



PROPOSAL and CONTRACT

Proposal Number: W0203171 Rev 2

Date: September 30, 2020

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To: City of Deer Park TX
Deer Park, TX
c/o Hartwell Environmental

Telephone: 281-351-8501

Email: Justin@hartwellenv.com

Description: Climber Screen Parts

Attn: Justin Rodriguez

Reference: Original Contract #88291

(Hereinafter referred to as "Purchaser")

SUEZ Treatment Solutions Inc. (SUEZ) offers to furnish the following described materials and equipment ("Products") and/or services at the prices ("Purchase Price") stated below or as otherwise confirmed in writing by SUEZ and in accordance with the Conditions of Sale and other provisions contained herein. This Proposal shall remain in effect for 60 days from the date hereof and shall expire at that time unless extended in writing by SUEZ. The Purchase Price is based upon all of the Conditions of Sale and other provisions contained herein. Purchaser's acceptance of this Purchase Price, whether by issuance of a purchase order or otherwise, or acceptance of delivery of the Products and/or services furnished hereunder, shall be considered acceptance by the Purchaser of all the Conditions of Sale and other provisions contained herein, notwithstanding any statement in Purchaser's acceptance or order to the contrary. SUEZ hereby objects to and rejects any proposal by Purchaser to modify, amend, limit, add to or delete any of the Conditions of Sale or other provisions contained herein unless expressly accepted in writing by SUEZ

Quantity	Part Number	Description	Unit Price	Extension
4	88291 05 012G01	Syphon	3,354.45	\$13,417.80
1	88291 05 013G99	Annular Flume, in 5 Pieces	39,900.03	\$39,900.03
1	88291 05 021G01	Inlet Flume	8,239.00	\$8,239.00
1	51213G99	Vacuum Tank, 304SS, Tank Only	18,466.34	\$18,466.34
Prices Include Freight Via Common Carrier			(Prices Exclude Sales Tax)	
			Order Total:	\$80,023.17

Estimated Shipment: 6 to 8 Weeks ARO

Payment Terms: 100% Net 30 Days

Shipping Terms: FOB Ship Point, Freight via
Common Carrier Included

Purchasers Acceptance:

Company: _____

By: _____

Title: _____

Date: _____

Suez Treatment Solutions

By: _____

Garrett Haywood, Parts Sales Coordinator

HARTWELL ENVIRONMENTAL CORPORATION

22115 Hufsmith Kohrville Road
Tomball, TX 77375-6952

CC: Kevin Smith, John Hughes, File

SUEZ TERMS AND CONDITIONS OF SALE

1. **ENTIRE AGREEMENT.** The Terms and Conditions of Sale set forth herein, and any supplements which may be attached hereto, constitute the full and final expression of the contract (the "Contract") for the sale of equipment or services (hereinafter referred to as "Equipment") Purchaser, and supersedes the terms and conditions of any request for proposal or request for quotations, specifications, quotations, purchase orders, correspondence or communications whether written or oral between the Purchaser and SUEZ. No amendment or modification hereto nor any statement, representation or warranty not contained herein shall be binding on SUEZ unless made in writing and signed by an authorized representative of SUEZ. Prior dealings, usage of the trade or a course of performance shall not be relevant to determine the meaning of this Contract.

2. **TAXES.** The Purchase Price does not include any state or local sales or use taxes.

3. **PAYMENT.** Payment shall be net thirty (30) days in accordance with SUEZ's proposal.

4. **RISK OF LOSS.** Risk of loss or damage to the Equipment, or any part thereof, shall pass to Purchaser upon delivery of the Equipment or part to Purchaser at the delivery point stated in SUEZ's proposal.

5. **EXCUSABLE DELAY.** SUEZ shall not be liable for any delay in performance or failure to perform due to any cause beyond SUEZ's reasonable control including, fire, flood, or any other act of God, strike or other labor difficulty, any act, instructions, directions or omission to act of any civil or military authority or of the Purchaser, Owner, or Engineer, change in laws, acts of war, any insurrection, riot, embargo, unavailability or delays in transportation or car shortages. In the event SUEZ's performance is delayed by any of the foregoing causes, SUEZ's schedule for performance shall be extended accordingly without penalty. If Purchaser's, Owner's, or Engineer's actions delay SUEZ's performance, Purchaser shall pay SUEZ any additional costs incurred by SUEZ resulting from such delay and shall also pay SUEZ's invoice for any stored Equipment, or any part thereof, as if they had been delivered in accordance with the milestone schedule.

6. **PROPRIETARY INFORMATION.** All information, plans, drawings, tracings, specifications, programs, reports, models, mock-ups, designs, calculations, schedules, technical information, data, manuals, proposals, CAD documents and other materials, including those in electronic form (collectively the "Instruments of Service") prepared and furnished by SUEZ for use solely with respect to this Project. SUEZ shall be deemed the author and owner of these Instruments of Service and shall retain all common law, statutory and other reserved rights, including copyrights. The Purchaser, Engineer, or Owner shall not use these Instruments of Service for future additions or alterations to this Project or for other projects, without the prior written agreement by SUEZ. The Instruments of Service furnished by SUEZ are proprietary to SUEZ, submitted in strict confidence and shall not be reproduced, transmitted, disclosed or used in any other manner without SUEZ's written authorization.

7. **INSPECTION BY PURCHASER.** Purchaser may inspect the Equipment at the point of manufacture, provided that such inspection is arranged and conducted so as not to unreasonably interfere with SUEZ's or the manufacturer's operations.

8. **WARRANTY OF TITLE.** SUEZ warrants and guarantees that upon payment title to all Equipment covered by any invoice submitted to Purchaser will pass to Purchaser free and clear of all liens.

9. **WARRANTY.** SUEZ warrants that its Equipment shall conform to the description contained in SUEZ's proposal and be free from defects in material and workmanship for a period of one (1) year from date its Equipment is initially placed in operation or eighteen (18) months from date its Equipment is shipped, whichever occurs first. Upon SUEZ's receipt of written notice within thirty (30) days of discovery of any defect, and a determination by SUEZ that such defect is covered under the foregoing warranty, SUEZ shall, at its option, repair or replace the defective part or parts, f.o.b. factory. This warranty does not cover failure or damage due to storage, installation, operation or maintenance not in conformance with SUEZ's written instructions and requirements or due to accident, misuse, abuse, neglect or corrosion. This warranty does not cover reimbursement for labor, gaining access, removal, installation, temporary power or any other expenses that may be incurred with repair or replacement. SUEZ shall have no responsibility for the condition of primed or finish painted surfaces after the Equipment leaves its point of manufacture. Field touch-up of shop primed or painted surfaces are normal and shall be at Purchaser's or Owner's expense. Unless otherwise specifically provided for herein, SUEZ provides no other guarantee of product performance or process results. Correction of non-conformities in the manner and for the period of time provided above shall constitute SUEZ's sole liability and purchaser's exclusive remedy for failure of SUEZ to meet its

warranty obligations, whether claims of purchaser are based in contract, tort (including negligence or strict liability), or otherwise. THE FOREGOING WARRANTIES ARE EXCLUSIVE, AND IN LIEU OF ALL OTHER WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

10. **BACKCHARGES.** SUEZ shall not be liable for any charges incurred by Purchaser for work, repairs, replacements or alterations to the Equipment, without SUEZ's prior written authorization, and any adverse consequences resulting from such unauthorized work shall be Purchaser's full responsibility.

11. **LIQUIDATED DAMAGES.** Any liquidated damages clauses for failure to meet shipping or job completion promises are not acceptable or binding upon SUEZ, unless such clauses are specifically accepted in writing by an authorized representative of SUEZ at its headquarters office.

12. **LIMITATION OF LIABILITY.** Neither party shall be liable to the other party for any special, indirect, incidental, consequential or punitive damages arising from their obligations under this Contract, whether such damages are based upon breach of contract, breach of warranty, tort, strict liability or otherwise. In no event shall either party's liability to the other party exceed the purchase price of the Equipment or parts of the Equipment on which such liability is based.

13. **CANCELLATION BY PURCHASER.** If Purchaser cancels this Contract or refuses to accept delivery of the Equipment, Purchaser shall be liable to SUEZ for reasonable costs incurred by SUEZ including, cancellation charges, administrative costs, and commissions to sales representatives for all work performed or in process up to the time of cancellation or refusal to accept delivery.

14. **DEFAULT BY PURCHASER.** In the event Purchaser should breach its obligations under this Contract, SUEZ may, without prejudice to any other right or remedy it may have at law or equity, terminate this Contract or suspend performance if Purchaser fails to cure such breach within thirty (30) days of written notice. In such event, SUEZ shall be paid for all work performed prior to termination/suspension, including all costs related to the termination/suspension. If payments are not made in accordance with the terms contained herein, a service charge may, without prejudice to the right of SUEZ to immediate payment, be added in an amount equal to the lower of 1.5% per month or fraction thereof or the highest legal rate on the unpaid balance. Purchaser shall reimburse SUEZ for all attorney's fees and costs related to collection of past due amounts.

15. **DEFAULT BY SELLER.** In the event of any default by SUEZ and prior to Purchaser terminating the work for default, Purchaser shall give written notice of default to SUEZ. SUEZ shall remedy the default to the reasonable satisfaction of the Purchaser within thirty (30) days of receipt of such written notice or, if such default cannot reasonable be remedied within such thirty (30) day period, SUEZ shall promptly begin to remedy the default within the thirty (30) day period and thereafter diligently prosecute to conclusion all acts necessary to remedy the default, in which event such default shall be deemed to be remedied.

16. **PATENT AND COPYRIGHT INFRINGEMENT.** SUEZ shall defend any action or proceeding brought against Purchaser based on any claim that the Equipment infringes any United States patent or copyright, provided the Equipment is used in the manner specified and is not modified, altered, or combined with any other equipment without SUEZ's prior written permission. Purchaser shall give prompt written notice to SUEZ of any such action or proceeding and will reasonably provide authority, information and assistance (at Purchaser's expense) in the defense of same. If Purchaser is enjoined from the operation or use of the Equipment, SUEZ shall take reasonable steps to procure the right to operate or use the Equipment. If SUEZ cannot so procure such right within a reasonable time, SUEZ shall promptly, at SUEZ's option and expense, (i) modify the Equipment so as to avoid infringement of any such patent or copyright, (ii) replace said Equipment with equipment that does not infringe or violate any such patent or copyright, or (iii) as a last resort, remove the Equipment and refund the purchase price.

17. **INDEMNITY.** To the extent and proportion of its negligence, SUEZ will indemnify and hold Purchaser harmless for any claims, damages, suits, or losses by third parties for death or bodily injury or damage to tangible property (other than to the Equipment itself) directly caused by SUEZ's performance under this Contract.

18. **GOVERNING LAW/JURISDICTION.** This Contract shall be governed by the laws of the Commonwealth of Virginia, without regard to any conflicts of law principles thereof. Any dispute that cannot be resolved amicably by the Parties shall be referred to the federal or state courts having jurisdiction over Henrico County, Virginia. The Parties irrevocably waive the right to request trial by jury.

19. **NOTICES.** Unless otherwise provided, any notices to be given hereunder shall be given in writing at the address and to the representatives mentioned in the Contract Documents and shall be deemed effectively given (i) upon personal delivery to the party to be notified, (ii) on confirmation of receipt by fax by the party to be notified, (iii) one business day after deposit with a reputable overnight courier, prepaid for overnight delivery and addressed as set forth herein, or (iv) three days after deposit with the U.S Post Office, postage prepaid, registered or certified, with return receipt requested.

20. **ASSIGNMENT/SUCCESSORSHIP.** Neither SUEZ nor Purchaser may assign this Contract without the prior written consent of the other party, which consent shall not be unreasonably withheld or delayed, except that SUEZ may assign this Contract to an affiliate without consent. Any prohibited assignment shall be null and void. SUEZ and Purchaser intend that the provisions of this Contract are binding upon the parties, their employees, agents, heirs, successors and assigns.

21. **SEVERABILITY.** If any term, condition or provision of this Contract or the application thereof to any party or circumstance shall at any time or to any extent be invalid or unenforceable, then the remainder of this Contract, or the application of such term, condition or provision to parties or circumstances other than those which it is held invalid or unenforceable, shall not be affected thereby, and each term, condition and provision of this Contract shall be valid and enforceable to the fullest extent permitted by law.

22. **NO WAIVER.** The failure of either party to insist upon or enforce strict performance by the other party of any provision of this Contract or to exercise any right under this Contract shall not be construed as a waiver or relinquishment to any extent of such party's right to assert or rely upon any such provision or right in that or any other instance; rather, the same shall be and remain in full force and effect.