



The State of New Hampshire  
**Department of Environmental Services**

Robert R. Scott, Commissioner

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July 15, 2019

His Excellency, Governor Christopher T. Sununu  
and the Honorable Council  
State House  
Concord, New Hampshire 03301

**REQUESTED ACTION**

Authorize the Department of Environmental Services (NHDES) to enter into an agreement with Charter Contracting Company, LLC, Boston, MA (VC# 305017) in the amount of \$4,963,362.50 for construction services to replace the Berry Bay Dam at Ossipee Lake (NH Dam No. D088014), effective upon Governor and Council approval through June 1, 2021. 100% Capital (General) Funds.

Funding is available in the accounts as follows:

	<u>FY 2020</u>
03-44-44-442030-15520000-034-500161 Dept. Environmental Services, 17-228:1-VIII:H Ossipee Dam, Capital Projects	\$4,168,580.00
03-44-44-442030-12670000-034-500161 Dept. Environmental Services, 19-146:1-VI:A Dam Repair & Reconstruction, Capital Projects	\$794,782.50

**EXPLANATION**

Approval of this contract will authorize the replacement and upgrade of the existing deteriorating dam impounding Ossipee Lake. The spillway of this 125-year-old structure has deteriorated and is in need of repair. The concrete piers of the spillway have cracked and could fail in the future if not repaired. Failure of the dam would result in the loss of the drinking water supplies of residents in the towns of Freedom, Effingham and Ossipee NH, as well one of the most important recreation resources in the state. Improvement to the discharge capacity of the dam will reduce the occurrences of significant flooding and damage to shoreline property during flood events. Ossipee Lake is the 8th largest lake in NH, and its shoreline is heavily developed with permanent and seasonal residences, campgrounds, marinas and a state park. The lack of the capacity to pass the flood water through the dam has resulted in high water levels in Ossipee Lake during flood events, which has caused considerable flood damages to shoreline communities, residences, and businesses. The design for the new dam includes spillway gates that can be remotely operated during flood events to rapidly provide the needed discharge capacity to safely pass the design flood.

The design team for the dam replacement was led by GZA GeoEnvironmental, Inc. (GZA). GZA was also contracted by NHDES to provide construction oversight services and served as the lead during the bidding process.

A Request for Bids was prepared and advertised on the State of New Hampshire Department of Administrative Services Purchase and Property website and distributed to construction contractors with dam experience throughout the region by email. GZA and NHDES requested that interested contractors attend a Pre-Bid Meeting at the Berry Bay Dam site on April 11, 2019, at which time further instruction was provided for the bidding process. Bidders were required to provide a Statement of Qualifications including Corporate Qualifications, a List of Prequalification Projects with References, a List of Proposed Subcontractors and Suppliers, and a Proposed Schedule for Project Completion.

NHDES received three bids packages. Bids were delivered to NHDES by May 3, 2019 and opened publicly that afternoon. GZA reviewed all of the bid packages and deemed all three submitting contractors to be qualified to complete the project, and also confirmed that all three firms were represented at the Pre-Bid Meeting. Contractor selection was made based upon low bid and contractors were notified of the decision on June 7, 2019.

<u>Firm Name</u>	<u>Basis of Award</u>
Charter Contracting Company, LLC, Boston, MA	\$4,963,362.50
SumCo Eco-Contracting, LLC, Peabody, MA	\$5,459,969.00
New England Infrastructure, Inc., Hudson, MA	\$5,856,060.00

As a result of the low bid and due diligence to confirm the qualifications and capabilities of the respondents, we recommend awarding the contract to Charter Contracting Company, LLC. This firm has satisfactorily completed similar dam related projects that include significant water control, concrete work, stabilization, and gate installation in New England within the last five years, and has the resources necessary to complete the project during the specified by permit conditions issued by DES.

This contract has been approved by the Department of Justice as to form, substance and execution.

We respectfully request your approval.

  
for \_\_\_\_\_  
Robert R. Scott, Commissioner

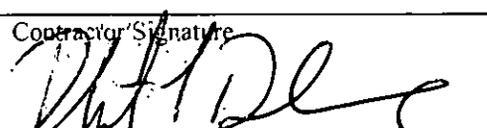
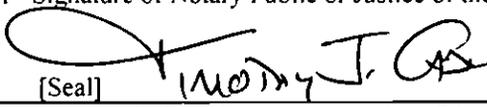
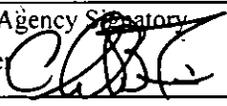
Notice: This agreement and all of its attachments shall become public upon submission to Governor and Executive Council for approval. Any information that is private, confidential or proprietary must be clearly identified to the agency and agreed to in writing prior to signing the contract.

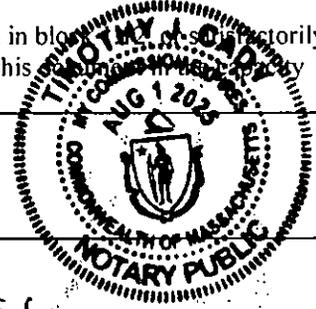
**AGREEMENT**

The State of New Hampshire and the Contractor hereby mutually agree as follows:

**GENERAL PROVISIONS**

**I. IDENTIFICATION.**

1.1 State Agency Name NH Department of Environmental Services		1.2 State Agency Address PO Box 95 - 29 Hazen Drive, Concord, NH 03302-0095	
1.3 Contractor Name Charter Contracting Company, LLC		1.4 Contractor Address 500 Harrison Avenue - Suite 4R, Boston, MA 02118	
1.5 Contractor Phone Number (857) 246-6800	1.6 Account Number 03-44-44-442030-1552-034 03-44-44-442030-1267-034	1.7 Completion Date June 1, 2021	1.8 Price Limitation \$4,963,362.50
1.9 Contracting Officer for State Agency James W. Gallagher, Jr. P.E.		1.10 State Agency Telephone Number (603) 271-1961	
1.11 Contractor Signature 		1.12 Name and Title of Contractor Signatory Robert L. Delhome, President	
1.13 Acknowledgement: State of <del>MASSACHUSETTS</del> County of <del>SUFFOLK</del> On <u>JULY 15, 2019</u> before the undersigned officer, personally appeared the person identified in block 1.11, and acknowledged that s/he executed this contract voluntarily and in full knowledge of the contents and legal effect of the same, and that the person whose name is signed in block 1.11, and acknowledged that s/he executed this contract as indicated in block 1.12.			
1.13.1 Signature of Notary Public or Justice of the Peace  [Seal]			
1.13.2 Name and Title of Notary or Justice of the Peace <u>TIMOTHY J. CADY, DIRECTOR OF PROGRAM SERVICES</u>			
1.14 State Agency Signature  Date: <u>7/16/19</u>		1.15 Name and Title of State Agency Signatory Robert R. Scott, Commissioner 	
1.16 Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By: _____ Director, On: _____			
1.17 Approval by the Attorney General (Form, Substance and Execution) (if applicable) By:  On: <u>7/16/2019</u>			
1.18 Approval by the Governor and Executive Council (if applicable) By: _____ On: _____			



**2. EMPLOYMENT OF CONTRACTOR/SERVICES TO BE PERFORMED.** The State of New Hampshire, acting through the agency identified in block 1.1 ("State"), engages contractor identified in block 1.3 ("Contractor") to perform, and the Contractor shall perform, the work or sale of goods, or both, identified and more particularly described in the attached EXHIBIT A which is incorporated herein by reference ("Services").

**3. EFFECTIVE DATE/COMPLETION OF SERVICES.**

3.1 Notwithstanding any provision of this Agreement to the contrary, and subject to the approval of the Governor and Executive Council of the State of New Hampshire, if applicable, this Agreement, and all obligations of the parties hereunder, shall become effective on the date the Governor and Executive Council approve this Agreement as indicated in block 1.18, unless no such approval is required, in which case the Agreement shall become effective on the date the Agreement is signed by the State Agency as shown in block 1.14 ("Effective Date").

3.2 If the Contractor commences the Services prior to the Effective Date, all Services performed by the Contractor prior to the Effective Date shall be performed at the sole risk of the Contractor, and in the event that this Agreement does not become effective, the State shall have no liability to the Contractor, including without limitation, any obligation to pay the Contractor for any costs incurred or Services performed. Contractor must complete all Services by the Completion Date specified in block 1.7.

**4. CONDITIONAL NATURE OF AGREEMENT.**

Notwithstanding any provision of this Agreement to the contrary, all obligations of the State hereunder, including, without limitation, the continuance of payments hereunder, are contingent upon the availability and continued appropriation of funds, and in no event shall the State be liable for any payments hereunder in excess of such available appropriated funds. In the event of a reduction or termination of appropriated funds, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to terminate this Agreement immediately upon giving the Contractor notice of such termination. The State shall not be required to transfer funds from any other account to the Account identified in block 1.6 in the event funds in that Account are reduced or unavailable.

**5. CONTRACT PRICE/PRICE LIMITATION/PAYMENT.**

5.1 The contract price, method of payment, and terms of payment are identified and more particularly described in EXHIBIT B which is incorporated herein by reference.

5.2 The payment by the State of the contract price shall be the only and the complete reimbursement to the Contractor for all expenses, of whatever nature incurred by the Contractor in the performance hereof, and shall be the only and the complete compensation to the Contractor for the Services. The State shall have no liability to the Contractor other than the contract price.

5.3 The State reserves the right to offset from any amounts otherwise payable to the Contractor under this Agreement those liquidated amounts required or permitted by N.H. RSA 80:7 through RSA 80:7-c or any other provision of law.

5.4 Notwithstanding any provision in this Agreement to the contrary, and notwithstanding unexpected circumstances, in no event shall the total of all payments authorized, or actually made hereunder, exceed the Price Limitation set forth in block 1.8.

**6. COMPLIANCE BY CONTRACTOR WITH LAWS AND REGULATIONS/ EQUAL EMPLOYMENT OPPORTUNITY.**

6.1 In connection with the performance of the Services, the Contractor shall comply with all statutes, laws, regulations, and orders of federal, state, county or municipal authorities which impose any obligation or duty upon the Contractor, including, but not limited to, civil rights and equal opportunity laws. This may include the requirement to utilize auxiliary aids and services to ensure that persons with communication disabilities, including vision, hearing and speech, can communicate with, receive information from, and convey information to the Contractor. In addition, the Contractor shall comply with all applicable copyright laws.

6.2 During the term of this Agreement, the Contractor shall not discriminate against employees or applicants for employment because of race, color, religion, creed, age, sex, handicap, sexual orientation, or national origin and will take affirmative action to prevent such discrimination.

6.3 If this Agreement is funded in any part by monies of the United States, the Contractor shall comply with all the provisions of Executive Order No. 11246 ("Equal Employment Opportunity"), as supplemented by the regulations of the United States Department of Labor (41 C.F.R. Part 60), and with any rules, regulations and guidelines as the State of New Hampshire or the United States issue to implement these regulations. The Contractor further agrees to permit the State or United States access to any of the Contractor's books, records and accounts for the purpose of ascertaining compliance with all rules, regulations and orders, and the covenants, terms and conditions of this Agreement.

**7. PERSONNEL.**

7.1 The Contractor shall at its own expense provide all personnel necessary to perform the Services. The Contractor warrants that all personnel engaged in the Services shall be qualified to perform the Services, and shall be properly licensed and otherwise authorized to do so under all applicable laws.

7.2 Unless otherwise authorized in writing, during the term of this Agreement, and for a period of six (6) months after the Completion Date in block 1.7, the Contractor shall not hire, and shall not permit any subcontractor or other person, firm or corporation with whom it is engaged in a combined effort to perform the Services to hire, any person who is a State employee or official, who is materially involved in the procurement, administration or performance of this

Agreement. This provision shall survive termination of this Agreement.

7.3 The Contracting Officer specified in block 1.9, or his or her successor, shall be the State's representative. In the event of any dispute concerning the interpretation of this Agreement, the Contracting Officer's decision shall be final for the State.

#### **8. EVENT OF DEFAULT/REMEDIES.**

8.1 Any one or more of the following acts or omissions of the Contractor shall constitute an event of default hereunder ("Event of Default"):

8.1.1 failure to perform the Services satisfactorily or on schedule;

8.1.2 failure to submit any report required hereunder; and/or

8.1.3 failure to perform any other covenant, term or condition of this Agreement.

8.2 Upon the occurrence of any Event of Default, the State may take any one, or more, or all, of the following actions:

8.2.1 give the Contractor a written notice specifying the Event of Default and requiring it to be remedied within, in the absence of a greater or lesser specification of time, thirty (30) days from the date of the notice; and if the Event of Default is not timely remedied, terminate this Agreement, effective two (2) days after giving the Contractor notice of termination;

8.2.2 give the Contractor a written notice specifying the Event of Default and suspending all payments to be made under this Agreement and ordering that the portion of the contract price which would otherwise accrue to the Contractor during the period from the date of such notice until such time as the State determines that the Contractor has cured the Event of Default shall never be paid to the Contractor;

8.2.3 set off against any other obligations the State may owe to the Contractor any damages the State suffers by reason of any Event of Default; and/or

8.2.4 treat the Agreement as breached and pursue any of its remedies at law or in equity, or both.

#### **9. DATA/ACCESS/CONFIDENTIALITY/PRESERVATION.**

9.1 As used in this Agreement, the word "data" shall mean all information and things developed or obtained during the performance of, or acquired or developed by reason of, this Agreement, including, but not limited to, all studies, reports, files, formulae, surveys, maps, charts, sound recordings, video recordings, pictorial reproductions, drawings, analyses, graphic representations, computer programs, computer printouts, notes, letters, memoranda, papers, and documents, all whether finished or unfinished.

9.2 All data and any property which has been received from the State or purchased with funds provided for that purpose under this Agreement, shall be the property of the State, and shall be returned to the State upon demand or upon termination of this Agreement for any reason.

9.3 Confidentiality of data shall be governed by N.H. RSA chapter 91-A or other existing law. Disclosure of data requires prior written approval of the State.

**10. TERMINATION.** In the event of an early termination of this Agreement for any reason other than the completion of the Services, the Contractor shall deliver to the Contracting Officer, not later than fifteen (15) days after the date of termination, a report ("Termination Report") describing in detail all Services performed, and the contract price earned, to and including the date of termination. The form, subject matter, content, and number of copies of the Termination Report shall be identical to those of any Final Report described in the attached EXHIBIT A.

**11. CONTRACTOR'S RELATION TO THE STATE.** In the performance of this Agreement the Contractor is in all respects an independent contractor, and is neither an agent nor an employee of the State. Neither the Contractor nor any of its officers, employees, agents or members shall have authority to bind the State or receive any benefits, workers' compensation or other emoluments provided by the State to its employees.

**12. ASSIGNMENT/DELEGATION/SUBCONTRACTS.** The Contractor shall not assign, or otherwise transfer any interest in this Agreement without the prior written notice and consent of the State. None of the Services shall be subcontracted by the Contractor without the prior written notice and consent of the State.

**13. INDEMNIFICATION.** The Contractor shall defend, indemnify and hold harmless the State, its officers and employees, from and against any and all losses suffered by the State, its officers and employees, and any and all claims, liabilities or penalties asserted against the State, its officers and employees, by or on behalf of any person, on account of, based or resulting from, arising out of (or which may be claimed to arise out of) the acts or omissions of the Contractor. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the sovereign immunity of the State, which immunity is hereby reserved to the State. This covenant in paragraph 13 shall survive the termination of this Agreement.

#### **14. INSURANCE.**

14.1 The Contractor shall, at its sole expense, obtain and maintain in force, and shall require any subcontractor or assignee to obtain and maintain in force, the following insurance:

14.1.1 comprehensive general liability insurance against all claims of bodily injury, death or property damage, in amounts of not less than \$1,000,000 per occurrence and \$2,000,000 aggregate; and

14.1.2 special cause of loss coverage form covering all property subject to subparagraph 9.2 herein, in an amount not less than 80% of the whole replacement value of the property.

14.2 The policies described in subparagraph 14.1 herein shall be on policy forms and endorsements approved for use in the State of New Hampshire by the N.H. Department of Insurance, and issued by insurers licensed in the State of New Hampshire.

14.3 The Contractor shall furnish to the Contracting Officer identified in block 1.9, or his or her successor, a certificate(s) of insurance for all insurance required under this Agreement. Contractor shall also furnish to the Contracting Officer identified in block 1.9, or his or her successor, certificate(s) of insurance for all renewal(s) of insurance required under this Agreement no later than thirty (30) days prior to the expiration date of each of the insurance policies. The certificate(s) of insurance and any renewals thereof shall be attached and are incorporated herein by reference. Each certificate(s) of insurance shall contain a clause requiring the insurer to provide the Contracting Officer identified in block 1.9, or his or her successor, no less than thirty (30) days prior written notice of cancellation or modification of the policy.

**15. WORKERS' COMPENSATION.**

15.1 By signing this agreement, the Contractor agrees, certifies and warrants that the Contractor is in compliance with or exempt from, the requirements of N.H. RSA chapter 281-A (*"Workers' Compensation"*).

15.2 To the extent the Contractor is subject to the requirements of N.H. RSA chapter 281-A, Contractor shall maintain, and require any subcontractor or assignee to secure and maintain, payment of Workers' Compensation in connection with activities which the person proposes to undertake pursuant to this Agreement. Contractor shall furnish the Contracting Officer identified in block 1.9, or his or her successor, proof of Workers' Compensation in the manner described in N.H. RSA chapter 281-A and any applicable renewal(s) thereof, which shall be attached and are incorporated herein by reference. The State shall not be responsible for payment of any Workers' Compensation premiums or for any other claim or benefit for Contractor, or any subcontractor or employee of Contractor, which might arise under applicable State of New Hampshire Workers' Compensation laws in connection with the performance of the Services under this Agreement.

**16. WAIVER OF BREACH.** No failure by the State to enforce any provisions hereof after any Event of Default shall be deemed a waiver of its rights with regard to that Event of Default, or any subsequent Event of Default. No express failure to enforce any Event of Default shall be deemed a waiver of the right of the State to enforce each and all of the provisions hereof upon any further or other Event of Default on the part of the Contractor.

**17. NOTICE.** Any notice by a party hereto to the other party shall be deemed to have been duly delivered or given at the time of mailing by certified mail, postage prepaid, in a United States Post Office addressed to the parties at the addresses given in blocks 1.2 and 1.4, herein.

**18. AMENDMENT.** This Agreement may be amended, waived or discharged only by an instrument in writing signed by the parties hereto and only after approval of such amendment, waiver or discharge by the Governor and Executive Council of the State of New Hampshire unless no

such approval is required under the circumstances pursuant to State law, rule or policy.

**19. CONSTRUCTION OF AGREEMENT AND TERMS.**

This Agreement shall be construed in accordance with the laws of the State of New Hampshire, and is binding upon and inures to the benefit of the parties and their respective successors and assigns. The wording used in this Agreement is the wording chosen by the parties to express their mutual intent, and no rule of construction shall be applied against or in favor of any party.

**20. THIRD PARTIES.** The parties hereto do not intend to benefit any third parties and this Agreement shall not be construed to confer any such benefit.

**21. HEADINGS.** The headings throughout the Agreement are for reference purposes only, and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

**22. SPECIAL PROVISIONS.** Additional provisions set forth in the attached EXHIBIT C are incorporated herein by reference.

**23. SEVERABILITY.** In the event any of the provisions of this Agreement are held by a court of competent jurisdiction to be contrary to any state or federal law, the remaining provisions of this Agreement will remain in full force and effect.

**24. ENTIRE AGREEMENT.** This Agreement, which may be executed in a number of counterparts, each of which shall be deemed an original, constitutes the entire Agreement and understanding between the parties, and supersedes all prior Agreements and understandings relating hereto.

## **EXHIBIT A**

### **SERVICES**

Construction of the Berry Bay Dam at Ossipee Lake (NH Dam No. D088014) Replacement Project as designed and specified by GZA GeoEnvironmental, Inc. and Wright-Pierce.

The Contractor shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows:

In general, this project, located on the Ossipee Lake outlet channel, will replace the existing (Berry Bay Dam) dam with a new reinforced concrete dam with two (2) overshoot spillway panels (crest gates), each approximately 40 feet long, with an automated operating system for the New Hampshire Department of Environmental Services ("Owner").

The Project Manual issued in April 2019 and Addendums No. 1 (dated April 12, 2019), No. 2 (dated April 18, 2019) and No. 3 (dated April 29, 2019) are incorporated as part of Exhibit A by reference. The Project Manual cover and table of contents and Addendums 1-3 cover sheets are attached.



**PROJECT MANUAL FOR:**

**BERRY BAY DAM AT OSSIPEE LAKE – DES DAM NO. 088014  
REPLACEMENT PROJECT**

**EFFINGHAM/FREEDOM  
NEW HAMPSHIRE**

**APRIL 2019**

**Owner: The New Hampshire Department of  
Environmental Services - Dam Bureau  
29 Hazen Drive  
Concord, NH 03302**

**Engineers:**

**GZA GeoEnvironmental, Inc.  
One Edgewater Drive  
Norwood, MA 02062**

**Wright-Pierce  
99 Main Street  
Topsham, ME 04086**



**WRIGHT-PIERCE**   
**Engineering a Better Environment**

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**Berry Bay Dam at Ossipee Lake Replacement Project  
Effingham/Freedom, NH**

**ADDENDUM NO. 1**

To: All Prospective Bidders  
Berry Bay Dam at Ossipee Lake Replacement Project

Location: Effingham/Freedom, NH

From: James P. Guarente – GZA GeoEnvironmental, Inc.  
Walter Flanagan – Wright-Pierce Engineers

Re: **Addendum No. 1**

Date: April 12, 2019

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Please find the following **ADDENDUM NO. 1** for the Berry Bay Dam at Ossipee Lake Replacement Project which is to be included as part of the Contract Documents thereof.

As per Specification Section 00200, Article 13.09 the bid shall contain an acknowledgment of receipt of this **Addendum No. 1**, (and all addenda). The number and date of which shall be filled in by filling out the information in the space provided in Section 03301, Article 3 – Bid Form.

Please note bids are due **Friday, May 3, 2019 at 2:00 PM (EST)**. In addition to the location/protocols under/at which hard copy bids may be received as stipulated in the Contract Documents, electronic and/or faxed versions of the Bids may also be received via the following:

Electronic submissions can be e-mailed to [prchweb@nh.gov](mailto:prchweb@nh.gov) with the bid number in the subject line. All appropriate materials required by the bid must also be attached. Bids, with all material required by the bid, may also be faxed to (603) 271-2700 or (603) 271-7564.

**Item #1: April 11, 2019 Pre-Bid Meeting - Attendance List**

Refer to **Attachment A** for a list of the Contractor's in attendance at the April 11, 2019 Pre-Bid Meeting.

**Item #2: Contract Specification 00020 - Notice to Contractors and 00200 - Instructions to Bidders:**

00020 - Type of Bid and 00200 - Article 2.01 REPLACE

[http://das.nh.gov/purchasing/bids\\_posteddte.asp?sort=PostedDate%20DESC](http://das.nh.gov/purchasing/bids_posteddte.asp?sort=PostedDate%20DESC)  
WITH [http://das.nh.gov/purchasing/bids\\_posteddte.asp?sort=PosteDate DESC](http://das.nh.gov/purchasing/bids_posteddte.asp?sort=PosteDate DESC)

**Item #3: Contract Specification 00020 - Notice to Contractors**

Article 12.1, CHANGE *"shall within five days after Bid opening, submit to Owner a list"* TO *"shall submit to Owner a list"*.

**Item #4: Contract Specification 00200 – Instructions to Bidders**

Article 22.01, DELETE last sentence, *" Within ten days thereafter, Owner shall deliver one fully signed counterpart to Successful Bidder with a complete set of the Drawings with appropriate identification."*

**Item #5: Contract Specification 00301 - Bid Form**

Article 6.02 REPLACE *"on or before December 31, 2020"* WITH *"on or before June 1, 2021."*

**Item #6: Contract Specification 00860 - Special Conditions – Permits and Approvals**

Paragraph 1.01.2, CHANGE *"(includes requirements of Section 401 of the Federal Clean Waters Act."* TO *"(includes requirements of Section 401 of the Federal Clean Waters Act and the ACOE NH Programmatic General Permit)"*.

**Item #7: Contract Specification 00860 - Special Conditions – Permits and Approvals**

Paragraph 1.01.3, DELETE *"U.S. Army Corps of Engineers, Section 404 of Federal Clean Waters Act - Individual Permit"*. ADD *"3. NHDES Shoreland Impact Permits for Freedom and Effingham."*

**Item #8: Contract Specification 01300 - Submittals**

Paragraph 1.07.A, CHANGE *"allow five (5) working days"* TO *"allow ten (10) working days."*

**Item #9: Contract Specification 03001 – Bid Form**

Page 12, Bid Item 16000.02 the allowance under this item is indeed \$50,000.00. Therefore, under the Description, REPLACE *"Twenty-five"* WITH *"Fifty"*

**Item #10: Table of Contents**

DELETE *"Section 13443 SCADA System."* As there is no specification provided.

**Item # 11: Drawing Sheet C-4 – Note 6**

REPLACE, *"FOR USE AS BACKFILL BELOW THE DAM, WINGWALL AND TRAINING WALL FOUNDATIONS, AS WELL AS BELOW THE CONTROL BUILDING FOUNDATIONS AND SLAB"* with *"FOR USE AS BACKFILL BELOW THE DAM FOUNDATION, BEHIND AND BELOW WINGWALL AND TRAINING WALL FOUNDATIONS, AS WELL AS BELOW AND BEHIND CONTROL BUILDING FOUNDATIONS, BELOW THE SLAB AND AT OTHER LOCATIONS DEEMED SUITABLE BY THE ENGINEER"*

**End of Addendum No. 1**

**Berry Bay Dam at Ossipee Lake Replacement Project  
Effingham/Freedom, NH**

**ADDENDUM NO. 2**

To: All Prospective Bidders  
Berry Bay Dam at Ossipee Lake Replacement Project

Location: Effingham/Freedom, NH

From: James P. Guarente – GZA GeoEnvironmental, Inc.  
Walter Flanagan – Wright-Pierce Engineers

Re: **Addendum No. 2**

Date: April 18, 2019

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Please find the following **ADDENDUM NO. 2** for the Berry Bay Dam at Ossipee Lake Replacement Project which is to be included as part of the Contract Documents thereof.

As per Specification Section 00200, Article 13.09 the bid shall contain an acknowledgment of receipt of this **Addendum No. 2**, (and all addenda). The number and date of which shall be filled in by filling out the information in the space provided in Section 03301, Article 3 – Bid Form.

This Addendum has been issued to address Prospective Contractor questions which have been submitted since issuance of Addendum #1 and which are judged to require prompt response:

**Contractor Question:** Please provide information regarding a cost estimate for the project.

**Response:** *The Engineer's Cost Estimate for this project is \$5,808,000.00.*

**Contractor Question:** Bidder requests a two week extension to May 17<sup>th</sup>.

**Response:** *At this time NHDES is not inclined to grant an extension. The answer is therefore No.*

**Contractor Question:** Bidder would like to provide an "or equivalent" Crest Gate Manufacturer in accordance with 11288-1.10.- G.2. This paragraph directs bidders to section 1.08.O and 1.08.P which are project specific submittals. Can engineer please clarify what is required to review in addition? Bidder requests an extension to the 14-day prior to BID date requirement so that submittal can be prepared and submitted

**Response:** Specification Section 11288-1.10-G.2 shall be replaced with the following:

2. *Or Equivalent; Other manufacturers shall provide equipment in strict compliance with Contract Drawings and specifications including experience requirements. If a manufacture would like to be considered equivalent to Steel-Fab Inc., submit in accordance with section 1.08.A and 1.08.B list of installations and names and qualifications of professional engineers as well as the proposed manufacturer complies*

*with section 1.10.C for review a minimum of 14 days prior to the BID date. If acceptable to the ENGINEER, their name will be added per addendum.*

It is noted that in order to meet the deadline specified in the response above, "Or Equivalent" information will need to be submitted (electronic means is acceptable) to [james.guarente@gza.com](mailto:james.guarente@gza.com) with a cc to [grace.levergood@des.nh.gov](mailto:grace.levergood@des.nh.gov) by 5:00PM April 19, 2019.

**Contractor Question:** The provided "Permit to Reconstruct a Dam" Permit makes note of documents that appear to be missing from the RFP documents, specifically the "ACF Environmental ACB Report". Please confirm that "or equal" articulated concrete block manufacturers can be utilized.

**Response:** *The Report referenced is hereby included as Attachment A to this Addendum and has been provided for informational purposes only. Additionally, as per Section 02385, Paragraph 2.03.H.2 - Articulated concrete blocks shall be Shoreblock SD-475 OC as manufactured by SHORETEC, or approved equivalent.*

**End of Addendum No. 2**

**Berry Bay Dam at Ossipee Lake Replacement Project  
Effingham/Freedom, NH**

**ADDENDUM NO. 3**

To: All Prospective Bidders  
Berry Bay Dam at Ossipee Lake Replacement Project

Location: Effingham/Freedom, NH

From: James P. Guarente – GZA GeoEnvironmental, Inc.  
Walter Flanagan – Wright-Pierce Engineers

Re: **Addendum No. 3**

Date: April 29, 2019

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Please find the following **ADDENDUM NO. 3** for the Berry Bay Dam at Ossipee Lake Replacement Project which is to be included as part of the Contract Documents thereof.

As per Specification Section 00200, Article 13.09 the bid shall contain an acknowledgment of receipt of this **Addendum No. 3**, (and all addenda). The number and date of which shall be filled in by filling out the information in the space provided in Section.03301, Article.3 – Bid Form.

This Addendum has been issued to address Prospective Contractor questions which have been submitted since issuance of Addendum #2 and which are judged to require official response:

1. **Contractor Question:** There are no drawings that define a work area for the bubbler lines upstream of the existing headworks dam. Please provide the allowable work area to perform the installation of these bubbler lines.

**Response:** *The Figure included as Attachment A herein is a schematic mark-up of Drawing C-1 showing the approximate work area limits envisioned to affect bubbler line installation upstream of the Headworks Dam.*

2. **Contractor Question:** There is no cofferdam shown for the bubblers upstream of the existing Headworks Dam on Drawing C-1. Does this area have a permit established for a cofferdam? or is the intent to perform this work in the wet? Could you please provide any detail available?

**Response:** *The mark-ups on the Figure in Attachment A also show approximate limits of a Supersack (or approved equal) cofferdam envisioned to allow for installation of the bubblers in this location. NHDES will modify the existing permit(s) so that this work can take place.*

*It is noted that lake bottom surface within the work area for the bubblers is generally at approximately elevation 399.00'±. We envision installation of the bubblers would take place in mid-October/early November 2019. Soon after Columbus Day weekend NHDES will endeavor (via operation of the gates at Headworks Dam) to lower the water level so that a Supersack*

*cofferdam on the order of 4 to 6 feet high could be placed around the work area to allow installation to be conducted in the dry.*

3. **Contractor Question:** The downstream bubbler is shown going through a protected wetland area on Drawing C-3. Is the intent to re-establish the wetland after construction is complete?

3a. **Contractor Question:** The bubbler line goes through the wetlands, does this need to be relocated?

**Response (3 and 3a):** *The routing of the downstream bubbler was inadvertently shown as passing through an established wetland. During construction the Contractor shall coordinate with the Engineer to alter the route such that it does not pass through said wetland.*

4. **Contractor Question:** Drawing C-3 defines a "clear zone", while Drawing C-1 shows a larger "limits of work" area. If the "clear zone" defines a permanently cleared area, and the "limits of work" is the allowable maximum disturbed area for during construction; Can a tree or other obstacle outside the "clear zone", but inside the "limit of work" be removed to achieve access during construction?

**Response:** *Clearing within the Limits of Work as defined on Drawing C-1 to gain access to the work shall be coordinated with the Engineer but will generally be allowed so long as it is within NHDES property/easement limits and not subject to the conditions of the Wetlands Permits included with the Contract Bid Documents.*

5. **Contractor Question:** Please define dimensions of the pay limits of subgrade excavation for foundations.

**Response:** *Bidders are referred to Section 02200 – Earthwork, and in particular to Paragraph 3.04.H which defines limits of excavation.*

6. **Contractor Question:** From my reading and understanding of the electrical drawings presented there are two electrical panels to be quoted the Crest Gate Control Panel and the Main Control Panel. Is this correct?

**Response:** *Yes. The Main Control Panel is specified in Section 13440 and the Crest Gate Control Panel is specified in 11288.*

7. **Contractor Question:** Are there 2 PLC's to Quote? One for the Crest Gate Control Panel and one for the Main Control Panel?

**Response:** *Yes, both panels will contain PLCs.*

8. **Contractor Question:** In Section 13341-1 Summary 1.01 C. it is mentioned that there are existing PLC programs and screens for a similar project. To what extent do those programs from the described process?

9. **Response:** *The existing PLC program is for a similar site and may be used as a basis for the standards used to develop the programming of the Main Control Panel for this project.*

10. **Contractor Question:** We have calculated considerably less Stone Riprap needed than the amount in the bid item (Item no. 02270.03). Please confirm quantities.

**Response:** *We note as stated in Section 00301 – Bid Form, in the last paragraph of Article 5 that the Bidder acknowledges that estimated quantities are not guaranteed and are solely for the purpose of comparison of Bids, and final payment for all Unit Price Bid items will be based on actual quantities provided, determined as provided in the Contract Documents.*

*Nevertheless, and in the interest of providing updates to any particular estimated quantity as applicable, we have re-evaluated the quantity provided in the Bid Form for Stone Riprap (Item 02270.03) and conclude that the number given is high. Therefore, Bidders shall strike the current quantity of 4,200 (Tons) and replace with 2,200 (Tons).*

11. **Contractor Question:** Because of the complexity of the project, there are multiple subcontractors/vendors that all need to be coordinated with each other because of the overlapping work (i.e. crest gate, hydraulics, electrical, instrumentation, generator, misc. metals, etc.). Several vendors are requesting a minimum 1 week extension to coordinate scopes of work. Bidder requests a 1 week extension.

**Response:** *As NHDES is beholden to strict schedule requirements regarding Contract Funding and Contract Agreement Documentation, they are not inclined at this time to grant a one week extension. The answer is therefore No.*

12. **Contractor Question:** Does the site have an existing SWPPP that will need to be complied with?

**Response:** *No there is no existing SWPPP for the site.*

13. **Contractor Question:** Has the site been reviewed under the Endangered Species Act or by the National Historic Preservation Act?

**Response:** *Yes, each act has been reviewed via the Wetlands Permit Approval process. Bidders are referred to the Wetlands Permits included as attachments to Section 00860.*

14. **Contractor Question:** Can AutoCAD files be provided to bidders?

**Response:** *No, AutoCAD files of the drawings will be provided to the winning Bidder only.*

15. **Contractor Question:** For compaction of all fill, Specification Section 02200 3.06.F states 98% of standard proctor compaction is required for common, granular and structural fill but Note 9 on Drawing C-4 states all fill compaction needs to meet 95% of standard proctor. Please confirm compaction requirement for each type of fill (common, granular, and structural fill).

**Response:** *The value given for the % compaction in Note 9 on Drawing C-4 shall be changed from the current 95% to 98% such that it coincides with the value stated in Section 02200 3.06.F.*

16. **Contractor Question:** Please confirm that all anchor bolts can be drilled and epoxied for the crest gate.

**Response:** *The crest gate manufacturer shall determine whether anchor bolts are cast in or drilled and epoxied.*

**End of Addendum No. 3**

SUCH THAT THE LEVEL REMAINS AT THE STOP LOG CREST, OUTSIDE THE SUMMER TIDAL SEASON, THE POOL IS REGULATED BY THE BUREAU TO THE EXTENT PRACTICAL IN A MANNER AT A LEVEL BELOW ELEVATION 5'. DURING CONSTRUCTION PERIOD(S) THE CONTRACTOR WILL BE ALLOWED TO MAINTAIN STOP LOG AT THE EXISTING DAM TO EL. 408.50 SO THAT THE EXISTING DAM CAN BE USED AS A COFFERDAM TO THE EXTENT PRACTICABLE. IN CONNECTION WITH THE USE OF THE EXISTING DAM THE CONTRACTOR SHALL BE RESPONSIBLE FOR DESIGN AND IMPLEMENTATION OF ALL ADDITIONAL SURFACE (AND GROUNDWATER) CONTROL MEASURES (COFFERDAMS, DIVERSION BARRIERS, PUMPS, ETC.) AS NECESSARY SO THAT ALL WORK BE CONDUCTED IN THE DRY. SEE WATER CONTROL NOTES ON SHEET C-2 AND SPECIFICATIONS 01565 AND 01900 FOR ADDITIONAL INFORMATION.

ry Bay

OF THE WORK AFTER CONSTRUCTION OF THE DAM HAS BEEN COMPLETED AND THE DAM HAS BEEN ACCEPTED, THE CONTRACTOR SHALL INSTALL A TEMPORARY COFFERDAM (SACKS OR APPROVED EQUIVALENT) SO THAT DEMOLITION OF THE EXISTING DAM CAN BE CONDUCTED IN THE DRY. THE MAXIMUM HEIGHT OF THE COFFERDAM SHALL BE ELEVATION 408.50.

APPROXIMATE LOCATION OF SUPER-SACK BARRIERS

LIMITS OF WORK

APPROXIMATE LIMITS OF TEMPORARY COFFERDAM (SUPER-SACK OR APPROVED EQUIVALENT)

EXISTING DAM

CONTROL BUILDING

- PROPERTY LINE
- LIMITS OF WORK
- EDGE OF WETLAND BOUNDARY (WF) OR TOP OF BANK (TOB) FLAG DELINEATION
- EDGE OF WATER (AS PER DECEMBER 2009 EXISTING CONDITIONS PLAN)
- APPROXIMATE LOCATION OF STRAWBALE AND SILT FENCE BARRIER
- APPROXIMATE LOCATION OF SUPERSACK BERM ASSOCIATED WITH NEW DAM CONSTRUCTION
- APPROXIMATE LOCATION OF SUPERSACK BERM ASSOCIATED WITH THE EXISTING DAM REMOVAL
- EXISTING DAM LOCATION OF CONSTRUCTION FENCING

ADD B 3  
**ATTACHMENT A**  
 CONTRACTOR INITIALS  
**FIGURE** Date 7/15/2019

**EXHIBIT B**  
**COST PROPOSAL AND TERMS OF PAYMENT**

The Project Manual issued in April 2019 and Addendums No. 1 (dated April 12, 2019), No. 2 (dated April 18, 2019) and No. 3 (dated April 29, 2019) are incorporated as part of Exhibit B by reference. Contractor's Bid Form is attached.

Total Contract Price Limitation:      \$4,963,362.50

SECTION 00301 – BID FORM

PROJECT IDENTIFICATION: Berry Bay Dam at Ossipee Lake Replacement Project

Article 1 – BID RECIPIENT

- 1.01 THIS BID IS SUBMITTED TO: the New Hampshire Department of Environmental Services, 29 Hazen Drive, PO Box 95, Concord, NH 03302-0095, here in after referred to as the Owner.
- 1.02 The undersigned Bidder proposes and agrees, if this Bid is accepted, to enter into an Agreement with OWNER in the form included in the Bidding Documents to perform all Work as specified or indicated in the Bidding Documents for the prices and within the times indicated in this Bid and in accordance with the other terms and conditions of the Bidding Documents.

Article 2 – BIDDER'S ACKNOWLEDGEMENTS

- 2.01 Bidder accepts all of the terms and conditions of the Advertisement or Invitation to Bid and Instructions to Bidders, including without limitation those dealing with the disposition of Bid security. The Bid will remain subject to acceptance for 90 days after the Bid opening, or for such longer period of time that Bidder may agree to in writing upon request of Owner.
- 2.02 Bidder acknowledges that execution of a contract is subject to receipt of all state and federal permits necessary to complete the work. If permits are not received, the bid security will be returned to the Successful Bidder.

Article 3 -- BIDDER'S REPRESENTATIONS

- 3.01 In submitting this Bid, Bidder represents, as set forth in the Agreement, that:
  - A. Bidder has examined and carefully studied the Bidding Documents, other related data identified in the Bidding Documents, and the following Addenda, receipt of which is hereby acknowledged:

<u>Addendum No.</u>	<u>Addendum Date</u>
<u>1</u>	<u>4/12/19</u>
<u>2</u>	<u>4/18/19</u>
<u>3</u>	<u>4/29/19</u>

- B. Bidder has visited the Site and become familiar with and is satisfied as to the general, local and Site conditions that may affect cost, progress, and performance of the Work.
- C. Bidder is familiar with and is satisfied as to all Laws and Regulations that may affect cost, progress, and performance of the Work.

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- D. Bidder has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions relating to existing surface or subsurface structures at the Site that have been identified in SC-4.02 as containing reliable "technical data,".
- E. Bidder has considered the information known to Bidder; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Bidding Documents; and the Site-related reports and drawings identified in the Bidding Documents, with respect to the effect of such information, observations, and documents on (1) the cost, progress, and performance of the Work; (2) the means, methods, techniques, sequences, and procedures of construction to be employed by Bidder, including applying the specific means, methods, techniques, sequences, and procedures of construction expressly required by the Bidding Documents; and (3) Bidder's safety precautions and programs.
- F. Based on the information and observations referred to in Paragraph 3.01.E above, Bidder does not consider that further examinations, investigations, explorations, tests, studies, or data are necessary for the determination of this Bid for performance of the Work at the price(s) bid and within the times required, and in accordance with the other terms and conditions of the Bidding Documents.
- G. Bidder is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Bidding Documents.
- H. Bidder has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder has discovered in the Bidding Documents, and the written resolution thereof by Engineer is acceptable to Bidder.
- I. The Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for the performance of the Work for which this Bid is submitted.

#### Article 4 – BIDDER'S CERTIFICATION

##### 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;
- 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:

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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 Owner, (b) to establish bid prices at artificial non-competitive levels, or (c) to deprive Owner 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 Owner, 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.
- E. The Bidder accepts the state's terms and conditions that apply to the particular bid and any resulting purchase order or contract by filling out and signing Form P-37 and that any other terms and conditions submitted by the bidder are null and void;
- F. The Bidder will be subject to the terms and conditions stated on the purchase order relating to purchase; and
- G. The Bidder offers to sell to the state of New Hampshire the commodities or services indicated at the price or prices quoted and in compliance with the requirements and specifications of the bid.
- H. In addition to the foregoing, the Bidder shall, as part of his or her Bid submission, certify by notarized affidavit, signed under oath, that neither the Bidder, nor any of its subsidiaries, affiliates or principal officers:
1. Has, within the past 2 years, been convicted of, or pleaded guilty to, a violation of RSA 356:2, RSA 356:4, or any state or federal law or county or municipal ordinance prohibiting specified bidding practices, or involving antitrust violations, which has not been annulled;
  2. Has been prohibited, either permanently or temporarily, from participating in any public works project pursuant to RSA 638:20;
  3. Has previously provided false, deceptive, or fraudulent information on a vendor code number application form, or any other document submitted to the state of New Hampshire, which information was not corrected as of the time of the filing a bid, proposal, or quotation;
  4. Is currently debarred from performing work on any project of the federal government or the government of any state;
  5. Has, within the past 2 years, failed to cure a default on any contract with the federal government or the government of any state;

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6. Is presently subject to any order of the New Hampshire Department of Labor, the New Hampshire Department of Employment Security, or any other state department, agency, board, or commission, finding that the applicant is not in compliance with the requirements of the laws or rules that the department, agency, board, or commission is charged with implementing;
7. Is presently subject to any sanction or penalty finally issued by the New Hampshire Department of Labor, the New Hampshire Department of Employment Security, or any other state department, agency, board, or commission, which sanction or penalty has not been fully discharged or fulfilled;
8. Is currently serving a sentence or is subject to a continuing or unfulfilled penalty for any crime or violation noted in this section;
9. Has failed or neglected to advise the Owner of any conviction, plea of guilty, or finding relative to any crime or violation noted in this section, or of any debarment, within 30 days of such conviction, plea, finding, or debarment; or
10. Has been placed on the debarred parties list specified in Adm 606.11 within the past year.

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Contractor Initials RUD  
Date 3/15/2019

Article 5 – BASIS OF BID

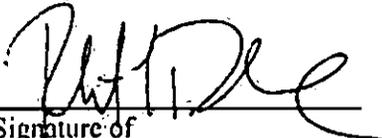
5.01 Bidder will complete the Work in accordance with the Contract Documents for the following price(s):

Bidder proposes to furnish all materials and complete the Scope of Work described in general in these Bid Documents and more specifically as described in the Technical Specifications of the Contract Documents and as illustrated on the Contract Drawings for the sum of

Four Million Nine Hundred Sixty Three Thousand  
Three Hundred Sixty Two Dollars and Fifty Cents ( \$4,963,362.50 ).  
(Words) (Numerals)

Bidder hereby agrees that requests for progress payments will be made on the basis of percentage of work complete by item for the items listed on the Schedule of Values, which follows on the following pages of this Bid Form. Bidder shall complete the Schedule of Values as part of the bid process. Bidder agrees that percentages of work completed are subject to approval by the Engineer and the Bureau, or their authorized representative and that the decision of the Bureau regarding the percentage completed will be the sole basis for progress payments.

Bidder hereby agrees that the Terms and Conditions of the Agreement under which the work will be executed will be those as specified in Division 1 of the Contract Documents.

  
Signature of  
Person Legally Authorized  
to Enter into Contractual  
Agreement For Bidder

Robert L. Delhome  
Printed or Typed Name

Charter Contracting Company, LLC  
Printed or Typed Name  
of Company  
or Corporation

May 3, 2019  
Date Signed

Berry Bay Dam at Ossipee Lake

BID ITEMS					
ITEM NO.	DESCRIPTION	UNIT	ESTIMATED QUANTITY	IN DOLLARS AND CENTS	
				UNIT PRICE	TOTAL PRICE
01500.01	Temporary Facilities and Controls Four Hundred Twenty Five Thousand Dollars and Zero Cents (Lump Sum Price written in words)	Lump Sum	NA	NA	\$ 425,000.00
01500.02	Temporary Project Signage Five Thousand Dollars and Zero Cents (Lump Sum Price written in words)	Lump Sum	NA	NA	\$ 5,000.00
01500.03	Public Information <u>One Thousand Dollars</u> (Allowance)	Allowance	NA	<u>\$1,000</u>	<u>\$1,000</u>
01560.01	Silt Fence <u>Nine Dollars and Fifty Cents</u> (Unit Price written in words)	Linear Foot	1,000	<u>\$ 9.50</u>	<u>\$ 9,500.00</u>
01560.02	Strawbales <u>Eleven Dollars and Zero Cents</u> (Unit Price written in words)	Linear Foot	1,000	<u>\$ 11.00</u>	<u>\$ 11,000.00</u>
01560.03	Construction Safety Fence <u>Six Dollars and Zero Cents</u> (Unit Price written in words)	Linear Foot	225	<u>\$ 6.00</u>	<u>\$ 1,350.00</u>
01560.04	Temporary Erosion and Sedimentation General Controls Five Thousand Dollars and Zero Cents (Lump Sum Price written in words)	Lump Sum	NA	NA	\$ 5,000.00
01560.05	Temporary Compost Filter Socks and Related Erosion and Sedimentation Controls for Access Road <u>Twelve Dollars and Zero Cents</u> (Lump Sum Price written in words)	Linear Foot	4,000	<u>\$ 12.00</u>	<u>\$ 48,000.00</u>

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Berry Bay Dam at Ossipee Lake

BID ITEMS					
ITEM NO.	DESCRIPTION	UNIT	ESTIMATED QUANTITY	IN DOLLARS AND CENTS	
				UNIT PRICE	TOTAL PRICE
01565.01	Temporary Dewatering, Surface Water and Groundwater Control Four Hundred Twenty Five Thousand Dollars and Zero Cents (Lump Sum Price written in words)	Lump Sum	NA	NA	\$ <u>425,000.00</u>
01740.01	Site Restoration Twenty Three Thousand Dollars and Zero Cents (Lump sum Price written in words)	Lump Sum	NA	NA	\$ <u>23,000.00</u>
01900.01	Mobilization and Demobilization Two Hundred Thousand Dollars and Zero Cents (Lump Sum Price written in words)	Lump Sum	NA	NA	\$ <u>200,000.00</u>
01955.01	Record Drawings Twenty One Thousand Dollars and Zero Cents (Lump Sum Price written in words)	Lump Sum	NA	NA	\$ <u>21,000.00</u>
02015.01	Staff Gage Five Thousand Dollars and Zero Cents (Lump Sum Price written in words)	Lump Sum	NA	NA	\$ <u>5,000.00</u>
02060.01	Demolition of Existing Dam Eighty Thousand Dollars and Zero Cents (Lump Sum Price written in words)	Lump Sum	NA	NA	\$ <u>80,000.00</u>
02110.01	Clearing, Grubbing and Stripping Fifty Thousand Dollars and Zero Cents (Lump Sum Price written in words)	Lump Sum	NA	NA	\$ <u>50,000.00</u>
02110.02	Clearing, Grubbing and Stripping for Temporary Access Road  <u>Three Dollars and Twenty Five Cents</u> (Lump Sum Price written in words) Unit	Square Yard	2,800	\$ <u>3.25</u>	\$ <u>9,100.00</u>
02200.01	Common Excavation After Stripping Thirty Five Dollars and Zero Cents (Unit Price written in words)	Cubic Yard	1,500	\$ <u>35.00</u>	\$ <u>52,500.00</u>

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Berry Bay Dam at Ossipee Lake

<b>BID ITEMS</b>					
ITEM NO.	DESCRIPTION	UNIT	ESTIMATED QUANTITY	IN DOLLARS AND CENTS	
				UNIT PRICE	TOTAL PRICE
02200.02	Common Excavation of Boulders After Stripping <u>Fifty Dollars and Zero Cents</u> (Unit Price written in words)	Cubic Yard	225	\$ <u>50.00</u>	\$ <u>11,250.0</u>
02200.03	Placement and Compaction of On-Site Previously Excavated Common Fill, Granular Fill or Structural Fill <u>Thirty Five Dollars and Zero Cents</u> (Unit Price written in words)	Cubic Yard	900	\$ <u>35.00</u>	\$ <u>31,500.00</u>
02200.04	Furnishing, Placement and Compaction of Off-Site Structural Fill <u>One Hundred Dollars and Zero Cents</u> (Unit Price written in words)	Cubic Yard	900	\$ <u>100.00</u>	\$ <u>90,00.00</u>
02200.05	Legal Off-Site Disposal of Common Spoil <u>Twenty Two Dollars and Zero Cents</u> (Unit Price written in words)	Tons	1,400	\$ <u>22.00</u>	\$ <u>30,800.00</u>
02200.06	Excavation (including stripping as necessary), Subgrade Preparation, and Grading Associated with Improving Parsons Roadway for Site Access. <u>Two Dollars and Fifty Cents</u> (Unit Price written in words)	Square Yard	4,670	\$ <u>2.50</u>	\$ <u>11,675.00</u>
02270.01	Furnishing and Placement of Crushed Stone Fill <u>Fifty Five Dollars and Zero Cents</u> (Unit Price written in words)	Ton	210	\$ <u>55.00</u>	\$ <u>11,550.00</u>
02270.02	Furnishing, Placement and Compaction of Off-Site Crushed Stone for Temporary Access Road <u>Thirty Five Dollars and Zero Cents</u> (Unit Price written in words)	Ton	1,890	\$ <u>35.00</u>	\$ <u>66,150.00</u>

Berry Bay Dam at Ossipee Lake

BID ITEMS					
ITEM NO.	DESCRIPTION	UNIT	ESTIMATED QUANTITY	IN DOLLARS AND CENTS	
				UNIT PRICE	TOTAL PRICE
02270.03	Furnishing and Placement of Stone Riprap from On- and Off-Site Sources Forty Eight Dollars and Zero Cents (Unit Price written in words)	Ton	2,200 <del>4,200</del>	\$ 48.00	\$ 105,600.00
02270.04	Furnishing and Placement of Woven Geotextile Fabric Three Dollars and Fifty Cents (Unit Price written in words)	Square Yard	800	\$ 3.50	\$ 2,800.00
02385.01	Furnishing and Placement of Articulated Concrete Block Thirteen Dollars and Zero Cents (Unit Price written in words)	Square Foot	6,850	\$ 13.00	\$ 89,050.00
02930.01	Furnishing and Placement of Loam from On- or Off-Site Sources Thirty Eight Thousand Dollars and Zero Cents (Lump Sum Price written in words)	Lump Sum	NA	NA	\$ 38,000.00
02930.02	Seeding and Temporary Erosion Control Four Dollars and Zero Cents (Unit Price written in words)	Square Yard	2,000	\$ 4.00	\$ 8,000.00
03300.01	Cast-in-Place Reinforced Concrete Seven Hundred Dollars and Zero Cents (Unit Price written in words)	Cubic Yard	1,500	\$ 700.00	\$ 1,050,000.00
05500.01	Metal Fabrications - Control Building Fifty Thousand Dollars and Zero Cents (Lump Sum Price written in words)	Lump Sum	NA	NA	\$ 50,000.00
05500.02	Metal Fabrications - Crest Gate Two Hundred Seventy Five Thousand Dollars and Zero Cents (Lump Sum Price written in words)	Lump Sum	NA	NA	\$ 275,000.00
06100.01	Rough Carpentry - Control Building Eighty Five Thousand Dollars and Zero Cents (Lump Sum Price written in words)	Lump Sum	NA	NA	\$ 85,000.00

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Berry Bay Dam at Ossipee Lake

BID ITEMS					
ITEM NO.	DESCRIPTION	UNIT	ESTIMATED QUANTITY	IN DOLLARS AND CENTS	
				UNIT PRICE	TOTAL PRICE
06100.02	Timber Stop Logs Thirty Four Thousand Dollars and Zero Cents (Lump Sum Price written in words)	Lump Sum	NA	NA	\$ 34,000.00
07620.01	Sheet Metal Flashing and Trim Seven Dollars and Fifty Cents (Unit Price written in words)	Square Foot	525	\$ 7.50	\$ 3,937.50
08110.01	Steel Doors and Frames One Thousand Two Hundred Dollars and Zero Cents (Unit Price written in words)	Each	2	\$ 1,200.00	\$ 2,400.00
08520.01	Fixed Aluminum Windows Eight Hundred Dollars and Zero Cents (Unit Price written in words)	Each	1	\$ 800.00	\$ 800.00
08710.01	Finish Hardware Seven Hundred Dollars and Zero Cents (Unit Price written in words)	Each	2	\$ 700.00	\$ 1,400.00
09900.01	Paint Control Building Twelve Thousand Dollars and Zero Cents (Lump Sum Price written in words)	Lump Sum	NA	NA	\$ 12,000.00
11288.01	Hydraulic Crest Gate One Million Two Hundred Thousand Dollars and Zero Cents (Lump Sum Price written in words)	Lump Sum	NA	NA	\$ 1,200,000.00
13440.01	Instrumentation and Process Controls One Hundred Seventy Five Thousand Dollars and Zero Cents (Lump Sum Price written in words)	Lump Sum	NA	NA	\$ 175,000.00
15070.01	Emergency Generator Exhaust Piping Seven Thousand Dollars and Zero Cents (Lump Sum Price written in words)	Lump Sum	NA	NA	\$ 7,000.00

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Berry Bay Dam at Ossipee Lake

BID ITEMS					
ITEM NO.	DESCRIPTION	UNIT	ESTIMATED QUANTITY	IN DOLLARS AND CENTS	
				UNIT PRICE	TOTAL PRICE
15180.01	Pipe and Equipment Insulation Seven Thousand Dollars and Zero Cents <u>(Lump Sum Price written in words)</u>	Lump Sum	NA	NA	\$ <u>7,000.00</u>
15443.01	Propane Gas System Sixteen Thousand Dollars and Zero Cents <u>(Lump Sum Price written in words)</u>	Lump Sum	NA	NA	\$ <u>16,000.00</u>
15540.01	Portable Fire Extinguishers Three Hundred Dollars and Zero Cents <u>(Unit Price written in words)</u>	Each	2	\$ <u>300.00</u>	\$ <u>600.00</u>
15766.01	Electric Unit Heaters One Thousand Two Hundred Dollars and Zero Cents <u>(Unit Price written in words)</u>	Each	2	\$ <u>1,200.00</u>	\$ <u>2,400.00</u>
15840.01	Ductwork and Devices Four Thousand Five Hundred Dollars and Zero Cents <u>(Lump Sum Price written in words)</u>	Lump Sum	NA	NA	\$ <u>4,500.00</u>
15862.01	Dampers Four Thousand Five Hundred Dollars and Zero Cents <u>(Unit Price written in words)</u>	Each	2	\$ <u>4,500.00</u>	\$ <u>9,000.00</u>
15869.01	Louvers Four Thousand Five Hundred Dollars and Zero Cents <u>(Unit Price written in words)</u>	Each	1	\$ <u>4,500.00</u>	\$ <u>4,500.00</u>
16000.01	General Electrical Work - Crest Gate and Control Building Forty Thousand Dollars and Zero Cents <u>(Lump Sum Price written in words)</u>	Lump Sum	NA	NA	\$ <u>40,000.00</u>

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Berry Bay Dam at Ossipee Lake

BID ITEMS					
ITEM NO.	DESCRIPTION	UNIT	ESTIMATED QUANTITY	IN DOLLARS AND CENTS	
				UNIT PRICE	TOTAL PRICE
16000.02	General Electrical Work – Electrical Utility Company <del>Fifty</del> <del>Twenty-five Thousand Dollars</del> (Allowance)	Allowance	NA	NA	\$ 50,000
16000.03	General Electrical Work – Generator Set Sixty Five Thousand Dollars and Zero Cents (Lump Sum Price written in words)	Lump Sum	NA	NA	\$ 65,000.00

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## Berry Bay Dam at Ossipee Lake

All specific cash allowances are included in the price(s) set forth above and have been computed in accordance with paragraph 11.02 of the General Conditions and paragraph SC-11.02 of the Supplementary Conditions.

Unit Prices have been computed in accordance with paragraph 11.03.B of the General Conditions.

Bidder acknowledges that estimated quantities are not guaranteed, and are solely for the purpose of comparison of Bids, and final payment for all Unit Price Bid items will be based on actual quantities provided, determined as provided in the Contract Documents.

### Article 6 – TIME OF COMPLETION

- 6.01 Bidder agrees that the Work will be substantially complete on or before November 30, 2020 and will be completed and ready for final payment in accordance with Paragraph 14.07 of the General Conditions on or before ~~December 31, 2020~~ June 1, 2021
- 6.02 Bidder accepts the provisions of the Agreement as to liquidated damages in the event of failure to complete the Work within the times specified above, which shall be stated in the Agreement.

### Article 7 – ATTACHMENTS TO THIS BID

- 7.01 The following documents are submitted with and made a condition of this Bid:
- A. Required Bid security in the form of Bid Bond (Specification Section 00310 – Bid Bond, EJCDC NO. C-430 Documents, Bid Bond (Penal Sum), Pages 1-2), identified in Section 00100 – Instructions to Bidders in the form of a certified or bank check or bid bond;
  - B. List of Proposed Subcontractors;
  - C. List of Proposed Suppliers;
  - D. List of Project References;
  - E. Noncollusion Affidavit.
  - F. Proposed Schedule for Project Completion

### 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.

SUBMITTED on May 3, 2019.

Berry Bay Dam at Ossipee Lake

If Bidder is:

An Individual

Name (typed or printed): Not Applicable

By: \_\_\_\_\_ (SEAL)  
*(Individual's signature)*

Doing business as: \_\_\_\_\_

Business address: \_\_\_\_\_

Phone No.: \_\_\_\_\_ FAX No.: \_\_\_\_\_

A Partnership

Partnership Name: Charter Contracting Company, LLC \* (SEAL)

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

Name (typed or printed): Robert L. Delhome

Business address: 500 Harrison Avenue, Suite 4R

Phone No.: (857) 246-6800 FAX No.: (857) 246-6885

A Corporation

Corporation Name: Not Applicable (SEAL)

State of Incorporation: \_\_\_\_\_

Type (General Business, Professional, Service, Limited Liability): \_\_\_\_\_

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

Name (typed or printed): \_\_\_\_\_

Title: \_\_\_\_\_

(CORPORATE SEAL)

Attest \_\_\_\_\_  
*(Signature of Corporate Secretary)*

Business address: \_\_\_\_\_

Phone No.: \_\_\_\_\_ FAX No.: \_\_\_\_\_

Date of Qualification to do business is \_\_\_\_\_

\*Charter Contracting Company is a Limited Liability Company. A copy of our Certificate of Organization dated October 29, 2014 provides verification of individuals authorized to sign on our behalf.

Berry Bay Dam at Ossipee Lake

A Joint Venture

Joint Venturer Name: Not Applicable (SEAL)

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

Name (typed or printed): \_\_\_\_\_

Title: \_\_\_\_\_

Business address: \_\_\_\_\_

Phone No.: \_\_\_\_\_ FAX No.: \_\_\_\_\_

Joint Venturer Name: \_\_\_\_\_ (SEAL)

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

Name (typed or printed): \_\_\_\_\_

Title: \_\_\_\_\_

Business address: \_\_\_\_\_

Phone No.: \_\_\_\_\_ FAX No.: \_\_\_\_\_

Phone and FAX Number, and Address for receipt of official communications:

\_\_\_\_\_  
\_\_\_\_\_

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

Notarized Affidavit

On this the 30 day of April, 2019, before the undersigned officer, personally appeared Robert L. Delhome (print name), President (title), who acknowledged himself to be the person who executed the foregoing instrument for the purpose therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.



RENEE COYNE  
NOTARY PUBLIC  
Commonwealth of Massachusetts  
My Commission Expires  
August 16, 2024

*Renee Coyne*  
enter name notary public/JOP, select title

My Commission Expires:

August 16, 2024 (date)

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## **EXHIBIT C**

### **SPECIAL CONDITIONS**

1. To the extent there is a conflict between the P-37 General Provisions and the EJCDC C-700 incorporated by reference into Exhibit A and Exhibit B, the P-37 General Provisions shall control;

2. Replace Paragraph 4.01(A) of Article 4 of the EJCDC C-700 with the following:

“A. Owner shall furnish the Site. Owner shall notify Contractor of any encumbrances or restrictions not of general application but specifically related to use of the Site with which Contractor must comply in performing the Work. Owner will obtain in a timely manner and pay for easements for permanent structures or permanent changes in existing facilities.”

3. Replace Paragraph 4.03(C)(3) of Article 4 of the EJCDC C-700 with the following:

“If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times, or both, a Claim may be made therefor as provided in Paragraph 10.05.”

4. Replace Paragraph 4.04(B)(2) of Article 4 of the EJCDC C-700 with the following:

“If Engineer concludes that a change in the Contract Documents is required, a Work Change Directive or a Change Order will be issued to reflect and document such consequences. An equitable adjustment shall be made in the Contract Price or Contract Times, or both, to the extent that they are attributable to the existence or location of any Underground Facility that was not shown or indicated or not known or indicated with reasonable accuracy in the Contract Documents and that Contractor did not know of and could not reasonably have been expected to be aware of or to have anticipated.”

5. Delete Paragraphs 5.03(B), 5.04, 5.05, 5.06(A), 5.06(B), 5.06(E), 5.07, 5.08, and 5.09 of Article 5 of EJCDC C-700;

6. Delete Paragraph 6.07(B) of Article 6 of the EJCDC C-700;

7. Replace Paragraph 6.09(C) of Article 6 of the EJCDC C-700 with the following:

“C. Changes in Laws or Regulations not known at the time of opening Bids (or, on the Effective Date of the Agreement if there were no Bids) having an effect on the cost or time of performance of the Work shall be the subject of an adjustment in Contract Price or Contract Times.”

8. Delete Paragraph 7.01(A)(2) of Article 7 of the EJCDC C-700;

9. Delete Paragraph 7.03 of Article 7 of the EJCDC C-700;

10. Delete Paragraph 8.06 of Article 8 of the EJCDC C-700;

11. Replace Paragraph 8.07 of Article 8 of the EJCDC C-700 to read as follows:

“A. Owner shall execute Change Orders as indicated in Paragraph 10.03, as amended by Exhibit C Special Conditions.”

12. Delete Paragraphs 8.08, 8.10, and 8.11 of Article 8 of the EJCDC C-700;

13. Replace Paragraph 9.04 of Article 9 of the EJCDC C-700 to read as follows:

“A. Engineer may authorize minor variations in the Work from the requirements of the Contract Documents which do not involve an adjustment in the Contract Price or the Contract Times and are compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents.”

14. Replace Paragraph 9.07 of Article 9 of the EJCDC C-700 with the following:

“A. Engineer will determine the actual quantities and classifications of Unit Price Work performed by Contractor. Engineer will review with Contractor the Engineer’s preliminary determinations on such matters before rendering a written recommendation.”

15. Replace Paragraph 9.08(B) of Article 9 of the EJCDC C-700 with the following:

“B. Engineer will, with reasonable promptness, render a written recommendation on the issue referred.”

16. Delete Paragraph 9.08(C) of Article 9 of the EJCDC C-700;

17. Delete Paragraph 10.03(A)(3) of Article 10 of the EJCDC C-700;

18. Replace Paragraph 10.05 of Article 10 of the EJCDC C-700 with the following:

“10.05 Claims

A. Notice: Any party asserting a Claim shall provide prompt written notice to the other party, with a copy to the Engineer, but in no event later than 10 days after the start of the event giving rise the Claim.

B. Documentation and Response: The responsibility to substantiate a Claim shall rest with the party making the Claim. A Claim for an adjustment in Contract Price shall be prepared in accordance with the provisions of Paragraph 12.01.B. A Claim for an adjustment in Contract Times shall be prepared in accordance with the provisions of Paragraph 12.02.B. The amount or extent of the Claim with supporting data shall be delivered to the other party, with a copy to the Engineer, within 20 days after the initial Claim notice, unless the parties otherwise agree in writing. The opposing party shall submit any response to claimant, with a copy to the Engineer, no later than 20 days after receipt of the claimant’s last submittal unless the parties otherwise agree in writing.

C. Disposition: The Engineer shall make a non-binding recommendation concerning a Claim in writing to the parties within 10 days after the response of the opposing party, unless extended in writing by the agreement of all parties. The parties shall engage in negotiations in a good faith effort to resolve any Claim within 10 days following the receipt of the recommendation by the Engineer. Any Claim that remains unresolved following negotiations shall be subject to all rights and remedies afforded the parties under applicable Laws and Regulations.”

19. Replace Paragraph 12.01(A) of Article 12 of the EJCDC C-700 with the following:

“A. The Contract Price may only be changed by a Change Order.”

20. Delete Paragraph 12.01(C) of Article 12 of the EJCDC C-700;

21. Replace Paragraph 12.02(A) of Article 12 of the EJCDC C-700 with the following:

“A. The Contract Times may only be changed by a Change Order.”

22. Delete Paragraph 13.03(B) of Article 13 of the EJCDC C-700;

23. Replace Paragraph 13.04(C) of Article 13 of the EJCDC C-700 with the following:

"If it is found that the uncovered Work is defective, Contractor shall pay 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 other dispute resolution costs) arising out of or relating to such uncovering, exposure, observation, inspection, and testing, and of satisfactory replacement or reconstruction (including but not limited to all costs of repair or replacement of work of others); and Owner shall be entitled to an appropriate decrease in the Contract Price."

24. Replace Paragraph 13.04(D) of Article 13 of the EJCDC C-700 with the following:

"D. If the uncovered Work is not found to be defective, Contractor shall be allowed an increase in the Contract Price or an extension of the Contract Times, or both, directly attributable to such uncovering, exposure, observation, inspection, testing, replacement, or reconstruction."

25. Replace Paragraph 13.08 of Article 13 of the EJCDC C-700 with the following:

"A. If, instead of requiring correction or removal and replacement of defective Work, Owner (and, prior to Engineer's recommendation of final payment, Engineer) prefers to accept it, Owner may do so. Contractor shall pay 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 other dispute resolution costs) attributable to Owner's evaluation of and determination to accept such defective Work (such costs to be approved by Engineer as to reasonableness) and for the diminished value of the Work to the extent not otherwise paid by Contractor pursuant to this sentence. If any such acceptance occurs prior to Engineer's recommendation of final payment, a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work, and Owner shall be entitled to an appropriate decrease in the Contract Price, reflecting the diminished value of Work so accepted. If the acceptance occurs after such recommendation, an appropriate amount will be paid by Contractor to Owner."

26. Replace Paragraph 13.09(C) of Article 13 of the EJCDC C-700 with the following:

"C. 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 other dispute resolution cost) incurred or sustained by Owner in exercising the rights and remedies under this Paragraph 13.09 will be charged against Contractor, and a Change Order

will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work; and Owner shall be entitled to an appropriate decrease in the Contract Price. Such claims, costs, losses and damages will include but not be limited to all costs of repair, or replacement of work of others destroyed or damaged by correction, removal, or replacement of Contractor's defective Work."

27. Replace Paragraph 14.02(C) of Article 14 of the EJCDC C-700 with the following:

"Thirty days after presentation of the Application for Payment to Owner with Engineer's recommendation, the amount recommended will (subject to the provisions of Paragraph 14.02(D)) become due, and when due will be paid by Owner to Contractor."

28. Replace Paragraph 14.04(D) of Article 14 of the EJCDC C-700 with the following:

"At the time of delivery of the tentative certificate of Substantial Completion, Engineer will deliver to Owner and Contractor a written recommendation as to division of responsibilities pending final payment between Owner and Contractor with respect to security, operation, safety, and protection of the Work, maintenance, heat, utilities, insurance, and warranties and guarantees. "

29. Replace Paragraph 15.01(A) of Article 15 of the EJCDC C-700 with the following:

"A. At any time and without cause, Owner may suspend the Work or any portion thereof for a period of not more than 90 consecutive days by notice in writing to Contractor and Engineer which will fix the date on which Work will be resumed. Contractor shall resume the Work on the date so fixed. Contractor shall be granted an adjustment in the Contract Price or an extension of the Contract Times, or both, directly attributable to any such suspension if Contractor makes a claim."

30. Replace Paragraph 15.04(B) of Article 15 of the EJCDC C-700 with the following:

"B. In lieu of terminating the Contract and without prejudice to any other right or remedy, if Engineer has failed to act on an Application for Payment within 30 days after it is submitted, or Owner has failed for 30 days to pay Contractor any sum finally determined to be due, Contractor may, seven days after written notice to Owner and Engineer, stop the Work until payment is made of all such amounts due Contractor, including interest thereon. The provisions of this Paragraph 15.04 are not intended to preclude Contractor from making a claim for an adjustment

in Contract Price or Contract Times or otherwise for expenses or damages directly attributable to Contractor's stopping the Work as permitted by this Paragraph."

31. Delete Article 16 of the EJCDC C-700.

# State of New Hampshire

## Department of State

### CERTIFICATE

I, William M. Gardner, Secretary of State of the State of New Hampshire, do hereby certify that CHARTER CONTRACTING COMPANY, LLC is a Massachusetts Limited Liability Company registered to do business in New Hampshire as CHARTER CONTRACTING COMPANY OF MA on December 31, 2014. I further certify that all fees and documents required by the Secretary of State's office have been received and is in good standing as far as this office is concerned.

Business ID: 719344

Certificate Number: 0004520859



IN TESTIMONY WHEREOF,  
I hereto set my hand and cause to be affixed  
the Seal of the State of New Hampshire,  
this 29th day of May A.D. 2019.

A handwritten signature in black ink, appearing to read "William M. Gardner".

William M. Gardner  
Secretary of State

**CERTIFICATE OF AUTHORITY**

I, Charter Environmental, Inc. hereby certify that I am the sole member of Charter Contracting Company, LLC and have been the sole member since 2014. Charter Contracting Company, LLC is a Massachusetts Limited Liability Company and registered to do business in New Hampshire on December 31, 2014 as Charter Contracting Company of MA.

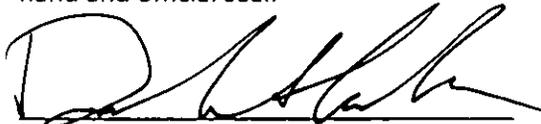
I certify that I am authorized to bind Charter Contracting Company, LLC. I hereby further certify and acknowledge that the State of New Hampshire will rely on this certification as evidence that I have full authority to bind the LLC

Signed:   
Officer: Robert L. Delhome  
Title: President/Managing Member  
Company: Charter Contracting Company, LLC  
Date: 6 June 2019

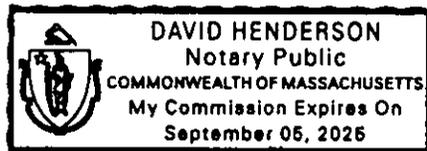
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Commonwealth of Massachusetts, County of Suffolk.

Subscribed and sworn before me on this the 6<sup>th</sup> day of June 2019 before me, the above-signed officer known to me to be the person whose name is subscribed to the within instrument and acknowledged that he executed the same for the purposes therein contained. In witness whereof, I hereunto set my hand and official seal.



David Henderson  
Notary Public of Commonwealth of Massachusetts  
My commission expires September 05, 2025





# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
06/12/2019

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> Willis of Massachusetts, Inc. c/o 26 Century Blvd P.O. Box 305191 Nashville, TN 372305191 USA	<b>CONTACT NAME:</b> PHONE (A/C, No, Ext): 1-877-945-7378      FAX (A/C, No): 1-888-467-2378 E-MAIL ADDRESS: certificates@willis.com	
	<b>INSURER(S) AFFORDING COVERAGE</b> <b>NAIC #</b>	
<b>INSURED</b> Charter Contracting Company, LLC 500 HARRISON AVE STE 4R Boston, MA 021182883	<b>INSURER A:</b> Starr Surplus Lines Insurance Company      13604	
	<b>INSURER B:</b> Starr Indemnity & Liability Company      38318	
	<b>INSURER C:</b>	
	<b>INSURER D:</b>	
	<b>INSURER E:</b>	

**COVERAGES**      **CERTIFICATE NUMBER: W11599930**      **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSD WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> XCU Included GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	Y	1000065924191	04/28/2019	09/28/2020	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 500,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
B	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY		SISIPCA08346219	04/28/2019	09/28/2020	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED    RETENTION \$		1000336719191	04/28/2019	09/28/2020	EACH OCCURRENCE \$ 1,000,000 AGGREGATE \$ 1,000,000
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N No	100 0002995	09/28/2018	09/28/2019	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
B	Business Auto - MA		SISIPCA08346119	04/28/2019	09/28/2020	Any Auto Combined Single Limit \$1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)  
This Voids and Replaces Previously Issued Certificate Dated 05/30/2019 WITH ID: W11405711.

Evidence of Insurance for Insured's work performed on Project.  
OWNER - New Hampshire Department of Environmental Services (NH DES), ENGINEER - GZA GeoEnvironmental, Inc., including their respective offices, directors, agents and employees are included as Additional Insureds ATIMA as respects to

<b>CERTIFICATE HOLDER</b>  NH Department of Environmental Services 29 Hazen Dr. or PO Box 95 Concord, NH 03302-0095	<b>CANCELLATION</b>  SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE  

AGENCY CUSTOMER ID: \_\_\_\_\_  
LOC #: \_\_\_\_\_



### ADDITIONAL REMARKS SCHEDULE

Page 2 of 2

AGENCY Willis of Massachusetts, Inc.		NAMED INSURED Charter Contracting Company, LLC 500 HARRISON AVE STE 4R Boston, MA 021182883	
POLICY NUMBER See Page 1		EFFECTIVE DATE: See Page 1	
CARRIER See Page 1	NAIC CODE See Page 1		

#### ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,  
FORM NUMBER: 25 FORM TITLE: Certificate of Liability Insurance  
General Liability where required by written contract.



# Starr Surplus Lines Insurance Company

Chicago, IL 1-646-227-6300

## Primary and Non-contributory, Additional Insured and Waiver of Subrogation

Policy Number: 1000065924191      Effective Date: 04/28/2019 at 12:01 A.M.  
Named Insured: Charter Contracting Company, LLC

This endorsement modifies the insurance coverage form(s) listed below that have been purchased by you and evidenced as such on the Declarations page. Please read the endorsement and respective policy(ies) carefully.

- Commercial General Liability Coverage Form
- Owners and Contractors Protective Liability Coverage Form
- Products/Completed Operations Liability Coverage Form
- Contractors Pollution Liability Coverage Form
- Professional Liability Coverage Form
- Site Pollution Liability Coverage Form

### SCHEDULE

Where Required By Written Contract

- A. **SECTION II - WHO IS AN INSURED** is amended to include as an insured the person or organization shown in the schedule of this endorsement, but only with respect to liability arising out of "your work" for that insured by or for you.
- B. As respects additional insureds as defined above, this insurance also applies to "bodily injury" or "property damage" arising out of your negligence when the following written contract requirements are applicable:
  1. Coverage available under this coverage part shall apply as primary insurance. Any other insurance available to these additional insured's shall apply as excess and not contribute as primary to the insurance afforded by this endorsement.
  2. We waive any right of recovery we may have against these additional insured's because of payments we make for injury or damage arising out of "your work" done under a written contract with the additional insured.
  3. The term insured is used separately and not collectively, but the inclusion of more than one insured shall not increase the limits or coverage provided by this insurance.

Insureds and Agents are advised that certificates of insurance should be used only to provide evidence of insurance in lieu of an actual copy of the applicable insurance policy. Certificates should not be used to amend, expand or otherwise alter the terms of the actual policy.

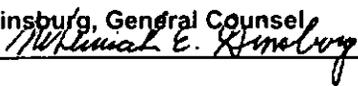
All other terms and conditions of this Policy remain unchanged.

Signed for STARR SURPLUS LINES INSURANCE COMPANY

Charles H. Dangelo, President

  
\_\_\_\_\_

Nehemiah E. Ginsburg, General Counsel

  
\_\_\_\_\_

# Document A312™ – 2010

Conforms with The American Institute of Architects AIA Document 312

## Performance Bond

**CONTRACTOR:**

*(Name, legal status and address)*

Charter Contracting Company LLC  
500 Harrison Avenue, Suite 4R,  
Boston, MA 02118-2439

**SURETY:**

*(Name, legal status and principal place of business)*

Arch Insurance Company  
3 Parkway, Ste. 1500,  
Philadelphia, PA 19102

**Mailing Address for Notices**

Arch Insurance Company  
3 Parkway, Ste. 1500,  
Philadelphia, PA 19102

■ This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

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

**OWNER:**

*(Name, legal status and address)*

The State of New Hampshire,  
Department of Environmental Services  
Water Division – Dam Bureau  
P.O. Box 95, 29 Hazen Drive,  
Concord, NH 03302

**CONSTRUCTION CONTRACT**

Date: 6/7/2019

Amount: Four Million Nine Hundred Sixty-three Thousand Three Hundred Sixty-two And 50/100 DOLLARS, (\$4,963,362.50)

**Description:**

*(Name and location)* Berry Bay Dam at Ossipee Lake, NHDES Dam No. 088014 Replacement Project  
Effingham and Freedom, New Hampshire

**BOND**

Date: 7/2/2019

*(Not earlier than Construction Contract Date)*

Amount: Four Million Nine Hundred Sixty-three Thousand Three Hundred Sixty-two And 50/100 DOLLARS, (\$4,963,362.50)

Modifications to this Bond:  None  See Section 16

**CONTRACTOR AS PRINCIPAL**

Company: *(Corporate Seal)*

Charter Contracting Company LLC

Signature:

Name and Title:

Robert L. Delhome, President

**SURETY**

Company: *(Corporate Seal)*

Arch Insurance Company

Signature:

Name and Title:

Timothy P. Lyons, Attorney-in-Fact

*(Any additional signatures appear on the last page of this Performance Bond.)*

*(FOR INFORMATION ONLY — Name, address and telephone)*

**AGENT or BROKER:**

The Driscoll Agency  
141 Longwater Drive, Suite 203  
Norwell, MA 02061  
781.681.6656

**OWNER'S REPRESENTATIVE:**

*(Architect, Engineer or other party:)*

GZA  
249 Vanderbilt Ave.  
Norwood, MA 02062

**§ 1** The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Owner for the performance of the Construction Contract, which is incorporated herein by reference.

**§ 2** If the Contractor performs the Construction Contract, the Surety and the Contractor shall have no obligation under this Bond, except when applicable to participate in a conference as provided in Section 3.

**§ 3** If there is no Owner Default under the Construction Contract, the Surety's obligation under this Bond shall arise after

- .1 the Owner first provides notice to the Contractor and the Surety that the Owner is considering declaring a Contractor Default. Such notice shall indicate whether the Owner is requesting a conference among the Owner, Contractor and Surety to discuss the Contractor's performance. If the Owner does not request a conference, the Surety may, within five (5) business days after receipt of the Owner's notice, request such a conference. If the Surety timely requests a conference, the Owner shall attend. Unless the Owner agrees otherwise, any conference requested under this Section 3.1 shall be held within ten (10) business days of the Surety's receipt of the Owner's notice. If the Owner, the Contractor and the Surety agree, the Contractor shall be allowed a reasonable time to perform the Construction Contract, but such an agreement shall not waive the Owner's right, if any, subsequently to declare a Contractor Default;
- .2 the Owner declares a Contractor Default, terminates the Construction Contract and notifies the Surety; and
- .3 the Owner has agreed to pay the Balance of the Contract Price in accordance with the terms of the Construction Contract to the Surety or to a contractor selected to perform the Construction Contract.

**§ 4** Failure on the part of the Owner to comply with the notice requirement in Section 3.1 shall not constitute a failure to comply with a condition precedent to the Surety's obligations, or release the Surety from its obligations, except to the extent the Surety demonstrates actual prejudice.

**§ 5** When the Owner has satisfied the conditions of Section 3, the Surety shall promptly and at the Surety's expense take one of the following actions:

**§ 5.1** Arrange for the Contractor, with the consent of the Owner, to perform and complete the Construction Contract;

**§ 5.2** Undertake to perform and complete the Construction Contract itself, through its agents or independent contractors;

**§ 5.3** Obtain bids or negotiated proposals from qualified contractors acceptable to the Owner for a contract for performance and completion of the Construction Contract, arrange for a contract to be prepared for execution by the Owner and a contractor selected with the Owner's concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Construction Contract, and pay to the Owner the amount of damages as described in Section 7 in excess of the Balance of the Contract Price incurred by the Owner as a result of the Contractor Default; or

**§ 5.4** Waive its right to perform and complete, arrange for completion, or obtain a new contractor and with reasonable promptness under the circumstances:

- .1 After investigation, determine the amount for which it may be liable to the Owner and, as soon as practicable after the amount is determined, make payment to the Owner; or
- .2 Deny liability in whole or in part and notify the Owner, citing the reasons for denial.

**§ 6** If the Surety does not proceed as provided in Section 5 with reasonable promptness, the Surety shall be deemed to be in default on this Bond seven days after receipt of an additional written notice from the Owner to the Surety demanding that the Surety perform its obligations under this Bond, and the Owner shall be entitled to enforce any remedy available to the Owner. If the Surety proceeds as provided in Section 5.4, and the Owner refuses the payment or the Surety has denied liability, in whole or in part, without further notice the Owner shall be entitled to enforce any remedy available to the Owner.

**§ 7** If the Surety elects to act under Section 5.1, 5.2 or 5.3, then the responsibilities of the Surety to the Owner shall not be greater than those of the Contractor under the Construction Contract, and the responsibilities of the Owner to the Surety shall not be greater than those of the Owner under the Construction Contract. Subject to the commitment by the Owner to pay the Balance of the Contract Price, the Surety is obligated, without duplication, for

- .1 the responsibilities of the Contractor for correction of defective work and completion of the Construction Contract;
- .2 additional legal, design professional and delay costs resulting from the Contractor's Default, and resulting from the actions or failure to act of the Surety under Section 5; and
- .3 liquidated damages, or if no liquidated damages are specified in the Construction Contract, actual damages caused by delayed performance or non-performance of the Contractor.

**§ 8** If the Surety elects to act under Section 5.1, 5.3 or 5.4, the Surety's liability is limited to the amount of this Bond.

**§ 9** The Surety shall not be liable to the Owner or others for obligations of the Contractor that are unrelated to the Construction 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 the Owner or its heirs, executors, administrators, successors and assigns.

**§ 10** The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders and other obligations.

**§ 11** Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location in which the work or part of the work is located and shall be instituted within two years after a declaration of Contractor Default or within two years after the Contractor ceased working or within two years after the 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.

**§ 12** Notice to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears.

**§ 13** When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction 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. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

#### **§ 14 Definitions**

**§ 14.1 Balance of the Contract Price.** The total amount payable by the Owner to the Contractor under the Construction Contract after all proper adjustments have been made, including allowance to the Contractor of any amounts received or to be received by the Owner in settlement of insurance or other claims for damages to which the Contractor is entitled, reduced by all valid and proper payments made to or on behalf of the Contractor under the Construction Contract.

**§ 14.2 Construction Contract.** The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and changes made to the agreement and the Contract Documents.

**§ 14.3 Contractor Default.** Failure of the Contractor, which has not been remedied or waived, to perform or otherwise to comply with a material term of the Construction Contract.

**§ 14.4 Owner Default.** Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.

**§ 14.5 Contract Documents.** All the documents that comprise the agreement between the Owner and Contractor.

**§ 15** If this Bond is issued for an agreement between a Contractor and subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

§ 16 Modifications to this bond are as follows:

*(Space is provided below for additional signatures of added parties, other than those appearing on the cover page.)*

**CONTRACTOR AS PRINCIPAL**

Company: \_\_\_\_\_ *(Corporate Seal)*

**SURETY**

Company: \_\_\_\_\_ *(Corporate Seal)*

Signature: \_\_\_\_\_  
Name and Title: \_\_\_\_\_  
Address \_\_\_\_\_

Signature: \_\_\_\_\_  
Name and Title: \_\_\_\_\_  
Address \_\_\_\_\_

# Document A312™ – 2010

Conforms with The American Institute of Architects AIA Document 312

## Payment Bond

**CONTRACTOR:**  
*(Name, legal status and address)*

Charter Contracting Company LLC  
500 Harrison Avenue, Suite 4R,  
Boston, MA 02118-2439

**SURETY:**  
*(Name, legal status and principal place of business)*

Arch Insurance Company  
3 Parkway, Ste. 1500,  
Philadelphia, PA 19102

Mailing Address for Notices

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

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

**OWNER:**  
*(Name, legal status and address)*

The State of New Hampshire,  
Department of Environmental Services  
Water Division – Dam Bureau  
P.O. Box 95, 29 Hazen Drive,  
Concord, NH 03302

Arch Insurance Company  
3 Parkway, Ste. 1500,  
Philadelphia, PA 19102

**CONSTRUCTION CONTRACT**  
Date: 6/7/2019

Amount: Four Million Nine Hundred Sixty-three Thousand Three Hundred Sixty-two And 50/100 DOLLARS, (\$4,963,362.50)

Description:  
*(Name and location)* Berry Bay Dam at Ossipee Lake, NHDES Dam No. 088014 Replacement Project Effingham and Freedom, New Hampshire

### BOND

Date: 7/2/2019  
*(Not earlier than Construction Contract Date)*

Amount: Four Million Nine Hundred Sixty-three Thousand Three Hundred Sixty-two And 50/100 DOLLARS, (\$4,963,362.50)

Modifications to this Bond:  None  See Section 18

**CONTRACTOR AS PRINCIPAL**  
Company: *(Corporate Seal)*  
Charter Contracting Company LLC

Signature:   
Name and Title: Robert L. Delhomme, President

**SURETY**  
Company: *(Corporate Seal)*  
Arch Insurance Company

Signature:   
Name and Title: Timothy P. Lyons, Attorney-in-Fact

*(Any additional signatures appear on the last page of this Payment Bond.)*

*(FOR INFORMATION ONLY — Name, address and telephone)*

**AGENT or BROKER:**  
The Driscoll Agency  
141 Longwater Drive, Suite 203  
Norwell, MA 02061  
781.681.6656

**OWNER'S REPRESENTATIVE:**  
*(Architect, Engineer or other party:)*  
GZA  
249 Vanderbilt Ave.  
Norwood, MA 02062

**§ 1** The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Owner to pay for labor, materials and equipment furnished for use in the performance of the Construction Contract, which is incorporated herein by reference, subject to the following terms.

**§ 2** If the Contractor promptly makes payment of all sums due to Claimants, and defends, indemnifies and holds harmless the Owner from claims, demands, liens or suits by any person or entity seeking payment for labor, materials or equipment furnished for use in the performance of the Construction Contract, then the Surety and the Contractor shall have no obligation under this Bond.

**§ 3** If there is no Owner Default under the Construction Contract, the Surety's obligation to the Owner under this Bond shall arise after the Owner has promptly notified the Contractor and the Surety (at the address described in Section 13) of claims, demands, liens or suits against the Owner or the Owner's property by any person or entity seeking payment for labor, materials or equipment furnished for use in the performance of the Construction Contract and tendered defense of such claims, demands, liens or suits to the Contractor and the Surety.

**§ 4** When the Owner has satisfied the conditions in Section 3, the Surety shall promptly and at the Surety's expense defend, indemnify and hold harmless the Owner against a duly tendered claim, demand, lien or suit.

**§ 5** The Surety's obligations to a Claimant under this Bond shall arise after the following:

**§ 5.1** Claimants, who do not have a direct contract with the Contractor,

- .1 have furnished a written notice of non-payment to the Contractor, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were, or equipment was, furnished or supplied or for whom the labor was done or performed, within ninety (90) days after having last performed labor or last furnished materials or equipment included in the Claim; and
- .2 have sent a Claim to the Surety (at the address described in Section 13).

**§ 5.2** Claimants, who are employed by or have a direct contract with the Contractor, have sent a Claim to the Surety (at the address described in Section 13).

**§ 6** If a notice of non-payment required by Section 5.1.1 is given by the Owner to the Contractor, that is sufficient to satisfy a Claimant's obligation to furnish a written notice of non-payment under Section 5.1.1.

**§ 7** When a Claimant has satisfied the conditions of Sections 5.1 or 5.2, whichever is applicable, the Surety shall promptly and at the Surety's expense take the following actions:

**§ 7.1** Send an answer to the Claimant, with a copy to the Owner, within sixty (60) days after receipt of the Claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed; and

**§ 7.2** Pay or arrange for payment of any undisputed amounts.

**§ 7.3** The Surety's failure to discharge its obligations under Section 7.1 or Section 7.2 shall not be deemed to constitute a waiver of defenses the Surety or Contractor may have or acquire as to a Claim, except as to undisputed amounts for which the Surety and Claimant have reached agreement. If, however, the Surety fails to discharge its obligations under Section 7.1 or Section 7.2, the Surety shall indemnify the Claimant for the reasonable attorney's fees the Claimant incurs thereafter to recover any sums found to be due and owing to the Claimant.

**§ 8** The Surety's total obligation shall not exceed the amount of this Bond, plus the amount of reasonable attorney's fees provided under Section 7.3, and the amount of this Bond shall be credited for any payments made in good faith by the Surety.

**§ 9** Amounts owed by the Owner to the Contractor under the Construction Contract shall be used for the performance of the Construction Contract and to satisfy claims, if any, under any construction performance bond. By the Contractor furnishing and the Owner accepting this Bond, they agree that all funds earned by the Contractor in the performance of the Construction Contract are dedicated to satisfy obligations of the Contractor and Surety under this Bond, subject to the Owner's priority to use the funds for the completion of the work.

**§ 10** The Surety shall not be liable to the Owner, Claimants or others for obligations of the Contractor that are unrelated to the Construction Contract. The Owner shall not be liable for the payment of any costs or expenses of any Claimant under this Bond, and shall have under this Bond no obligation to make payments to, or give notice on behalf of, Claimants or otherwise have any obligations to Claimants under this Bond.

**§ 11** The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders and other obligations.

**§ 12** No suit or action shall be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the state in which the project that is the subject of the Construction Contract is located or after the expiration of one year from the date (1) on which the Claimant sent a Claim to the Surety pursuant to Section 5.1.2 or 5.2, 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 Construction 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.

**§ 13** Notice and Claims to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears. Actual receipt of notice or Claims, however accomplished, shall be sufficient compliance as of the date received.

**§ 14** When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction 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. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

**§ 15** Upon request by any person or entity appearing to be a potential beneficiary of this Bond, the Contractor and Owner shall promptly furnish a copy of this Bond or shall permit a copy to be made.

#### **§ 16 Definitions**

**§ 16.1 Claim.** A written statement by the Claimant including at a minimum:

- .1 the name of the Claimant;
- .2 the name of the person for whom the labor was done, or materials or equipment furnished;
- .3 a copy of the agreement or purchase order pursuant to which labor, materials or equipment was furnished for use in the performance of the Construction Contract;
- .4 a brief description of the labor, materials or equipment furnished;
- .5 the date on which the Claimant last performed labor or last furnished materials or equipment for use in the performance of the Construction Contract;
- .6 the total amount earned by the Claimant for labor, materials or equipment furnished as of the date of the Claim;
- .7 the total amount of previous payments received by the Claimant; and
- .8 the total amount due and unpaid to the Claimant for labor, materials or equipment furnished as of the date of the Claim.

**§ 16.2 Claimant.** An individual or entity having a direct contract with the Contractor or with a subcontractor of the Contractor to furnish labor, materials or equipment for use in the performance of the Construction Contract. The term Claimant also includes any individual or entity that has rightfully asserted a claim under an applicable mechanic's lien or similar statute against the real property upon which the Project is located. 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 Construction Contract, architectural and engineering services required for performance of the work of the Contractor and the Contractor'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.

**§ 16.3 Construction Contract.** The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and all changes made to the agreement and the Contract Documents.

**§ 16.4 Owner Default.** Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.

**§ 16.5 Contract Documents.** All the documents that comprise the agreement between the Owner and Contractor.

**§ 17** If this Bond is issued for an agreement between a Contractor and subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

**§ 18** Modifications to this bond are as follows:

*(Space is provided below for additional signatures of added parties, other than those appearing on the cover page.)*

**CONTRACTOR AS PRINCIPAL**

Company: \_\_\_\_\_ *(Corporate Seal)*

**SURETY**

Company: \_\_\_\_\_ *(Corporate Seal)*

Signature: \_\_\_\_\_  
Name and Title: \_\_\_\_\_  
Address \_\_\_\_\_

Signature: \_\_\_\_\_  
Name and Title: \_\_\_\_\_  
Address \_\_\_\_\_

**THIS POWER OF ATTORNEY IS NOT VALID UNLESS IT IS PRINTED ON BLUE BACKGROUND.**

*This Power of Attorney limits the acts of those named herein, and they have no authority to bind the Company except in the manner and to the extent herein stated. Not valid for Note, Loan, Letter of Credit, Currency Rate, Interest Rate or Residential Value Guarantees.*

**POWER OF ATTORNEY**

Know All Persons By These Presents:

That the Arch Insurance Company, a corporation organized and existing under the laws of the State of Missouri, having its principal administrative office in Jersey City, New Jersey (hereinafter referred to as the "Company") does hereby appoint:

Claire A. Cavanaugh, Dennis W. Driscoll, George G. Powers, George N. Powers, John C. Driscoll, Martin L. Donovan and Timothy P. Lyons of Norwell, MA (EACH)

its true and lawful Attorney(s) in-Fact, to make, execute, seal, and deliver from the date of issuance of this power for and on its behalf as surety, and as its act and deed:

Any and all bonds, undertakings, recognizances and other surety obligations, in the penal sum not exceeding Ninety Million Dollars (\$90,000,000.00).

This authority does not permit the same obligation to be split into two or more bonds in order to bring each such bond within the dollar limit of authority as set forth herein.

The execution of such bonds, undertakings, recognizances and other surety obligations in pursuance of these presents shall be as binding upon the said Company as fully and amply to all intents and purposes, as if the same had been duly executed and acknowledged by its regularly elected officers at its principal administrative office in Jersey City, New Jersey.

This Power of Attorney is executed by authority of resolutions adopted by unanimous consent of the Board of Directors of the Company on September 15, 2011, true and accurate copies of which are hereinafter set forth and are hereby certified to by the undersigned Secretary as being in full force and effect:

"VOTED, That the Chairman of the Board, the President, or the Executive Vice President, or any Senior Vice President, of the Surety Business Division, or their appointees designated in writing and filed with the Secretary, or the Secretary shall have the power and authority to appoint agents and attorneys-in-fact, and to authorize them subject to the limitations set forth in their respective powers of attorney, to execute on behalf of the Company, and attach the seal of the Company thereto, bonds, undertakings, recognizances and other surety obligations obligatory in the nature thereof, and any such officers of the Company may appoint agents for acceptance of process."

This Power of Attorney is signed, sealed and certified by facsimile under and by authority of the following resolution adopted by the unanimous consent of the Board of Directors of the Company on September 15, 2011:

VOTED, That the signature of the Chairman of the Board, the President, or the Executive Vice President, or any Senior Vice President, of the Surety Business Division, or their appointees designated in writing and filed with the Secretary, and the signature of the Secretary, the seal of the Company, and certifications by the Secretary, may be affixed by facsimile on any power of attorney or bond executed pursuant to the resolution adopted by the Board of Directors on September 15, 2011, and any such power so executed, sealed and certified with respect to any bond or undertaking to which it is attached, shall continue to be valid and binding upon the Company.

Int'l Copy - K1  
Security Paper  
Hidden Pantograph  
Color Match  
Artificial Watermark  
Anti-Copy Coin Rub  
Erasable Protection  
Security Features Box  
Microprint Protection  
Acid Free

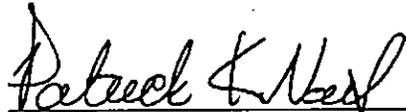
Int'l Copy - K1  
Security Paper  
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Color Match  
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Anti-Copy Coin Rub  
Erasable Protection  
Security Features Box  
Microprint Protection  
Acid Free

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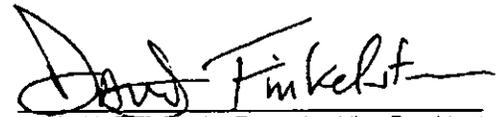
In Testimony Whereof, the Company has caused this instrument to be signed and its corporate seal to be affixed by their authorized officers, this 17<sup>th</sup> day of December, 2018.

Attested and Certified

Arch Insurance Company

  
Patrick K. Nails, Secretary

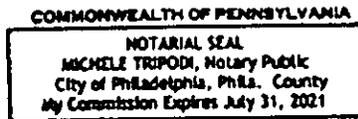


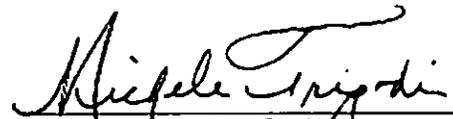
  
David M. Finkelstein, Executive Vice President

STATE OF PENNSYLVANIA SS

COUNTY OF PHILADELPHIA SS

I, Michele Tripodi, a Notary Public, do hereby certify that Patrick K. Nails and David M. Finkelstein personally known to me to be the same persons whose names are respectively as Secretary and Executive Vice President of the Arch Insurance Company, a Corporation organized and existing under the laws of the State of Missouri, subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that they being thereunto duly authorized signed, sealed with the corporate seal and delivered the said instrument as the free and voluntary act of said corporation and as their own free and voluntary acts for the uses and purposes therein set forth.

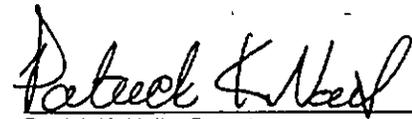


  
Michele Tripodi, Notary Public  
My commission expires 07/31/2021

CERTIFICATION

I, Patrick K. Nails, Secretary of the Arch Insurance Company, do hereby certify that the attached Power of Attorney dated December 17, 2018 on behalf of the person(s) as listed above is a true and correct copy and that the same has been in full force and effect since the date thereof and is in full force and effect on the date of this certificate; and I do further certify that the said David M. Finkelstein, who executed the Power of Attorney as Executive Vice President, was on the date of execution of the attached Power of Attorney the duly elected Executive Vice President of the Arch Insurance Company.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed the corporate seal of the Arch Insurance Company, on this 2<sup>nd</sup> day of July, 2019.

  
Patrick K. Nails, Secretary

This Power of Attorney limits the acts of those named therein to the bonds and undertakings specifically named therein and they have no authority to bind the Company except in the manner and to the extent herein stated.

PLEASE SEND ALL CLAIM INQUIRIES RELATING TO THIS BOND TO THE FOLLOWING ADDRESS:

Arch Insurance - Surety Division  
3 Parkway, Suite 1500  
Philadelphia, PA 19102

