.04.B in its entirety and substitute the following:

2.04.B When DESIGN/BUILDER delivers the executed Agreements to OWNER, DESIGN/BUILDER shall also deliver to OWNER, with copies to each additional insured indicated in paragraphs 5.02 and 5.04, certificates of insurance which DESIGN/BUILDER is required to purchase and maintain in accordance with paragraphs 5.02.A and 5.04.

1.4 ARTICLE 4 - AVAILABILITY OF LANDS; DIFFERING SITE CONDITIONS, REFERENCE POINTS; HAZARDOUS CONDITIONS

A. SC-4.01.B

1. Insert a period after the word "performed" in line 5 and delete the remainder of the sentence.

1.5 ARTICLE 5 - BONDS AND INSURANCE

A. SC-5.02 through 5.09

1. Delete paragraphs 5.02 through 5.09, inclusive in their entirety and substitute the following:

5.02 Licensed Sureties and Insurers; Insurance Policies:

- B. All bonds and insurance required by the Contract Documents to be purchased and maintained by DESIGN/BUILDER shall be obtained from surety or insurance companies that are fully licensed or authorized in the jurisdiction in which the Project is located.
- C. In addition to delivering certificates of insurance in accordance with paragraph 2.04.B, DESIGN/BUILDER shall also deliver to OWNER, with copies to each additional insured, copies of all endorsements to the insurance policies which DESIGN/BUILDER is required to purchase and maintain in accordance with paragraph 5.03, within 90 calendar days after the Effective Date of the Agreement or prior to final payment, whichever comes first. OWNER will withhold the final payment due DESIGN/BUILDER pending the receipt of all required insurance policy endorsements.

Certificate of insurance and endorsements shall be fully completed, signed and delivered in accordance with the requirements of Article 5.

5.03 DESIGN/BUILDER's Liability Insurance:

DESIGN/BUILDER shall purchase and maintain, on an occurrence basis, such liability and other insurance as is appropriate for the Work being performed and furnished and as will provide protection from claims set forth below which may arise out of or result from DESIGN/BUILDER's performance and furnishing of the Work and DESIGN/BUILDER's other obligations under the Contract Documents, whether it is to be performed or furnished by DESIGN/BUILDER, by any Subcontractor, or Supplier, by anyone directly or indirectly employed by any of them to perform or furnish any of the Work or by anyone for whose acts any of them may be liable:

- A. Workers' Compensation - Workers' Compensation in accordance with the laws of the state with jurisdiction and employers' liability in an amount not less than \$500,000.
- B. General Liability
 - (a) Bodily Injury Liability and Property Damage Liability in an amount not less than \$1,000,000 each occurrence and in the aggregate.
 - (b) Above to include Premises Operations, Blanket Contractual Liability, Independent Contractors, Broad Form Property Damage, Personal Injury and "X", "C", and "U" Exclusions deleted.
- C. Automobile Liability
 - (a) \$1,000,000 - Bodily Injury and Property Damage (Combined Single Limit).
 - (b) Coverage shall include hired and non-owned automobiles.
- D. Umbrella Liability - Umbrella Liability coverage in an amount not less than \$3,000,000. Such coverage shall include, but not be limited to, excess coverage for the Workers' Compensation, General Liability, and Automobile Liability policies.

The policies of insurance so required by this paragraph 5.03 to be purchased and maintained shall:

- E. Be furnished by insurers with A. M. Best Company rating of at least A- (Excellent), and a financial size category of VIII or greater.

- F. With respect to general liability insurance, automobile liability, and umbrella liability required by paragraph 5.03.B, 5.03.C, and 5.03.D include as additional insured OWNER, ENGINEER, and ENGINEER's Consultants, all of whom shall be listed on such policy by name as additional insureds through an endorsement thereto which provides for no different coverage to the additional insureds than to DESIGN/BUILDER, and include coverage for the respective officers, directors, employees, agents and other consultants of each and any of such additional insureds. The additional insured endorsements shall provide the following:
- (a) that the coverage afforded the additional insureds will be primary insurance for the additional insureds with respect to claims arising out of operations performed by or on behalf of the DESIGN/BUILDER;
 - (b) that coverage afforded the additional insureds shall not exclude claims asserted by DESIGN/BUILDER's employees;
 - (c) that if the additional insureds have other insurance which is applicable to the loss, such other insurance will be on an excess or contingent basis;
 - (d) that the amount of DESIGN/BUILDER's liability under the insurance policy will not be reduced by the existence of such other insurance.
- G. Include contractual liability insurance covering DESIGN/BUILDER's indemnity obligations under paragraphs 6.06, 6.10, and 6.19 including, but not limited to, all fees and charges of engineers, architects, attorneys and other professionals, and all court, arbitration, or other dispute resolution costs;
- H. Remain in effect at least until final payment and at all times thereafter when DESIGN/BUILDER may be correcting, removing or replacing defective work in accordance with paragraph 12.08; and
- I. With respect to completed operations insurance remain in effect for at least two years after final payment (and DESIGN/BUILDER shall furnish OWNER and any other additional insured to whom an insurance policy has been furnished evidence satisfactory to OWNER and any such additional insured of continuation of such insurance at final payment and one year thereafter).

5.04 Property Insurance:

DESIGN/BUILDER shall purchase and maintain property insurance in the amount of the initial Contract Price as well as subsequent modifications thereto for the entire Work at the site on a replacement cost basis. This insurance shall include interests of OWNER, DESIGN/BUILDER, Subcontractors in the Work, and the ENGINEER, all of whom shall be listed by name as insureds or additional insureds.

- A. Property insurance shall be written on a Builder's Risk "all-risk" or open peril or special causes of loss policy form that shall at least include insurance for physical loss or damage to the Work, temporary buildings, false work and Work in transit and shall insure against at least the following perils or causes of loss: fire, lightning, extended coverage, theft, vandalism and malicious mischief, earthquake, collapse, debris removal, demolition occasioned by enforcement of Laws and Regulations and water damage;
- B. Include expenses incurred in the repair or replacement of any insured property (including but not limited to fees and charges of engineers and architects) in an amount not less than 5 percent of Contract Price;
- C. Cover materials and equipment stored at the site or at another location that was agreed to in writing by OWNER prior to being incorporated in the Work, provided that such materials and equipment have been included in an Application for Payment; and
- D. Be maintained in effect until final payment is made unless otherwise agreed to in writing by OWNER and DESIGN/BUILDER with thirty days written notice to each other additional insured to whom a certificate of insurance has been issued.

5.05 All the policies of insurance required to be purchased and maintained by DESIGN/BUILDER in accordance with paragraphs 5.03 and 5.04 shall contain a provision or endorsement that the coverage afforded will not be cancelled or materially changed or renewal refused until at least 30 days' prior written notice has been given to OWNER and to each other additional insured to whom an insurance policy has been furnished.

5.06 Additional insureds referenced in paragraphs 5.03, 5.04, and 5.05 shall be as follows:

OWNER: Terra Cotta Realty Co.
3703 S. Route 31
Crystal Lake, Illinois
60012-1412

Facilities Operator: Illinois-American Water Company
1000 Internationale Parkway
Woodridge, Illinois 60517-4924

ENGINEER: Lintech Engineering, LLC.
500 Coventry Lane, Suite 270
Crystal Lake, IL 60014

Others: Village of Prairie Grove
3125 Barreville Road
Prairie Grove, Illinois 60012

CC Industries, Inc.
3600 Thayer Court, Suite 100
Aurora, Illinois 60504

TC Industries, Inc.
3703 S. Route 31
Crystal Lake, Illinois 60012

5.07 DESIGN/BUILDER'S Professional Liability Insurance:

DESIGN/BUILDER shall obtain and maintain, at his own expense, DESIGN/BUILDER's professional liability insurance in the amount of Two Million Dollars (\$2,000,000.00) (including a broad form contractual liability coverage with all coverage retroactive to the earlier date of this Agreement or the commencement of the DESIGN/BUILDER's services in relation to the project) for each claim with respect to negligent acts, errors and omissions in connection with professional services to be provided under the contract with a deductible not-to-exceed \$50,000 without prior written approval. Said coverage shall be maintained for a period of three (3) years after the date of final payment hereunder.

DESIGN/BUILDER's professional liability insurance shall protect the OWNER, its officers, directors, employees, agents, consultants and volunteers from any and all claims involving the DESIGN/BUILDER's contractual obligations under this Agreement and indemnify, defend and hold harmless the OWNER, its officers, directors, employees, agents, consultants and volunteers for any injury or damage of any kind or type, including attorneys fees and litigation expenses, arising out of acts, errors, or omissions in providing professional services, including but not limited to:

- 1) Preparing, approving or failing to prepare or approve maps, drawings, opinions, reports, surveys, change orders, designs or specifications:
- 2) Providing direction, instruction, supervision, inspection, engineering services or failing to provide same.

5.08 Under no circumstances shall the OWNER be deemed to have waived any of the insurance requirements of this contract by any act or omission, including but not limited to:

- A. Allowing any work to commence before receipt of certificate of insurance.
- B. Failing to review any certificates of insurance received from the DESIGN/BUILDER.
- C. Failing to advise the DESIGN/BUILDER that any certificate of insurance fails to contain all the required insurance provisions, or is otherwise deficient in any manner.

The DESIGN/BUILDER agrees that the obligation to provide the insurance required by these documents is solely its responsibility and that this is a requirement which cannot be waived by any conduct, action, inaction or omission by the OWNER.

5.09 Nothing contained in this contract is to be construed as limiting the liability of the DESIGN/BUILDER. The OWNER does not, in any way, represent that the coverage's or limits of insurance specified are sufficient or adequate to protect the OWNER, or the DESIGN/BUILDER, but are merely minimums. The obligations of the DESIGN/BUILDER to purchase insurance, shall not, in any way, limit its obligation to the OWNER in the event the OWNER should suffer an injury or loss in excess of the amount recoverable through insurance, or any loss or portion of the loss which is not covered the DESIGN/BUILDER's insurance.

5.10 In the event the DESIGN/BUILDER fails to furnish and maintain the insurance required by this contract, the OWNER may purchase such insurance on behalf of the DESIGN/BUILDER and the DESIGN/BUILDER shall pay the cost thereof to the OWNER upon demand or shall have such cost deducted from any payments due the DESIGN/BUILDER. The DESIGN/BUILDER agrees to furnish to the OWNER the information needed to obtain such insurance.

5.11 Any and all Subcontractors performing any and all activities or work in the DESIGN/BUILD shall be required to provide insurance in favor of the OWNER to the extent and character acceptable to the OWNER.

1.6 ARTICLE 6 - DESIGN/BUILDER'S RESPONSIBILITIES

A. SC-6.05A

1. Under paragraph 6.05A, add: Any person employed by DESIGN/BUILDER or Subcontractors who does not perform his work in a proper and skillful manner, or who is intemperate, disorderly, or otherwise objectionable, shall, at the written request of OWNER, be forthwith removed from the project site and shall not be employed again in any portion of the Work without written consent of OWNER.

B. SC-6.05B

1. Under paragraph 6.05B, add: DESIGN/BUILDER shall identify all Subcontractors, major Suppliers and other persons or organizations providing principal items of work, material, and equipment.

C. SC-6.08

1. Add the following:

D. DESIGN/BUILDER shall carefully examine the Occupational Safety and Health Act as published in the Federal Register (OSHA), and the specific regulations governing procedures, techniques, safety precautions, equipment design, and the configuration of the same as required under this Act and shall comply with all terms of the Act and to perform and complete in a workmanlike manner all work required in full compliance with said Act.

E. DESIGN/BUILDER shall comply with all terms of the Illinois Preference Act and all terms of the Equal Employment Opportunity Clause of the Illinois Fair Employment Practices Commission.

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- F. At all times DESIGN/BUILDER shall remain in compliance with the Illinois Public Works Employment Discrimination Act (775 ILCS 10/1, et seq.) and the Illinois Human Rights Act (775 ILCS 5/2-101, et seq.) and in addition shall at all times comply with Section 2-105 of the Illinois Human Rights Act requiring a written sexual harassment policy as defined herein.
- G. DESIGN/BUILDER understands, represents and warrants to the OWNER, that the DESIGN/BUILDER and its Subcontractors (for which the Subcontractor takes responsibility to insure that they comply with the above-mentioned Acts) are in compliance with all requirements provided by the Acts set forth herein and that they will remain in compliance for the entirety of the Work. A violation of any of the Acts set forth in this Article is cause for the immediate cancellation of the Contract. However, any forbearance or delay by the OWNER in canceling this Contract shall not be considered as, and does not constitute, OWNER'S consent to such violation and a waiver of any rights the OWNER may have, including without limitation, cancellation of this Contract.
- H. Every DESIGN/BUILDER and Subcontractor shall pay prevailing wages as established by the Illinois Department of Labor for each craft or type of work needed to execute the contract in accordance with 820 ILCS 130/01 et seq. The DESIGN/BUILDER shall prominently post the current schedule of prevailing wages at the Contract site and shall notify immediately in writing all of its Subcontractors, of all changes in the schedule of prevailing wages. Any increases in cost to the DESIGN/BUILDER and not at the expense of the OWNER. The change order shall be computed using the prevailing wage rates applicable at the time the change order work is scheduled to be performed. The DESIGN/BUILDER shall be solely responsible for maintaining accurate records as required by the prevailing wage statute and shall be solely liable for paying the difference between prevailing wages and any wages actually received by laborers, workmen and/or mechanics engaged in the Work.

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D. SC-6.09

1. Delete paragraph 6.09 in its entirety and replace it with the following:
 - A. The OWNER is exempt from the Illinois Use Tax Act and the Retailer's Occupation Tax Act. Pursuant to Section 130.2075(d)(1) of Chapter 86 of the Illinois Administrative Code, the sale of materials to construction contractors for incorporation into real estate owned by governmental bodies are exempt from the Retailer's Occupation Tax and Use Tax. Contractors shall not include any taxes for which the Contractor is exempt in its costs or bid for the work. If any tax for which is exempt is included in its bid, the OWNER shall receive a credit for same.

E. SC-6.18A

1. Delete paragraph 6.18A in its entirety and substitute the following:

6.18A DESIGN/BUILDER shall execute and deliver to OWNER, before the final payment of Phase I Work will be issued, a written warranty which guarantees that all work in Phase I is in accordance with the Contract Documents and will not be defective. This warranty shall guarantee all work for a period of one year from the date of acceptance of the Work and in use by OWNER, unless a different guarantee period of time is specified under other parts of the Contract Documents.

If within the guarantee period or such longer period of time as may be prescribed by the Contract Documents, any work is found to be defective, DESIGN/BUILDER shall promptly, without cost to OWNER and in accordance with OWNER's written instructions, either correct such defective work, or, if it has been rejected by OWNER, remove it from the site and replace it with nondefective work. If DESIGN/BUILDER does not promptly comply with the terms of such instructions, or in an emergency where delay would cause serious risk of loss or damage, OWNER may have the defective work corrected or the rejected work removed and replaced, and all direct and indirect costs of such repair and/or replacement of work, including compensation for additional professional services, shall be paid or reimbursed to OWNER by DESIGN/BUILDER.

Any warranty contained in the contract documents shall constitute a specific contractual liability to extend rather than limit the DESIGN/BUILDER's liability for faulty or defective construction. No provision in the contract documents, nor any special guaranteed time limit, shall be held to limit the DESIGN/BUILDER's liability for defects. All warranties provided in the construction documents shall be in addition to all their warranties and remedies, expressed or implied, under the law.

1.7 ARTICLE 8 - OWNER'S RESPONSIBILITIES

A. SC-8.01.A.6

1. After the word "Agreement" in line 5, add: As long as it is reasonable to do so.

B. SC-8.01B

1. Delete paragraph 8.01B in its entirety.

1.8 ARTICLE 11 - CHANGE OF CONTRACT TIMES

A. SC-11.03 through 11.05

1. Add the following paragraphs:

11.03 The date of beginning and the time for completion of the Work are essential conditions of the Agreement and the Work required shall be commenced on a date specified in the Notice to Proceed.

11.04 CONTRACTOR shall proceed with the Work at such rate of progress to insure full completion within the Contract Times. It is expressly understood and agreed, by and between the CONTRACTOR and the OWNER, that the Contract Times for the completion of the Work described herein is a reasonable time, taking into consideration the adverse weather conditions for the season, or seasons, involved and other factors prevailing in the locality of the Work.

11.05 CONTRACTOR understands that time is of the essence and that OWNER will suffer financial loss if the Work is not completed within the contract time, plus any extensions thereof allowed in accordance with Article 11 of the General Conditions. CONTRACTOR also recognizes the delays, expense, and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by OWNER if the Work is not completed on time. Accordingly, instead of requiring any such proof, CONTRACTOR shall pay OWNER as liquidated damages for delay (but not as a penalty) \$500 for each day that expires after the time or date specified in the Agreement for Substantial Completion until the Work is substantially complete. After Substantial Completion, if CONTRACTOR shall neglect, refuse or fail to complete the remaining Work within the Contract Time or any proper extension thereof granted by OWNER, CONTRACTOR shall pay OWNER \$250 for each day that expires after the time or date specified in the Agreement for completion and readiness for final payment.

SUPPLEMENTARY CONDITIONS

00801-11 (2002-03)

1.9 ARTICLE 12 - TESTS AND INSPECTIONS; CORRECTION, REMOVAL OR ACCEPTANCE OF DEFECTIVE WORK

A. SC-12.10

1. Add new paragraph 12.10 as follows:

12.10 Notification and Time Limit for Repairs:

DESIGN/BUILDER shall be responsible for the proper and safe protection of his work at all times during construction and also during the one-year guarantee period after the acceptance of the completed work by OWNER.

DESIGN/BUILDER shall provide, erect, and maintain barricades, red flags, and torches and lights at all places where work is in progress, and wherever else required by OWNER.

DESIGN/BUILDER shall maintain an emergency phone number where he can be notified at any time, Sundays and holidays included, of an emergency condition due to the work which requires immediate repair or protection. Upon such notification by OWNER, DESIGN/BUILDER shall be given a two-hour time limit to provide whatever barricades, flags, torches and lights are required to mark and protect the hazard. If DESIGN/BUILDER fails to provide this protection within the two-hour period from time of notification, OWNER will provide the necessary protection and deduct the sum of \$200.00 for each occurrence from the monies due and payable to DESIGN/BUILDER for completed work.

Also, upon notification by OWNER, DESIGN/BUILDER shall be given a 24-hour time limit to begin to make any repairs to the Work as deemed necessary by OWNER. If DESIGN/BUILDER fails to proceed with necessary repairs within the 24-hour notification period, OWNER will make the necessary repairs to the Work and deduct the cost of labor and materials, including engineering costs, for each repair incident from the monies due and payable to DESIGN/BUILDER for completed work.

1.10 ARTICLE 13 - PAYMENTS TO DESIGN/BUILDER AND COMPLETION

A. SC-13.01

1. Add the following paragraph after paragraph 13.01:

13.01 DESIGN/BUILDER shall submit revisions to the initial schedule of progress payments whenever actual outlays for the Work vary beyond -5 percent and +10 percent from the schedule, as determined by OWNER.

B. SC-13.02

1. Under paragraph 13.02, delete the remainder of the first sentence after "(but not more than one a month)" and insert the following:

DESIGN/BUILDER shall submit to OWNER for review an original plus four duplicate copies of each Application for Payment and each copy shall be accompanied by a "Sworn Statement For DESIGN/BUILDER And Subcontractor To OWNER" on a pre-printed or computer generated form.

2. Under paragraph 13.02, delete the last sentence and add the following:

Periodic partial payments for construction work shall be for the value of the completed work less a retained amount of 10 percent of the value of completed work as approved by OWNER until construction is 50 percent complete, after which no additional amount will be retained if DESIGN/BUILDER is making progress to OWNER's satisfaction and there is no specific cause for withholding 10 percent of the total value of completed work.. When the project is substantially complete and available for OWNER's operational or beneficial occupancy, the retained amount shall be reduced to only that amount estimated by OWNER as necessary to assure completion of the Work. The final payment, including the retained amount, shall be payable within 30 days after the completion of the Work, approval and acceptance by OWNER. The acceptance of the final payment by DESIGN/BUILDER shall be considered to be a waiver of all claims against OWNER under the Agreement.

Periodic partial payments for professional engineering services shall be as invoiced without any retainage.

C. SC-13.03

1. Under paragraph 13.03, add the following:

DESIGN/BUILDER shall procure from each Subcontractor and Supplier of material or labor a waiver of any claim which they may have under the mechanics lien laws of the state in which the Work is located, to insure OWNER immunity from mechanics liens on account of anything which is done by DESIGN/BUILDER or his Subcontractors in carrying out the Agreement and any work orders for additions thereto, all as a condition of any payment by OWNER. Any payments made by OWNER without requiring compliance with this paragraph shall not be construed as a waiver by OWNER of the right to require compliance with this paragraph as a condition of later payments.

DESIGN/BUILDER shall furnish with his final Application for Payment for Phase I Work a complete release of all liens arising out of this contract, or receipts in full in lieu thereof and an affidavit that the releases and receipts include all labor and material for which a lien could be filed.

- D. SC-13.04
 - 1. Under paragraph 13.04.A.1. change the word "ten" to "fifteen" in line 1 and to "thirty" in line 7.

- E. SC-13.10
 - 1. Delete paragraph 13.10 A in its entirety.

- 1.11 ARTICLE 15 - DISPUTE RESOLUTION
 - A. SC-15
 - 1. Delete Article 15 in its entirety.

 - B. SC-15.01
 - 1. Delete Exhibit GC-A Dispute Resolution Agreement in its entirety.

- 1.12 ARTICLE 17 - EQUAL EMPLOYMENT OPPORTUNITY
 - A. DESIGN/BUILDER shall comply with the following Equal Employment Opportunity Clause required by the Illinois Department of Human Rights:
 - 1. In the event the DESIGN/BUILDER's noncompliance with any provision of this Equal Employment Opportunity Clause, the Illinois Human Rights Act or the Department of Human Rights Rules and Regulations for Public Contracts, the DESIGN/BUILDER may be declared nonresponsible and therefore ineligible for future contracts or subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations, and the contract may be cancelled or voided in whole or in part, and such other sanctions or penalties may be imposed or remedies invoked as provided by statute or regulation. During the performance of the Work under this Agreement, the DESIGN/BUILDER agrees as follows:
 - a. That it will not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, ancestry, physical or mental handicap unrelated to ability, or an unfavorable discharge from military service; and further, that it will examine all job classifications to determine if minority persons or women are underutilized and will take appropriate affirmative action to rectify any such underutilization.

- b. That, if it hires additional employees in order to perform the Work under this Agreement, or any portion hereof, it will determine the availability (in accordance with the Department's Rules and Regulations for Public Contracts) of minorities and women in the area(s) from which it may reasonably recruit and it will hire for each job classification for which employees are hired in such a way that minorities and women are not underutilized.
- c. That, in all solicitations or advertisements for employees placed by it or on its behalf, it will state that all applicants will be afforded equal opportunity without discrimination because of race, color, religion, sex, national origin, ancestry, physical or mental handicap unrelated to ability, or an unfavorable discharge from military service.
- d. That it will send to each labor organization or representative of workers with which it has or is bound by a collective bargaining or other agreement or understanding, a notice advising such labor organization or representative of the DESIGN/BUILDER's obligations under the Illinois Human Rights Act and the Department's Rules and Regulations for Public Contracts. If any such labor organization or representative fails or refuses to cooperate with the DESIGN/BUILDER in its efforts to comply with such Act and Rules and Regulations, the DESIGN/BUILDER will promptly so notify the Illinois Department of Human Rights and the contracting agency and will recruit employees from other sources when necessary to fulfill its obligations thereunder.
- e. That it will submit reports as required by the Illinois Department of Human Rights' Rules and Regulations, furnish all relevant information as may from time to time be requested by the Department or the contracting agency, and in all respects comply with the Illinois Human Rights Act and the Department's Rules and Regulations.
- f. That it will permit access to all relevant books, records, accounts and work sites by personnel of the contracting agency and the Illinois Department of Human Rights for purposes of investigation to ascertain compliance with the Illinois Human Rights Act and the Department's Rules and Regulations.

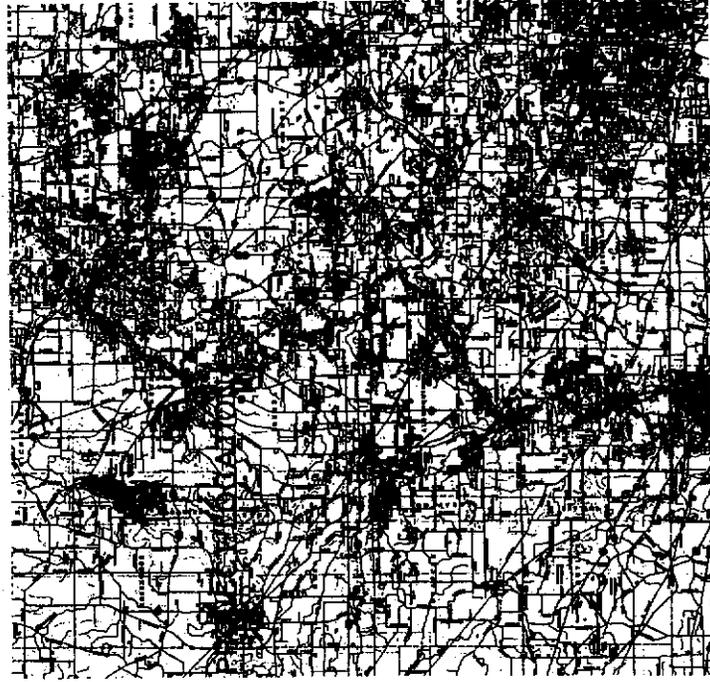
- g. That it will include verbatim or by reference the provisions of Paragraphs a through g of this clause in every performance subcontract as defined in Section 1.1(17)(b) of the Department's Rules and Regulations so that such provisions will be binding upon every such Subcontractor; and that it will also so include the provisions of Paragraphs a, e, f, and g in every supply subcontract as defined in Section 1.1(17)(a) of the Department's Rules and Regulations so that such provisions will be binding upon every such Subcontractor. In the same manner as with other provisions of this Agreement, the DESIGN/BUILDER will be liable for compliance with applicable provisions of this clause by all its Subcontractors, and further, it will promptly notify the contracting agency and the Illinois Department of Human Rights in the event any Subcontractor fails or refuses to comply therewith. In addition, no DESIGN/BUILDER will utilize any Subcontractor declared by the Department to be nonresponsible and therefore ineligible for contracts or subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations.
2. DESIGN/BUILDER and Subcontractor shall in turn include this Equal Employment Opportunity Clause in each of its subcontracts verbatim or by reference so that the provisions of Paragraphs a through g of said clause will be binding upon Subcontractors of every tier; provided, however, that only Paragraphs a, e, f, and g need be included in every subcontract as defined in Section 2.10(a) of the Rules and regulations of the Illinois Department of Human Rights.

END OF SUPPLEMENTARY CONDITIONS

SUPPLEMENTARY CONDITIONS

00801-16 (2002-03)

ILLINOIS-AMERICAN WATER COMPANY TERRA COTTA WASTEWATER TREATMENT PLANT PHASE 1 IMPROVEMENTS



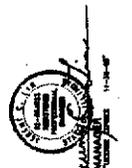
VICINITY MAP



REDUCED
DRAWINGS
DO NOT SCALE

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LINTECH ENGINEERING LLC
500 Country Lane, Suite 270
Columbia, Missouri 65204
Phone: 816.478.8180 Fax: 816.478.8185
DEPARTMENT OF PROFESSIONAL REGULATION
EXPIRES: 10/1/2024



PROJECT NO.: 2023-05 DATE: 3-16-24

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FILE COPY



Design • Build

CHANGE ORDER FORM

Change Order No. 1

Project: Terra Cotta WWTP

Date of Issuance: September 21, 2004

Owner: Terra Cotta Realty Co.

Design/Builder: Lintech Engineering, LLC
J.J. Henderson & Son, Inc.

Description:	Change of Contract Time, Work Stoppage, & Temporary Work
Purpose:	Project has been suspended due to Owner's request.
Attachments:	Attachment A

CHANGE IN CONTRACT PRICE		CHANGE IN CONTRACT TIME	
Original Contract Price:	\$ 8,999,242.00	Original Contract Time:	365 days**
Change Order:	See Attch. A	Change Order:	See Attch. A
Previous Change Orders:	-	Previous Change Orders:	-
Revised Contract Price:	See Attch. A	Revised Contract Time:	See Attch. A

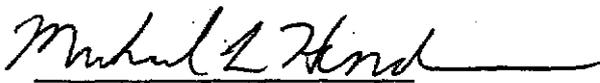
Design/Builder:

Lintech Engineering, LLC

J.J. Henderson & Son, Inc.



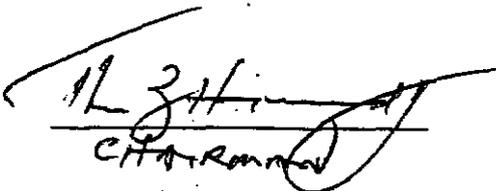
President



President

Owner:

Terra Cotta Realty Co.



CHAIRMAN

RECEIVED

SEP 24 2004

JOSEPH J. HENDERSON & SON INC.



ATTACHMENT A

1. The Terra Cotta WWTP Project will be temporarily shut down upon completion of the following work items:
 - Concrete base slabs and required under slab piping for the two (2) Clarifiers and Aeration Tanks.
 - Concrete base slab, exterior walls, and backfill of Digester.
 - Concrete foundation, base slab, structural steel, imbeds backfilling and all associated under slab piping and electrical conduit for the Control Building.
 - Installation of the Raw Sewage and Drain Pump Stations, including associated piping required for the Control Building installation.
 - Delivery to date of Clarifier Equipment, MCC, Sludge Transfer Pumps, Screening Equipment, Sludge Grinder, Telescoping Valves, and interior and exterior valves.

2. The Project will be postponed until Spring of 2005. At which time, upon written directive from the Owner and weather permitting, the Contract work shall resume. A tentative start date is scheduled to be April 1, 2005. Substantial completion shall be eight (8) months from the start of the Contract work or November 30, 2005, which ever is later. Final completion shall be 175 days after a substantial completion date is determined.

3. The Design/Builder will prepare the site and protect the existing work for the winter until Spring of 2005. The Design/Builder shall perform the following work:
 - Cap off all exposed vertical reinforcing steel at all structures with 2x4's tied together at tops of reinforcing as well as utilize plastic rebar caps. Cover/protect reinforcing steel not installed. \$4,000.00
 - Demobilization of all equipment and materials \$8,000.00, including:
 - Concrete forms
 - Cargo box
 - Tools
 - Lumber



- Gang boxes
- Cover/protect material stored on site and across the street. \$3,200.00
- Place glycol in all underground piping to deter freezing of piping. Cap and protect all piping as needed. \$8,000.00
- Electrical subcontractor will remove all material that is not able to be stored outside for extended periods of time, i.e. conduit. Demobilization. \$4,000.00

The total estimated cost of the above mentioned work is \$27,200.00. This amount may increase or decrease as actual costs are incurred.

The above mentioned "protective" measures are that of the Design/Builder's opinion, the most economical measures to be taken. Design/Builder will not be held liable for additional costs incurred for any damage to the work that is already in place due to the stoppage of work.

4. Design/Builder will provide personnel to visit the site weekly to check on status of site conditions as well as do any required maintenance for the equipment that is being stored. These site visits are to be a minimum of once a week for a minimum of 4 hrs, depending on the weather conditions/threat of damage for the week. If during the weekly job site visits it is determined additional work may need to be performed, Design/Builder will submit to the Owner a request to perform additional work.
5. Once the "Contract Work" is complete i.e. pouring of the Control Building slab, all subcontractors' retention amounts will be released, approximately \$88,591.00. The only retention held will be ten (10) percent of Design/Builder's work items. The Owner will pay Design/Builder six (6) percent interest on the amount of retention held during the shut down period. At the start up of the project in Spring 2005 the retention will re-established to ten (10) percent including subcontractors.

Design/Builder has identified possible cost increases due to the delay in the project some of which are, Labor increases as of 6/1/~~04~~⁰⁵, cost escalations in material and equipment, subcontractor increases, storage costs, extended insurance premiums, costs associated with additional work due to the shut down, and other miscellaneous costs not yet known. Design/Builder has estimated these costs to be \$450,000.00 to



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\$550,000.00. Amounts may increase or decrease as actual costs are incurred.