



STANDARD AGREEMENT

(version 2-20-2018)

This AGREEMENT ("Agreement") is entered by and between **Hahn Equipment Co., Inc.** ("Contractor"), located at **5636 Kansas, Houston, TX 77007** and **City of League City ("City")**, a municipal corporation, located at 300 W. Walker, League City, Texas 77573 on the date set forth below.

Terms:

1. **Scope of Services:** Contractor will perform the designated services and/or provided the designated products, as set forth in Exhibit A, which is attached and incorporated herein, and which can be generally described as quote #16726, dated August 10, 2018 – Purchase of One (1) FLYGT Pump, 12-inch discharge, electric submersible sewage pump, complete with 185 H.P., 460 volt, 3 phase, 60 hertz, motor, FM rated, with 50' power cables. If there is a conflict between the terms of this Agreement and Exhibit A, the terms of this Agreement will prevail.
2. **Term and Termination:** This Agreement shall begin on **August 10, 2018** and shall terminate on **October 10, 2018**. This City reserves the right to terminate this Agreement for convenience upon seven (7) days-notice to the Contractor. Upon such termination, the City shall pay Contractor, at the rate set out in Exhibit A, for services satisfactorily performed or products satisfactorily provided up through the date of termination. Notwithstanding any provision in this Agreement to the contrary, the City will not be required to pay or reimburse Contractor for any services performed or for expenses incurred by Contractor after the date of the termination notice that could have been avoided or mitigated by Contractor. This Agreement is eligible for NA renewal option(s) with a term of NA year.
3. **Compensation:** Contractor shall be paid for the services, as set forth in Exhibit A, attached and incorporated for all purposes. In no event shall the total compensation exceed **\$115,037.00** during the term of this Agreement. The City shall pay Contractor in accordance with the Texas Government Code 2251. Contractor must submit invoices for all services, which invoices must include dates of service and details of services provided. Payment for delivery of services rendered shall not be unreasonably withheld or delayed. If the City disapproves any amount submitted for payment by Contractor, the City shall give Contractor specific reasons for disapproval in writing. Upon resolution of any disputed charges, Contractor shall submit an amended invoice covering any remaining charges to the City.
4. **Insurance:** The Contractor is **not** required to maintain insurance through the term of this Agreement.

If required by the City, Contractor shall maintain Comprehensive General Liability insurance coverage of \$1,000,000 per occurrence or medical malpractice insurance (whichever applies) throughout the entire term of the Agreement. If at any point during the Agreement, Contractor will enter City property, Contractor shall also maintain the following insurance: (i) Worker's Compensation coverage with statutory limits for the State of Texas, including Employers Liability coverage of \$500,000 per accident; (ii) Commercial Automobile Liability coverage of \$1,000,000 Combined Single Limit; (iii) for engineers and architects only: Professional Liability coverage of \$5,000,000 per occurrence; and (iv) for builders only: Builder's Risk coverage in the amount of the construction cost, including protection against named windstorm and flood. All policies must contain a waiver of subrogation against City. Comprehensive General Liability and Commercial Automobile Liability policies must name the City as Additional Insured. Contractor shall pay all insurance deductibles and deductibles must not exceed \$10,000 unless approved in advance by City.

Contractor shall provide City Certificates of Insurance evidencing these insurance requirements prior to the start of work.

5. **Independent Contractor:** Contractor is an independent contractor and is not an employee, partner, joint venture, or agent of the City. Contractor understands and agrees that he/she will not be entitled to any benefits generally available to City of League City employees. Contractor shall be responsible for all expenses necessary to carry out the services under this Agreement and shall not be reimbursed by the City for such expenses except as otherwise provided in this Agreement.
6. **Intellectual Property:** This Agreement shall be an Agreement for services and the parties intend and consider any work created as a result of this Agreement, including any and all documentation, images, products or results, to be a work for hire under federal copyright law. Ownership of the work shall belong to and remain the exclusive property of the City. The work may be edited at any time within the City's discretion. If the work would not be considered a work-for-hire under applicable law, Contractor hereby assigns, transfers, and conveys any and all rights, title and interest to City of League City, including without limitation all copyrights, patents, rights of reproduction, rights to ownership, and right to secure registrations, renewals, reissues and extensions thereof. As the sole copyright holder of the work, the City maintains and asserts the rights to use, reproduce, make derivative works from, and/or edit the Work in any form of medium, expression or technology now known or hereafter developed, at any time within the City's discretion. Contractor shall not sell, disclose or obtain any other compensation for the services provided herein. If the work is one to which the provisions of 17 U.S.C. § 106A apply, the Contractor hereby waives and appoints the City to assert on the Contractor's behalf the Contractor's moral rights or any equivalent rights regarding the form or extent of any alteration to the work (including, without limitation, removal or destruction) or the making of any derivative works based on the Work, including, without limitation, photographs, drawings or other visual reproductions of the work, in any medium, for the City's purposes.
7. **Confidentiality:** During the course of the work and/or services to be provided under this Agreement, Contractor may come in contact with confidential information of the City. Contractor agrees to treat as confidential the information or knowledge that becomes known to Contractor during performance of this Agreement and not to use, copy, or disclose such information to any third party unless authorized in writing by the City. This provision does not restrict the disclosure of any information that is required to be disclosed under applicable law. Contractor shall promptly notify the City of any misuse or unauthorized disclosure of its confidential information and upon expiration of this Agreement shall return to the City all confidential information in Contractor's possession or control. Contractor shall further comply with all information security policies of the City that may apply and shall not make any press releases, public statements or advertisement referring to the services provided under this Agreement or the engagement of Contractor without the prior written approval of the City.
8. **Warranties and Representations:** Contractor warrants and agrees that Contractor shall perform the Services and conduct all operations in conformity with all applicable federal, state, and local laws, rules, regulations, and ordinances. For any Service performed on premises owned or controlled by the City, Contractor warrants and agrees that Contractor will perform the Services in compliance with all City Rules, including but not limited to, prohibitions related to tobacco use, alcohol, and other drugs.
9. **Licenses/Certifications:** Contractor represents and warrants that it will obtain and maintain in effect, and pay the cost of all licenses, permits or certifications that may be necessary for Contractor's performance of this Agreement. If Contractor is a business entity, Contractor warrants, represents, covenants, and agrees that it is duly organized, validly existing and in good standing under the laws of the state of its incorporation; and is duly authorized and in good standing to conduct business in the State of Texas, that it has all necessary power and has received all necessary approvals to execute and deliver the Agreement and is authorized to execute this Agreement according to its terms on behalf of Contractor.
10. **Performance/Qualifications:** Contractor agrees and represents that Contractor has the personnel, experience, and knowledge necessary to qualify Contractor for the particular duties to be performed under

this Agreement. Contractor warrants that all services performed under this Agreement shall be performed consistent with generally prevailing professional or industry standards.

11. **Conflict of Interest:** Contractor warrants, represents, and agrees that Contractor presently has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with Contractor's performance of the Services hereunder. Contractor further warrants and affirms that no relationship or affiliation exists between Contractor and the City that could be construed as a conflict of interest with regard to this Agreement.

12. INDEMNIFICATION: CONTRACTOR SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS THE CITY, AND EACH OF ITS DIRECTORS, OFFICERS, AGENTS AND EMPLOYEES FROM AND AGAINST ALL CLAIMS, ACTIONS, SUITS, DEMANDS, PROCEEDINGS, COSTS, DAMAGES AND LIABILITIES, INCLUDING WITHOUT LIMITATION ATTORNEYS' FEES AND REASONABLE LITIGATION COSTS, ARISING OUT OF, CONNECTED WITH, OR RESULTING FROM ANY ACTS OR OMISSIONS OF CONTRACTOR OR ANY AGENT, EMPLOYEE, SUBCONTRACTOR, OR SUPPLIER OF CONTRACTOR IN THE EXECUTION OR PERFORMANCE OF THIS CONTRACT, TO THE EXTENT THE CLAIM ARISES FROM NEGLIGENCE, WILLFUL ACT, BREACH OF CONTRACT OR VIOLATION OF LAW.

13. **Force Majeure:** Neither the City nor Contractor shall be liable for any delay in the performance of this Agreement, nor for any other breach, nor for any loss or damage arising from uncontrollable forces such as fire, theft, storm, war, or any other force majeure that could not have been reasonably avoided by exercise of due diligence.

14. **Notices:** Any notice given under this contract by either party to the other may be affected either by personal delivery in writing or by mail, registered or certified postage prepaid with return receipt requested. Mailed notices shall be addressed to the addresses of the parties as they appear in the contract. Notices delivered personally shall be deemed communicated at the time of actual receipt. Mailed notice shall be deemed communicated three (3) days after mailing.

15. **Texas Family Code Child Support Certification:** Pursuant to Section 231.006, *Texas Family Code*, Contractor certifies that it is not ineligible to receive the award of or payments under the Agreement and acknowledges that the Agreement may be terminated, and payment may be withheld if this certification is inaccurate.

16. **State Auditor:** Contractor understands that acceptance of funds under the Agreement constitutes acceptance of the authority of the Texas State Auditor's Office, or any successor agency (collectively, "Auditor"), to conduct an audit or investigation in connection with those funds. Contractor agrees to cooperate with the Auditor in the conduct of the audit or investigation, including without limitation providing all records requested. Contractor will include this provision in all contracts with permitted subcontractors.

17. **Jurisdiction:** Any disputes under this Agreement shall be brought in a court of competent jurisdiction in Galveston, Texas and governed by Texas law.

18. **Alternative Dispute Resolution:** To the extent that Chapter 2260, Texas Government Code, is applicable to this Contract and is not preempted by other applicable law, the dispute resolution process provided for

in Chapter 2260 and the related rules adopted by the Texas Attorney General Pursuant to Chapter 2260, shall be used by the City and the Contractor to attempt to resolve any claim for breach of contract made by Contractor that cannot be resolved in the ordinary course of business. The Director of Finance of the City shall examine Contractor's claim and any counterclaim and negotiate with Contractor in an effort to resolve such claims. The parties hereto specifically agree that (i) neither the occurrence of an event giving rise to a breach of contract claim nor the pendency of a claim constitute grounds for the suspension of performance by Contractor, (ii) neither the issuance of this Contract by the City nor any other conduct, action or inaction of any representative of the City relating to this contract constitutes or is intended to constitute a waiver of the City's or the state's sovereign immunity to suit; and (iii) the City has not waived its right to seek redress in the courts.

19. **Entire Agreement:** This Agreement contains the entire Agreement between the parties and supersedes all prior agreements, arrangements, and understanding, oral or written between the parties relating to this Agreement. This Agreement may not be modified except by mutual written agreement of the parties executed subsequent to this Agreement.
20. **Eligibility to Receive Payment:** Contractor certifies that, as a matter of State law, it is not ineligible to receive the Agreement and payments pursuant to the Agreement and acknowledges that the Agreement may be terminated, and payment withheld if this representation is inaccurate.
21. **Payment of Debt/Delinquency to State:** Contractor certifies that it is not indebted to the City of League City and is current on all taxes owed to the City of League City. Contractor agrees that any payments owing to Contractor under the Agreement may be applied directly toward any debt or delinquency that Contractor owes the City of League City regardless of when it arises, until such debt or delinquency is paid in full.
22. **Products and Materials Produced in Texas:** If Contractor will provide services under the Agreement, Contractor covenants and agrees that in performing its duties and obligations under the Agreement, it will purchase products and materials produced in Texas when such products and materials are available at a price and delivery time comparable to products and materials produced outside of Texas.
23. **Risk of Loss:** If applicable, all work performed by Contractor pursuant to the Agreement will be at Contractor's exclusive risk until final and complete acceptance of the work by City. In the case of any loss or damage to the work prior to City's acceptance, such loss or damage will be Contractor's responsibility.
24. **Publicity:** Contractor shall not use City's name, logo or likeness in any press release, marketing materials or other public announcement without receiving City's prior written approval.
25. **Legal Construction/Severability:** In the event that any one or more of the provisions contained in this contract shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision, and this contract shall be construed as if such invalid, illegal or unenforceable provisions had never been contained in it. To this end, the provisions of this contract are declared to be severable. The Parties may mutually agree to renegotiate the contract to cure such illegality/invalidity or unconstitutionality if such may be reasonably accomplished.
26. **Limitations:** The Parties are aware that there are constitutional and statutory limitations on the authority of City to enter into certain terms and conditions of the Agreement, including, but not limited to, those terms and conditions relating to liens on City's property; disclaimers and limitations of warranties; disclaimers and limitations of liability for damages; waivers, disclaimers and limitations of legal rights, remedies, requirements and processes; limitations of periods to bring legal action; granting control of litigation or settlement to another party; liability for acts or omissions of third parties; payment of attorneys' fees; dispute resolution; indemnities; and confidentiality (collectively, the "Limitations"), and terms and conditions related to the Limitations will not be binding on City except to the extent authorized by the laws and Constitution of the State of Texas.

27. **Sovereign Immunity:** Except as otherwise provided by Texas law, neither the execution of the Agreement by City nor any other conduct, action or inaction of any City representative relating to the Agreement is a waiver of sovereign immunity by City.
28. **Authority:** Contractor warrants and represents that Contractor has full power and authority to enter into and perform this Agreement and to make the grant of rights contained herein. The person signing on behalf of the City represents that he/she has authority to sign this Agreement on behalf of City.
29. **Non-Waiver:** No covenant or condition of this Agreement may be waived except by written consent of the waiving party. Forbearance or indulgence by one party in any regard whatsoever shall not constitute a waiver of the covenant or condition to be performed by the other party.
30. **Prohibition on Boycotting Israel:** Pursuant to Section 2270.002, Texas Government Code, by executing this Agreement Contractor verifies that Contractor: (1) does not boycott Israel; and (2) will not boycott Israel during the term of this Agreement.
31. **Prohibition Against Business with Iran, Sudan or Foreign Terrorists Organizations:** Contractor warrants, covenants, and represents that Contractor is not engaged in business with Iran, Sudan, or any company identified on the list referenced in Section 2252.152, Texas Government Code.

Executed on this ____ day of _____, _____. *(date to be filled in by City Secretary)*

HAHN EQUIPMENT CO., INC. - "Contractor"



 Chuck Hahn, President

CITY OF LEAGUE CITY - "City"

 John Baumgartner, City Manager

Attest:

 Diana Stapp, City Secretary

Approved as to Form:

 Office of the City Attorney

Exhibit A

Scope of Services/Description of Products
(3) number of pages, including this page)

Click or tap here to enter text.

HAHN EQUIPMENT Co., Inc.

5636 KANSAS • HOUSTON, TX 77007 • PHONE # 713-868-3255 • FAX # 868-9725

ATTN: Phil QUOTE #: 16726
COMPANY: City of League City FAX #: (281) 554-1354
FROM: Jon L. Vollbrecht DATE: August 10, 2018
RE: Dallas Salmon WWTP Lift Station Pump

HAHN EQUIPMENT CO., INC. is pleased to submit to City of League City, the following proposal for pumping equipment:

ITEM NO. 1:

One (1) FLYGT Pump, 12-inch discharge, electric submersible sewage pump, complete with 185 H.P., 460 volt, 3 phase, 60 hertz, motor, FM rated, with 50' power cables.

Pump also has closed loop cooling.

TOTAL FOR ITEM NO. 1 EQUIPMENT LISTED ABOVE: **\$ 115,037.00**

Above pricing does not include Service Calls or any piping or valves.

F.O.B.: Houston, Texas. Prices quoted good for sixty (60) days and are exclusive of any applicable taxes or duties.

SHIPMENT: Estimated delivery is 12 - 14 weeks after receipt of written purchase order or approval.

TERMS OF PAYMENT: Net 30 from the date of the invoice, with approved credit

CONTRACT CONDITIONS: Conditions outlined on the Company's standard general condition form, which is enclosed with this proposal, shall apply to and constitute a part of this proposal.

Sincerely,
HAHN EQUIPMENT CO., INC.

Jon L. Vollbrecht
Jon L. Vollbrecht
Sales Representative

General Standard Conditions

- I. **ACCEPTANCE** – This proposal is subject to acceptance by the Purchaser within 30 days. Prices are subject to change without notice; all quotations whether published or special prices automatically expire 30 days from date of quotation, if not canceled prior to that time by another quotation or by a notice of cancellation, and are automatically canceled without notice simultaneously with the date of a price change. Acceptance of this quotation is limited to the terms hereof and Seller hereby objects to different or additional terms unless accepted by Seller in writing. No acceptance of this proposal by the Purchaser and no purchase order for any of the machinery offered in this proposal shall create any contract between Seller and Purchaser or be binding in any way upon Seller until such acceptance or purchase order is approved in writing by an executive officer of the Seller.
- II. **WARRANTY** – As the distributor for various manufacturers, the Seller is dependent upon representation and promises made by these manufacturers as to quality of material, performance data, and delivery schedules. The Seller will pass on to the Purchaser warranties, which may be available from the manufacturer of the products, involved. In addition to any applicable warranties that may be passed on to the Purchaser, the Seller will warrant items of original manufacture of the seller for six (6) months after date of shipment against defects in material and workmanship. All warranty claims must be made in a timely fashion by written notice to the Seller and the Seller or manufacturer involved shall have the option of requiring the return of the defective part, transportation prepaid to establish the claim. The Seller shall not be held liable for damages or delay caused by defects. The Seller's liability to the Purchaser except as to title, arising out of the supplying of the said equipment, or its use, whether based upon warranty, contract or negligence, shall not in any case exceed the cost of correcting defects in the equipment as herein provided and upon the expiration of the warranty period, all such liability shall terminate. The Seller shall not in any event be held liable for any special, indirect or consequential damages.
- III. **TITLE** – The Seller will deliver the equipment F.O.B. cars or trucks at point of shipment and such delivery will constitute delivery to the Purchaser. Title and risk of loss of the equipment shall pass to the Purchaser at this point.
- IV. **INSURANCE** – The Purchaser shall bear all risk of loss or damage to the machinery after delivery and shall provide and maintain adequate insurance against loss or damage by fire or other causes to the machinery during the time between delivery and final payment in an amount fully protecting the Seller. Loss or damage by fire or other causes within such period shall not relieve the Purchaser from his obligation to pay the purchase price in full.
- V. **TERMS** – Terms are net cash upon shipment or notification that we are ready to ship. Prorata payments shall become due and payable as partial shipments are made hereunder. Payment within thirty (30) days will be considered the same as cash pending approval of credit. These terms apply to partial as well as complete shipments. On orders over \$50,000.00 or as specifically stated on our proposal, special payment terms may be required. These terms are normally included with our proposal and are as stated in the Terms & Conditions form of the manufacturer involved. There is no cash discount given for cash or prompt payment unless specifically agreed upon in writing.
- VI. **TAXES** – The Purchaser shall pay to the Seller, in addition to the purchase price, the amount of all sales, use, privilege occupation, excise or other taxes, federal, state, local, or foreign which the Seller is required to pay in connection with furnishing goods or services to the Purchaser.
- VII. **FREIGHT** – Unless otherwise agreed upon in writing, all equipment is quoted F.O.B. shipping point. The Purchaser shall pay to the Seller in addition to the purchase price, freight charges, which may be required in shipping the equipment from the point of manufacture or storage to the Purchaser's plant. If freight charges are included in the quotation, then the Purchaser shall pay to the Seller, in addition to the purchase price, any amount by which transportation charges may be increased, either by reason of increased transportation rates or because of a change in the method of transportation.
- VIII. **PRICE AND ADJUSTMENT** – The following clauses are applicable to the extent they are referred to elsewhere in this proposal. Selection of price adjustment clause is based upon the proposed shipping date for the equipment offered.
 - Clause 1: The prices named herein are not subject to any change from the prices in effect on the date the order is accepted.
 - Clause 2: The prices named herein will be adjusted to the prices in effect at time of shipment.
 - Clause 3: The prices named herein are subject to escalation in accordance with manufacturer's standard escalation policy or as otherwise stated in the proposal.
- IX. **SHIPPING DATES** – The time for shipment given herein is approximate and is estimated from the date of receipt of order with complete manufacturing information and approval of drawings as may be necessary. The Seller relies upon the information supplied by various manufacturers and will endeavor to maintain quoted shipment times but the Seller will not be liable for any for any special, indirect or consequential damages arising from delay in shipment, irrespective of the reason therefore.
- X. **CANCELLATION** – The Purchaser may cancel his order only upon written notice and payment to the Seller of reasonable and proper cancellation charges including administrative and engineering expense and loss of profits.
- XI. **RESTOCKING** – No merchandise may be returned to the Seller without its written consent and shipping instructions being first obtained. Restocking charges will be provided upon request for the particular item involved and will be as determined by the equipment manufacturer.