

RESOLUTION NO. 11-07-2023L

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GAINESVILLE, TEXAS, APPROVING A BID FROM ENVIRONMENTAL IMPROVEMENTS, INC. FOR THE FILTER ONE REPAIR PROJECT.

WHEREAS, the City received bids for the Filter One Rehab Project on October 11, 2023; and

WHEREAS, the City reviewed the qualifications of the sole bidder, Environmental Improvements, Inc.; and

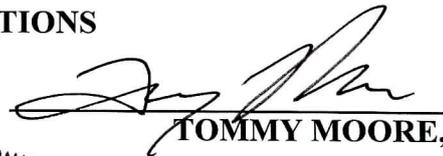
WHEREAS, City Staff recommends awarding the contract to Environmental Improvements Inc.; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GAINESVILLE, TEXAS, MEETING IN REGULAR SESSION ON NOVEMBER 7, 2023 THAT:

Section 1. The Gainesville City Council hereby awards a contract to Environmental Improvements, Inc. in the amount of two hundred ninety eight thousand, six hundred dollars. (\$298,600.00) for the Filter One Repair Project.

PASSED AND APPROVED THIS 7th DAY OF NOVEMBER 2023 BY THE FOLLOWING VOTE:

7 **AYES** 0 **NAYS** 0 **ABSENCES**, AND 0 **ABSTENTIONS**



TOMMY MOORE, MAYOR

ATTEST:



DIANA ALCALA, CITY SECRETARY



Bid Date: October 11, 2023

Project: Gainesville Bid No. 2023-14 Filter One Rehab

Environmental Improvements, Inc. (EI2) is pleased to offer the following quotation, for removal, repair, and reinstallation of components on one WesTech Model TR-420A Trident.

Scope of Work

Job 1 – Labor & Necessary Tools to complete work

Environmental Improvements, Inc. will furnish superintendence, manpower, hand tools and Vac Truck to remove, refurbish, and reinstall components provided by WesTech.

Including:

- **Service Technicians** – (3) EI2 Service Technicians, (1) WesTech Service Technician
- **Estimated Project Duration** – 4 weeks

Estimated Refurbishment Schedule	
Week 1	-Mobilize -Remove Clarifier and Filter Media -Remove Underdrain Parts -Bristle-brush clean the tank with NACE inspection -Paint the Tank
Week 2	-Paint curing time
Week 3-4	-Reinstall Filter Underdrain with Certain Parts Replaced -Replace Certain Parts on the Waste Gate Assembly -Install New Media in the Clarifier and Filter -Startup the Unit

Estimated Lead Time	
Equipment: Ready to Ship, after Purchase Order Acceptance and Contract Execution	14-16 Weeks

Bid Price: \$82,000.00

Job 2 – Replacement Parts for the existing Trident TR-420A

WesTech shall supply replacement parts for the existing Trident TR-420A unit for the City of Gainesville, TX. This is for Filter Unit #1, original project number MF52001572, parts number 141550.

Including:

Feature	Quantity	Notes
Media Clarifier MS107/MS110	280	Buoyant Clarifier Beads
Gasket, strip 0.25 x 1.5"	480	Goes under media retainers
Gasket, strip .5 x 1"	240	Goes between media retainers
Media retaining strainer	42	Clarifier Air diffuser nozzles
Suction screen strainer	1	Clarifier drain screen
Adhesive Spray	1	Required for gaskets
Underdrain, triton PVC	18	Filter underdrains with seal
Grating, Media Retainers	2	Grating, Media Retainers A
Grating, Media Retainer	1	Grating, Media Retainer B
Anthracite, MS-4	240 ft ³	240 ft3 per tank, MS-4
Silica Sand, MS-18	130 ft ³	130 ft3 per tank, MS-18
Garnet, MS-21	80 ft ³	80 ft3 per tank, MS-21

WesTech Consulting Support During Installation

While the Trident unit is being refurbished by EI2, WesTech will have a technician come onsite to provide consulting support during the removal of the existing parts, refurbishment of the tank, and the installation of the new parts and media. After the installation, the technician will start up the unit, and provide maintenance training for plant personnel. WesTech will also provide a job box and conveyor to support EI2. Travel expenses are included in the fee. WesTech recommends that this service be arranged four (4) weeks prior to the commencement of the unit installation.

Note:

- Quantities shown above are for one (1) filter unit.
- Existing support/hold downs angles to be re-used.
- Media quantities include sufficient volume for skimming and comply with latest AWWA B-100 Std. Media shall consist of hard, durable and dense grain. MSDS to be provide with shipment.
- Components shipped loose for installation.

Bid Price: \$216,600.00

Job 1 & 2 – Labor & Necessary Tools to Remove, Refurbish & Replace Parts for the existing Trident TR-420A

Bid Price: \$298,600.00

General Clarifications

- The City of Gainesville will need to dispose of old media once removed.
- The media, underdrains, and parts will be replacements for the existing components, and thus, a submittal will NOT be provided for this project.
- Environmental Improvements, Inc. will perform the work as described above on only the equipment listed above. The work performed will follow all recommendations as described in the original equipment manufacturers O&M manuals.
- During the process of performing the service, should the EI² service technicians find any parts/equipment damaged or unsuitable for normal operations due to wear, the service technician will inform the proper facility personnel in writing of the issue and discuss proper corrective measures. Corrective measures will NOT move forward without a written acceptance of any additional charges from the district.
- In addition, any repairs required for system integrity that falls outside the scope of work described in the proposal will be presented in writing prior to the City for approval. A 5-day response is required on all corrective issues presented in writing to the City to maintain the project schedule.
- Taxes and or permits are not part of this scope.
- All hardware to facilitate installation is included.
- Access to the site is guaranteed by the owner or his assigned agent.
- EI2 is not responsible for damage to soil, grasses, pavement, underground electrical, or piping of any kind due to move in or move out of heavy equipment.
- Matting in due to inclement weather will be additional charges not included in the proposed cost.
- Paint: Primer paints are designed to provide only a minimal protection from the time of application (usually for a period not to exceed 30 days). Therefore, it is imperative that the finish coat be applied within 30 days of shipment on all shop primed surfaces. Without the protection of the final coatings, primer degradation may occur after this period, which in turn may require renewed surface preparation and coating. If it is impractical or impossible to coat primed surfaces within the suggested time frame, WesTech strongly recommends the supply of bare metal, with surface preparation and coating performed in the field.

- **USA Tariffs and Current Trade Laws:** All prices are based on current USA and North America tariffs and trade laws/agreements at time of bid. Any changes in costs due to USA Tariffs and trade laws/agreements will be passed through to the purchaser at cost.
- **The Infrastructure Investment and Jobs Act of 2021 (IIJA)** includes potentially significant changes to historical “Buy American” or “American Iron and Steel” (AIS) requirements for federally funded projects, including water-related infrastructure projects as administered by the Environmental Protection Agency (EPA). The IIJA was signed into law on Nov 15, 2021. However, the EPA has yet to issue additional information and guidance clarifying the application and interpretation of these changes. Although WesTech makes every effort to source the steel for our equipment and products domestically, not everything is reasonably or commercially available to meet all project specific constraints. Consequently, any proposal or offer for sale by WesTech, including any resulting equipment order, does not guarantee compliance with the Buy American provisions of the Infrastructure Investment and Jobs Act of 2021 at this time.

One-Year Warranty

WesTech is meeting a global need for clean water through technology treatment solutions. We are proud that the equipment and systems we design, build, maintain, and operate are making the world a better place and creating a more sustainable environment for future generations.

Equipment manufactured or sold by WesTech Engineering, LLC, once paid for in full, is backed by the following warranty:

Subject to the terms below, WesTech warrants all new equipment manufactured or sold by WesTech Engineering, LLC to be unencumbered and free from defects in material and workmanship, and WesTech will replace or repair, F.O.B. its factories or other location it chooses, any part or parts returned to WesTech which WesTech's examination and analysis determine have failed within the warranty period because of defects in material and workmanship. The warranty period is either, one calendar year immediately following start-up, or eighteen (18) months from when WesTech sent its ready-to-ship notification to the purchaser, whichever expires sooner. All repair or replacement parts qualifying under this warranty shall be free of charge. Purchaser will provide timely written notice to WesTech of any defects it believes should be repaired or replaced under this warranty. WesTech will reject as untimely any warranty defect claim that purchaser submits more than thirty (30) days after the possible warranty defect first occurred. Unless specifically stated otherwise, this warranty does not cover normal wear or consumables. This warranty is not transferable.

This warranty shall be void and shall not apply where the equipment or any part thereof:

- has been dismantled, modified, repaired or connected to other equipment, outside of a WesTech factory, or without WesTech's written approval, or
- has not been installed in complete adherence to all WesTech's or parts manufacturer's requirements, recommendations, and procedures, or
- has been subject to misuse, abuse, neglect, or accident, or has not at all times been operated and maintained in strict compliance with all of WesTech's requirements and recommendations therefor, including, but not limited to, the relevant WesTech Operations & Maintenance Manual and any other of WesTech's specified guidelines & procedures, or
- has been subject to force majeure events; use of chemicals not approved in writing by WesTech; electrical surges; overloading; significant power, water or feed supply fluctuations; or non-compliance with agreed feedwater or chemical volumes, specifications or procedures.

In any case where a part or component of equipment under this warranty is or may be faulty and the component or part is also covered under the warranty of a third party then the purchaser shall provide reasonable assistance to first pursue a claim under the third party warranty before making a claim under this warranty from WesTech. WesTech Engineering, LLC gives no warranty with respect to parts, accessories, or components purchased other than through WesTech. The warranties which apply to such items are those offered by the respective manufacturers.

This warranty is expressly given by WesTech and accepted by purchaser in lieu of all other warranties whether written, oral, express, implied, statutory or otherwise, including without limitation, warranties of merchantability and fitness for particular purpose. WesTech neither accepts nor authorizes any other

person to assume for it any other liability with respect to its equipment. WesTech shall not be liable for normal wear and tear, corrosion, or any contingent, incidental, or consequential damage or expense due to partial or complete inoperability of its equipment for any reason whatsoever. The purchaser's exclusive and only remedy for breach of this warranty shall be the repair and or replacement of the defective part or parts within a reasonable time of WesTech's accepting the validity of a warranty claim made by the purchaser.

Thank you for the opportunity to offer our services.

Regards,

Derek Willms
Manufacturers' Representative
E: dwillms@ei2water.com
P: 972.436.2536
M: 214.636.2283

- GC-1 GENERAL** The Agreement number must appear on all related documents, including but not limited to, invoices, packing slips, delivery receipts, and correspondence.
- GC-2 PAYMENT AND LIENS** Payment for conforming material or equipment shall be as follows: (1) Seller will send an invoice to Buyer after each material or piece of equipment is delivered; (2) 90% of the Purchase Agreement shall be due within forty-five (45) days (“Net 45”) after receipt of each material and/or equipment; (3) 10% of the Purchase Agreement shall be due upon official start-up. (Start-up is defined by the formal request by the Buyer on behalf of the prime contract to officially start the equipment for beneficial use). For purposes of providing notice of a bond claim under Section 2253 of the Texas Government Code or Chapter 53 of the Texas Property Code, or Federal Code “Miller Act” each payment shall be considered separate work being performed or materials being furnished by Seller. In no event shall the final payment be due any later than beneficial use of the materials and/or equipment provided by Seller. Prior to final payment, Seller shall provide to Buyer copies of warranties, applicable manuals, and all other close-out documents required for the materials or equipment as related to project bid documents.
- GC-3 ACCEPTANCE OF AGREEMENT** Acceptance of this Agreement shall be limited to the terms and conditions stated herein, and any additional or different terms, conditions, or instructions proposed by Seller are rejected by Buyer unless expressly assented to in writing herein by Buyer. Seller shall be bound by this Agreement when it executes and delivers the original copy or when it delivers to Buyer any of the materials or equipment.
- GC-4 EXTENT OF AGREEMENT** Nothing in this Agreement shall be construed to create a contractual relationship between persons or entities other than Buyer and Seller. Except as specifically provided in this Agreement, this Agreement, including the exhibits attached and referenced in this Agreement, are exclusively for the benefit of the Parties and not for the benefit of any third-party. This Agreement represents the entire and integrated agreement between the Parties, and supersedes all prior negotiations, representations, or agreements, either written or oral. Any agreement conflict between Seller and Buyer will default to a mutual agreed resolution by both parties.
- GC-5 OBLIGATIONS** To the extent terms of the Prime Contract between Buyer and Owner apply to the goods and equipment hereunder, Seller assumes toward Buyer all obligations, rights, duties, and redress that Buyer assumes toward Owner and others under the Prime Contract, BUT ONLY TO THE EXTENT THAT SUCH TERMS APPLY TO THE GOODS AND EQUIPMENT SUPPLIED BY SELLER PURSUANT TO THIS AGREEMENT. In the event of conflicts or inconsistencies between provisions of this Agreement and the Prime Contract, such terms shall be reconciled to assure that the obligations to the Owner are met.
- GC-6 CHANGES** Buyer shall have the right at any time to make changes in specifications, drawings or other information incorporated in this Agreement, methods of shipment or

packing, place of delivery, and time of delivery, with Seller's consent. The Price or Delivery Schedule shall be modified by Change Order accordingly, and shall only be binding if it is agreed to by both Buyer and Seller.

- GC-7 SCHEDULE** Seller shall make its best efforts to furnish and deliver the materials or equipment indicated in this Agreement, in accordance with all delivery dates, milestones, and schedules ("Delivery Schedule") specified in Exhibit C. In the event that a delay is anticipated, Seller agrees to provide reasonable notice to Buyer, notifying Buyer of the anticipated delivery date. Buyer shall have the right to cancel this Agreement and refuse delivery of material or equipment if Seller defaults in the manner and time of delivery or in the rate of shipment by providing Seller with thirty (30) days' notice of the cancellation, during which time, Seller shall have the opportunity to cure by furnishing and delivering the materials or equipment in this Agreement. Buyer must submit in writing any costs incurred by Buyer as a result of Seller's failure to make delivery of goods or render services at the time and place specified herein. Seller is not responsible for delays in delivery or services as a result of a change order or delay in Buyer's formal release for approval of goods or service.
- GC-8 FORCE MAJEURE** If Seller is delayed by any cause beyond Seller's control, Seller shall be entitled to an equitable extension of time to the extent permitted by the Prime Contract. Seller shall submit any requests for equitable extensions of the Delivery Schedule in accordance with the provisions of GC-5.
- GC-9 SHIPPING** instructions furnished by Buyer shall be strictly complied with. Seller shall give Buyer twenty-four (24) hours' notice prior to delivery of any materials or equipment. Risk of loss or damage shall be upon Seller until the materials or equipment are physically delivered to Buyer at the Project or other authorized destination unless otherwise agreed to in writing and signed by Buyer. Buyer must Notify seller within 5 working days of delivery or any damage to the equipment during shipment. Any damage not reported within 5 working days of signed acceptance is the responsibility of the Buyer to correct.
- GC-10 MATERIAL SAFETY DATA (MSD) SHEETS** Seller shall submit to Buyer all Material Safety Data Sheets required by Law for materials or substances sold to Buyer.
- GC-11 INSPECTION** Except as otherwise provided in this Agreement, all shipments shall be subject to final inspection by Buyer after receipt by Buyer at destination. Should Buyer discover any damage or shortfalls, Buyer shall promptly report them to Seller. Within five (5) days after delivery of the materials and equipment (or as required by the designated delivery company), Buyer shall notify Seller of materials or equipment that are not in accordance with specifications or drawings within 5 days of installation. Seller will notify manufacturer and Seller and Buyer agree to cooperate with the manufacturer/supplier in an attempt to resolve any issues. Materials or equipment not accepted due to nonconformance with the requirements of this Agreement shall, at Buyer's option be (a) returned to Seller at

Seller's expense; (b) held by Buyer for an equitable reduction in Price; or (c) repaired pursuant to this GC-11 at Seller's expense. Buyer, Owner, and Owner's Representative shall have the right to inspect all materials or equipment during any stage of manufacture or production by Seller or Seller's supplier, with the manufacturer/supplier's consent, to audit quality assurance programs, and to otherwise assure quality control in the production and manufacture of the materials or equipment hereunder by Seller or Seller's supplier, and Seller shall provide reasonable access, facilities, and assistance for the safe and convenient inspection or audit at Seller's plant or its supplier's plant, with manufacturer/supplier's consent. Buyer shall be responsible for all reasonable costs associated with inspections, including any costs incurred by Seller or manufacturer/supplier. Certified testing is only required if the project bid documents identify specific product testing. Incorporation of the materials or equipment into the Project (which includes start up and commissioning) shall constitute acceptance by Buyer of such materials or equipment and incidental services, subject to Seller's warranty obligations. Payment for any materials or equipment shall not constitute acceptance. Acceptance by Buyer shall not constitute acceptance as to latent or hidden defects not subject to discovery upon reasonable inspection.

Except in cases of emergencies, if Buyer chooses the repair of nonconforming materials above in subsection (c) above, Buyer must provide Seller written notice of such nonconformance and request Seller to repair such nonconformance. Within seven (7) calendar days after receipt of written notification, Seller must investigate the alleged nonconformance and provide a correction plan agreed to by both Buyer and Seller. Seller will give an agreed by Buyer and Seller reasonable time to make agreed correction.

GC-12 SUSPENSION Notwithstanding GC-8, should Buyer order Seller in writing to suspend, delay, or interrupt the performance of this Agreement for such period of time as may be determined to be appropriate for the convenience of the Owner and not due to any act or omission of Buyer or any person or entity for whose acts or omissions Buyer may be liable, then Seller shall immediately suspend, delay, or interrupt as ordered by Buyer. In accordance with GC-5, the Price and the Delivery Schedule shall be equitably adjusted by Change Order (as authorized by owner) for the cost and delay resulting from any such suspension. If Adjusted Seller is removed from any final damages due to delay in original delivery date.

GC-13 TERMINATION FOR DEFAULT Should Seller fail to deliver items and materials or perform the incidental services required within the time provided under this Agreement or any mutually agreed upon extension of time, Seller may be deemed in default. If Seller fails within seven (7) calendar days after written notification to commence and continue correction of such default with diligence, Buyer may terminate this Agreement for default in writing. Buyer may withhold payment, correct the default and charge Seller the costs only if Seller doesn't perform a work in the agreed timeline, however, Buyer shall not be entitled to

recover overhead, profit. Nothing in this subsection shall preclude Seller from asserting its rights under GC-25. The rights and remedies of Buyer provided in this subsection shall not be exclusive and are in addition to any other rights and remedies provided by Law or under this Agreement.

GC-14 TERMINATION FOR CONVENIENCE Buyer may at any time, with fourteen (14) business days' written notice to Seller, terminate this Agreement for the convenience of Buyer. In the event of such termination for convenience, Buyer shall pay Seller as its entire and sole compensation its actual and reasonable costs of furnishing materials or equipment to the date of termination, as determined by audit of Seller's records, plus a reasonable termination charge based on substantiated costs consisting of a percentage of the work properly delivered, plus cancellation charges directly associated with items that are in production at the time of cancellation, but in no event shall such amounts due hereunder exceed the total Price. In the event that the manufacturer/supplier does not allow for Seller to cancel the order of materials or equipment, Buyer shall be responsible for all costs incurred by Seller. Seller shall make its records available at reasonable times and places for Buyer's audit. In the event any termination of Seller for default under GC-13 is later determined to have been improper, the termination shall automatically be deemed a termination for convenience, and Seller shall be limited in its recovery strictly to the compensation provided for in this article.

Notwithstanding the foregoing, should the Termination for Convenience of this Agreement come as the result of the Termination for Convenience of the Prime Contract, Buyer's obligation to pay Seller is strictly limited to the amount that Buyer receives from Owner on behalf of Buyer for such termination. Seller shall not be entitled to any claim or lien against Buyer or Owner for any additional compensation or damages in case of such termination and payment.

GC-15 WARRANTY Seller hereby expressly warrants that all materials or equipment covered by this Agreement shall be free from material defect. This includes if applicable any Process Performance Guarantee. Such warranties shall survive inspection, testing, acceptance and use and shall be for minimum of twelve (12) months from startup of the equipment, unless a longer period is required by the Prime Contract. Seller shall repair or replace, at Seller's expense, any material defect in materials or workmanship that may be discovered during the warranty period (as defined in manufactures published warranty or as established in the project specifications when notified of such defects. Seller's warranty excludes remedies for defects or damages caused by ordinary wear and tear, use for a purpose for which the materials or equipment were not specified, improper or insufficient installation, operation, maintenance, storage, or abuse, and modification not performed by Seller. These warranties shall extend to the Owner, Buyer, and Buyer's successors and assigns, and Seller shall provide directly to the ultimate users written evidence of these warranties as required.

GC-16 INSURANCE In connection with the sale of materials or equipment or the rendering of incidental services under this Agreement, including delivery of materials, Seller shall, purchase and maintain insurance that will protect it from the claims arising out of its operations under this Agreement, including Worker's Compensation Insurance, Commercial General Liability, and Automobile Liability Insurance. Seller shall maintain at least the limits of liability in a company acceptable to Buyer as set forth in Exhibit A-1.

GC-17 SAFETY Buyer contracts with Seller as an independent contractor to provide all labor, materials, equipment, and incidental services necessary or incidental to perform this Agreement, subject as an employer to all applicable unemployment compensation, occupational health and safety, or similar statutes. In the event Seller, its employees, or agents are required to come onto a Project of Buyer in connection with the performance of this Agreement, Seller shall comply with the Project Safety Plan, a copy of which is available from Buyer upon request, as well as all Laws as defined by GC-21

GC-18 INDEMNITY To the fullest extent permitted by Law, Seller shall defend and indemnify and hold harmless, Contractor, Owner and each of their respective successors, assigns, agents (Indemnitees) from all claims for bodily injury or property damage, that may arise from performance of this Agreement, including reasonable attorneys' fees, costs, and expenses, but only to the extent caused by the negligence, acts or omissions of Seller, its sub-tier subcontractors or suppliers, or anyone employed directly or indirectly by any of them or by anyone for whose acts any of them may be liable.

In addition, Seller shall indemnify Buyer, Owner and other indemnitees specified in the Prime Contract to the same extent that Buyer is required to indemnify Owner and other indemnitees under the Prime Contract for claims arising out of or related to this Agreement.

GC-19 PATENTS To the extent required by the Prime Contract, Seller shall grant to Buyer and Owner a license for full use and operation of the materials and equipment furnished and incorporated into the work hereunder. Seller shall indemnify, defend, and hold Buyer harmless from all suits or claims for infringement of any patent rights or copyrights arising out of the use or sale of the materials or equipment purchased and shall pay and discharge any and all judgments or decrees that may be rendered in any such suit, action, or proceedings, provided Seller's ability to do so has not been materially prejudiced by Buyer's failure to give Seller written notice of such suit or claim. Unless identified in this Agreement as requiring patent rights or copyrights, Seller's obligations under this article shall not apply to materials or equipment specified by Buyer nor purchased materials or equipment modified by the Owner or Buyer, unless Seller has consented to such modification in writing, which shall not be unreasonably withheld.

GC-20 COMPLIANCE WITH LAWS At its own costs, Seller shall comply with all federal, state, and local laws, regulations, codes, and ordinances ("Laws") applicable to Seller, Buyer, or

the incidental services covered by this Agreement and enacted as of the Agreement Date, including applicable labor and employment laws, regulations, and orders.

GC-21 ASSIGNMENT Except for assignment of proceeds, no assignment of this Agreement or of any right, obligation, or delegation of duty under this Agreement shall be made without the written consent of the other Party or their duly authorized agent. Any attempted assignment or delegation without such consent shall be void. A delegating Party shall retain responsibility for performance, permit only qualified persons to perform, and provide competent supervision. The terms and conditions of this Agreement shall be binding upon both Parties, their partners, successors, assigns, and legal representatives.

In the event the Prime Contract is terminated, this Agreement may be assigned to the Owner at the Owner's sole discretion. Upon such assignment, the Owner will assume and have all the rights and obligations of Buyer under this Agreement and Buyer shall be relieved of all obligations hereunder.

GC-22 WAIVER Either Party's' failure to insist on performance of any term, condition, or instruction, or to exercise any right or privilege provided in this Agreement, or its waiver of any breach, shall not thereafter waive any such term, condition, instruction, or any right or privilege.

GC-23 GOVERNING LAW This Agreement shall be governed by the Law in effect at the location of the Project.

GC-24 DISPUTE MITIGATION AND RESOLUTION

- 24.1. **MEDIATION** Disputes between the Parties not resolved by direct discussion shall be submitted to mediation.
- 24.2. **BINDING DISPUTE RESOLUTION** If the matter is unresolved after mediation, the Parties shall submit the matter to litigation in either the state or federal court having jurisdiction of the matter in the location of the Project.
- 24.3. **VENUE** The venue of any binding dispute resolution procedure shall be the location of the Project.
- 24.4. **MULTIPARTY PROCEEDING** All parties necessary to resolve a matter shall be parties to the same dispute resolution procedure. Appropriate provisions shall be included in all other contracts relating to the material, equipment, or incidental services as identified in Article 2 to provide for the joinder or consolidation of such dispute resolution procedures.

GC-25 LIQUIDATED DAMAGES If the Prime Contract provides for liquidated damages, and such damages are assessed by Owner due to Seller's breach of this Agreement, Buyer may assess such damages against Seller. The amount of such assessment shall not exceed the amount assessed against Buyer. This section shall not limit Seller's liability to Buyer for actual damages only related to equipment under this agreement.

GC-26 REMEDIES Each of the rights and remedies reserved by BUYER in this Agreement shall be cumulative and additional to any other or further remedies provided in law or equity or in this Agreement.

GC-27 SETOFF Buyer may deduct from amounts due or to become due to Seller pursuant to this Agreement, any sums due or to become due to Buyer from Seller.