

WEST SOUND UTILITY DISTRICT

Board of Commissioners
Regular Board Meeting

August 16, 2023
1:00 PM

Please direct your smart device or computer to www.wsud.us/meetings for information on virtual attendance.

AGENDA

PUBLIC COMMENTS

CONSENT AGENDA

1. Approval of the Regular Board Meeting Minutes of August 2, 2023
2. Approval of Vouchers WSUD #31605 through #31637 in the amount of \$317,926.75
3. Approval of Vouchers SKWRF #17587 through #17598 in the amount of \$131,558.62
4. Approval of the August Payroll in the amount of \$236,142.02

BOARD DISCUSSION/ACTION ITEM

1. Discussion, Business Hours
2. WSUD Water System Plan Approval Letter
3. Resolution 1098-23, Authorize Purchase of Chemical Storage Buildings

STAFF REPORTS

1. Plant Manager
2. Operations Manager
3. Finance Manager
4. General Manager

COMMISSIONERS' REPORTS

EXECUTIVE SESSION

Executive Sessions may be scheduled or announced for discussions per RCW 42.30.110.

FUTURE MEETINGS

September 6	Regular Board Meeting
September 13	Special Meeting, 2024 Capital Improvement Budgets (10:00 am)
September 20	Regular Board Meeting
October 4	Regular Board Meeting
October 4	Sewer Advisory Committee (City Hall)

Executive Sessions may be scheduled as needed for personnel, legal and other similar matters.

The Board may add and take action on other items not listed on the agenda

WEST SOUND UTILITY DISTRICT
Minutes of Meeting of the Board of Commissioners
2924 SE Lund Avenue, Port Orchard, WA 98366
Wednesday, August 2, 2023, at 1:00 p.m.

Chairperson: Susan Way
Vice Chairperson: James J. Hart
Commissioner: Jerry Lundberg

Attending: Randy Screws, General Manager
John Tapia, Operation Manager
Marty Grabill, Plant Manager
Joy Ramsdell, Finance Manager
Ken Bagwell, Attorney
Amber Brooks, Accounting/Office Assistant

The meeting was called to order by Commissioner Way at 1:00 p.m.

PUBLIC COMMENTS

CONSENT AGENDA

1. Approval of the Regular Board Meeting Minutes of July 19, 2023
2. Approval of Vouchers WSUD #31571 through #31604 in the amount of \$65,300.30
3. Approval of Vouchers SKWRF #17563 through #17586 in the amount of \$16,060.12

Commissioner Hart moved to approve the items in the Consent Agenda. The motion was seconded by Commissioner Way; the motion was approved 2-0, due to Commissioner Lundberg being late.

BOARD DISCUSSION/ACTION ITEM

Introduction of the 2024 WSUD & SKWRF Budget Preparation Schedule

Went over the dates and times with the commissioners and General Manager Randy Screws will continue to work on the 2024 Budget.

Discussion, Utility Conflict Notification, WSDOT Fish Barriers Project

General Manager Randy Screws will continue working to address the need to relocate infrastructure for the Highway 166 Fish Barriers Project.

STAFF REPORTS

PLANT MANAGER'S REPORT

Plant Manager Marty Grabill reported:

- Testing and monitoring as required by the NPDES Permit.
- NPDES Permit renewal has been accepted, and renewal is in process.
- Received three quotes on preventative maintenance software. At this point, we may just budget for our current software at the rate increase expected. All three start-up quotes came in at an excess of \$30k, with annual costs exceeding \$14k. which, to me, is not a justified expense for the SKWRF.
- MBR Blower replacement received and installed and is back online.
- Load bank project: Awaiting equipment delivery, expected ship date 11/17/23.
- Received quotes for stormwater asphalt modifications. No action was taken at this time. This may be revisited later when the cost of operating vs. the cost of asphalt modifications is justifiable.
- YSI solids blanket analyzer trial completed.
- Leachate receiving is currently tentative for this month. The hauling company is currently having driver shortage issues.
- Lead Operator job opening has been posted. Very few applicants.

P.S.E. Conservation Grant Agreement (2021-2023)

- Continuous work with P.S.E. on Conservation Grant Agreement. Year 3 of 3.

Rotary Drum Thickener-ESCO (2022)

- RDT is installed and online as of July 12th.
- Closeout walkthrough happened today, July 19th.
- Awaiting punch list completion, as-builts and polymer pump for full close out.

Nutrient General Permit (2022)

- Ongoing testing and documentation.
- Still awaiting a decision on in-house accreditation from D.O.E. Submitted all documentation to Ecology for review Thursday, June 15th. No further updates.

OPERATION MANAGER'S REPORT

Operations Manager John Tapia reported:

CIP - South Park Main Replacement

- Locate and survey completed for the site.
- WSE is working on the recommended easement.

Powell Booster Station Engineering

- 100% of the plans are completed.

Fircrest/Mile Hill Main Replacement

- 2" galvanized to be replaced.
- Possible development going in.

Olney Sewer Replacement

- An engineering contract has been signed with WSE.

- Project design has started, the location is complete.
- Should have our costs and specs this Friday.

Crew:

1. St. Vincent DePaul project: City contacted about the permit. Reached out to Caseco for time update, says we are on his schedule.
2. Commercial/Residential water meter replacements continue.
3. Continue to do service line inventory which is located in VUEWorks.
4. Flush and TV workorders continue.
5. Well 16 is put back together and pumping into the system.
6. Well 21 is still working great since the new breaker has been installed.
7. Well 22 rehab project is still ongoing. Holt will do another round of PFD to remove more sediment. This was suggested by Robinson Noble.
8. WSDOT Franchise permit is moving forward.
9. Sanitary survey completed, minimal findings for repair. Grommets on the hypo tank hoses installed and gas monitors will be installed soon.

Water Production: Through July

- 2022- 331,929,000
- 2023- 368,404,000
- 2.8-million-day avg.
- 87,090,000 in July

Rain Gauge:

- 2022- 28.20
- 2023- 22.6

Difference- 5.44” LESS than last year

FINANCE MANAGER’S REPORT

Finance Manager Joy Ramsdell reported:

- Consumption for July was 66m gallons, 32% more compared to July 2022.
- July Revenues – Sewer \$454K, 7.7% increase, added 18 ERU new connections; water \$496K, 30% increase, added 30 new connections.
- 1,966 customers paid online including 1,700 autopay and 36 accounts had final billing.
- The meter reading data transfer issue was not caused by software. It was an operation process error. We communicated with the operation dept to confirm the procedure to avoid this issue.
- Preparing annual financial disclosure for municipal security rulemaking board.
- Budget 2024 preparation.

GENERAL MANAGER’S REPORT

General Manager Randy Screws reported:

- Staff continue to assess installation scenarios for the proposed carport-type area for District vehicles. Staff are currently confirming site requirements for the project.
- Staff continue working on the re-establishment of a franchise agreement with WSDOT for water utilities.
- Work on the gravity sewer from the Annapolis lift station to eliminate the overflow connection to the City’s sewer system continues.
- SKWRF Lead Operator job announcement has been posted.
- HRA VEBA – Staff were provided with ballots for voting on payout of sick leave accruals for retirement and termination of employment. The Employee ballots received and counted do not indicate a desire by staff for consideration by the Board to modify the current policies in regard to payout of sick leave accruals for retirement and termination of employment.
- Working on the 2024 budget.
- Working to address the need to relocate infrastructure for the Highway 166 Fish Barriers Project.

COMMISSIONERS’ REPORTS

Commissioners Way, Hart, and Lundberg had nothing to report.

EXECUTIVE SESSION

None requested.

ADJOURN

Commissioner Hart moved to adjourn the meeting at 1:52 p.m. Motion was seconded by Commissioner Lundberg; the motion was approved 3-0.

Susan Way

Chairperson

James Jay Hart

Vice-Chairperson

Jerry Lundberg

Secretary



STATE OF WASHINGTON
DEPARTMENT OF HEALTH
SOUTHWEST DRINKING WATER REGIONAL OPERATIONS
111 Israel Road Southeast • PO Box 47823 • Olympia, Washington 98504-7823
Tel: (360) 236-3030 • Fax: (360) 236-3029 • TDD/TTY 711

August 3, 2023

Jerald Johnson
West Sound Utility District No 1
2924 Southeast Lund Avenue
Port Orchard, Washington 98366

Subject: West Sound Utility District Water System, ID #02600W, Kitsap County; Water System Plan, ODW Project #22-1104, **APPROVAL**

Dear Jerald Johnson:

The Water System Plan (WSP) we received on November 15, 2022, together with revisions received on July 14, 2023, and July 19, 2023, are **APPROVED**.

Approval of this WSP is valid as it relates to the standards outlined in WAC 246-290 revised January 14, 2017, WAC 246-293 revised January 1991, and RCW 70.116 (Municipal Water Law) effective September 2003, and is subject to the qualifications herein. Future changes in the rules and statutes may be more stringent and require facility modification or corrective action.

This WSP approval is valid until July 20, 2033, unless ODW requests an update or plan amendment pursuant to WAC 246-290-100(9). Please contact your regional planner at least a year in advance to discuss your planning options.

APPROVED NUMBER OF CONNECTIONS

Based on the information supplied in the WSP, the water system has sufficient capacity to meet the growth projections for the identified 10-year planning period. ODW will reflect this condition by noting an “**unspecified**” designation for its approved number of connections on the Water Facilities Inventory (WFI) form and Operating Permit.

Based on the analysis presented, the water system demonstrates service capacity to serve a total of 11,754 ERUs based on a Maximum Day Demand (MDD) of 170 gpd/ERU. The limiting factor is source capacity.

You are responsible for permitting the addition of new service connections to your water system in a manner consistent with the approved WSP. We expect you to maintain a process that recognizes all new connections added to the water system and the water demands associated with

each connection. Your process must ensure that physical capacity and water right limitations are not exceeded.

LOCAL GOVERNMENT CONSISTENCY

James L. Rogers signed the local government consistency statement for Kitsap County on August 2, 2023. This meets local government consistency requirements for WSP approval pursuant to RCW 90.03.386 and RCW 43.20.

SEPA

We acknowledge that consideration of a final environmental document related to the subject plans and specifications was used in the review process leading to this approval.

SERVICE AREA AND DUTY TO SERVE

Pursuant to RCW 90.03.386(2), the service area identified in this WSP service area map may now represent an expanded “place of use” for this system’s water rights. Changes in service area should be made through a WSP amendment.

The West Sound Utility District has a duty to provide new water service within its retail service area. This WSP includes service policies to describe how your system plans to provide new service within your retail service area.

CONSTRUCTION WAIVERS

Standard Construction Specifications for distribution main extensions in this WSP are approved. Consistent with WAC 246-290-125(2), this system may proceed with the installation of distribution main extensions provided you complete and keep on file a construction completion report form in accordance with WAC 246-290-125(2) and WAC 246-290-120(5) and make it available for review upon request by ODW.

WATERSHED PLANNING

The West Sound Utility District Service Area is located in Water Resource Inventory Area (WRIA) 15-Kitsap. Please contact the Department of Ecology for more information regarding watershed planning.

WATER RESOURCES

Our approval of your water system design does not confer or guarantee any right to a specific quantity of water. The approved number of service connections is based on your representation of available water quantity. If Ecology, a local planning agency, or other authority responsible for determining water rights and water system adequacy, determines you have use of less water than you represented, the number of approved connections may be reduced commensurate with the actual amount of water and your legal right to use it.

Jerald Johnson
August 3, 2023
Page 3

WAC 246-290-990 establishes a schedule of fees for review of planning, engineering, and construction documents. Enclosed are an invoice and a fee worksheet. The total amount due is \$3705.

This project was co-reviewed by Scott Torpie, P.E. If you have any questions, please contact Cecilia Welch at (564) 669-0829 or by e-mail at cecilia.welch@doh.wa.gov.

Sincerely,



Andy Anderson
Office of Drinking Water, Regional Manager
Engineer



Cecilia Welch, EIT
Office of Drinking Water, Regional

Enclosures

cc: Randy Screws, WSUD
Jeffrey Hansen, HDR
Dan Graves, HDR
Kitsap Public Health District
Northwest Department of Ecology
Andy Anderson, ODW

STATE OF WASHINGTON
Department of Health
OFFICE OF DRINKING WATER
Project And Plan Review

INVOICE

ACCOUNTS PAYABLE
WEST SOUND UTILITY DISTRICT #1
2924 SE LUND AVENUE
PORT ORCHARD, WA 983665547

WS ID: 02600
Invoice No: 53426
Invoice Date: 08/03/2023
Due Date: 09/02/2023

WS NAME: West Sound Utility District #1

PROJECT AND PLAN REVIEW SUBMITAL#: 22-1104

DESCRIPTION	QTY	COST	AMOUNT
Water System Plan	12	x \$308.75	\$3705.00
		Total Amount Due	\$3705.00

Comments: (a)(1) Water system plan (new and updated plans) 1,000 to 9,999 Services

1. **Pay online** with a credit card, debit card, or electronic check (ACH) using the Environmental Health Payment System at <https://secureaccess.wa.gov/>.
2. For billing questions, please contact Southwest Drinking Water Regional Operations at (360) 236-3030 or via email SWRO.Admin@DOH.WA.GOV.
3. This invoice is issued in accordance with WAC 246-290-990(3)(c)(iii).
4. For persons with disabilities, this document is available on request in other formats. To submit a request, please call 711 Washington Relay Service.
5. If paying by check:

Make checks payable to Department of Health, Federal ID #91-1444603.

Please return the bottom portion of this invoice with your check.

Invoice Number: 53426
Invoice Amount: \$3705.00
Owner Number: 032971
WS Name: West Sound Utility District #1

Invoice Date: 08/03/2023
Invoice Due Date: 09/02/2023
Region: SW
WS ID: 02600

Reference: PROJECT AND PLAN REVIEW FEES

Please remit to:
**ACCOUNTS RECEIVABLE
DOH PROJECT AND PLAN REVIEW FEES
PO BOX 1099
OLYMPIA, WA 98507-1099**

DOH Staff Name: Andy Anderson and Ceci Welch
 Sublog Number: 22-1104
 Water System ID: 02600W

System Name: West Sound Utility District
 County: Kitsap

Fixed Fee for Service

WATER SYSTEM PLANS

Project Type	Fee 1st Review	Fee 2nd Review	Approved?	No
			Number Hr 1st Review	Number Hr 2nd Review
(a)(1) Water system plan (new and updated plans) 1,000 to 9,999 Seviles	\$3,705		12.0	
Total Water system plans	\$3,705	\$0	12	0

SATELLITE MANAGEMENT AGENCY (SMA) PLANS

Project Type	Fee 1st Review	Fee 2nd Review	Approved?	No
			Number Hr 1st Review	Number Hr 2nd Review
Total SMA	\$0	\$0	0	0

PROJECT REPORTS

Project Type	Fee 1st Review	Fee 2nd Review	Approved?	No
			Number Hr 1st Review	Number Hr 2nd Review
Total Project Reports	\$0	\$0	0	0

CONSTRUCTION DOCUMENTS

Project Type	Fee 1st Review	Fee 2nd Review	Approved?	No
			Number Hr 1st Review	Number Hr 2nd Review
Total Construction documents	\$0	\$0	0	0

EXISTING SYSTEM APPROVAL

Project Type	Fee 1st Review	Fee 2nd Review	Approved?	No
			Number Hr 1st Review	Number Hr 2nd Review
Total of Existing System approval	\$0	\$0	0	0

GROUP B AND OTHER EVALUATIONS AND APPROVALS

Project Type	Fee 1st Review	Fee 2nd Review	Approved?	No
			Number Hr 1st Review	Number Hr 2nd Review
Total of Other evaluations and approvals	\$0	\$0	0	0

Total Fixed Fee for Service

\$3,705	\$0	12	0
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Hourly fee for service	Fee	# Hr	System Size

Pay This Invoice Amount For This Review	\$3,705	0.0	12	0
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			Total for All Project Invoices	Total for All Project Hours
Summary			\$3,705	12

**WEST SOUND UTILITY DISTRICT
RESOLUTION 1098-23**

**A RESOLUTION OF THE
WEST SOUND UTILITY DISTRICT BOARD OF COMMISSIONERS
AUTHORIZING THE PURCHASE OF
CHEMICAL STORAGE BUILDINGS
FOR WELL SITES**

WHEREAS, the State of Washington, Department of Health Office of Drinking Water conducted a Sanitary Survey of the District's Water System sites on June 28, 2023; and

WHEREAS, a report was issued to the District and contained an observation identifying isolation of the bulk chemicals to prevent further degradation of the wellhead; and

WHEREAS, District staff had made inquiries to five (5) vendors (Whitney Equipment, Global Treatment, Open Channel Southland, VPC and Shelter Works) for supply of the fiberglass chemical storage buildings. It was determined that Whitney Equipment, Inc. provided the lowest responsible quote which meets the needs of the District for the chemical storage buildings; and

WHEREAS, the amount for this contract purchase is in excess of the \$20,000.00 purchasing authority of the General Manager and requires the approval of the Board of Commissioners; **NOW, THEREFORE**,

THE BOARD OF COMMISSIONERS OF WEST SOUND UTILITY DISTRICT HEREBY RESOLVES:

Section 1. The Board of Commissioners hereby approves the purchase of the chemical storage buildings as quoted by Whitney Equipment Company Inc. in the amount of \$22,800.00 plus WSST per Exhibit "A". The Board further authorizes the General Manager to sign the purchase contract.

APPROVED and ADOPTED by the Board of Commissioners of West Sound Utility District at a Board meeting scheduled August 16, 2023.

WEST SOUND UTILITY DISTRICT
Kitsap County, Washington

Susan Way
Chairperson

James J. Hart
Vice Chairperson

Jerry Lundberg
Secretary



16120 Woodinville-Redmond Road NE, Suite 3
Woodinville, WA 98072 Phone: (425) 486-9499

2501 Columbia Way Suite 300
Vancouver, WA 98661 Phone: (360) 694-9175

8/9/2023

Quote #: 40796 - 2

To: West Sound Utility District
Attn: JJ Johnson
Email: jjohnson@wsud.us
Phone: 3608762545

Project Name: WSUD Shelters

The following is Whitney Equipment Company's proposal for equipment we can furnish for the above referenced project. A detailed list of the equipment and services included in this proposal is shown in the following Scope of Supply. Only items listed in the Scope of Supply are included in this proposal. This proposal is valid for 30 days from the date listed above. Please contact us to verify pricing and availability beyond 30 days as pricing and availability may vary. The conditions of sale associated with this proposal are attached.

Engineering calculations and design services are included only when specifically listed in the Scope of Supply. Field or startup services are not included unless specifically listed in the Scope of Supply. If additional field or onsite assistance is needed beyond what is included in the Scope of Supply, it can be supplied at a rate of \$193.00/hour at the job site, plus travel time and expense. Unless specifically listed in the following Scope of Supply, we do not include haulage, unloading including provision of lifting equipment, permits, bonds, insurance, installation, sales or use taxes or duties of any kind, power, chemicals, water, concrete, grout, anchor bolts, controls, wire, conduit, lights, fans, piping, valves, fittings, drains, meters, gauges, signs, safety equipment, labor, tools, field paint, lubricants, or any other items not listed as included.

Prices are firm for 30 days. Purchaser must also pay any costs incurred for additional field or onsite assistance no later than 30 days after receipt of an invoice for field or onsite services from Whitney Equipment Company.

The equipment will be coated with the manufacturers' standard preparation and coatings unless special coatings are listed in the Scope of Supply. Equipment will be prepared for shipment per the manufacturers' standard packing procedure. The purchaser is responsible for receiving all items including promptly inspecting for damage, noting damages, and filing for all missing or damaged items in a timely manner. Freight shall be standard ground or ocean freight unless otherwise listed. The purchaser is responsible for proper storage and handling of the equipment per the manufacturer's recommendations prior to installation to ensure warranty coverage. Warranty coverage shall be manufacturer's standard warranty unless specifically listed in the Scope of Supply.

This job is being handled by Brad Vande Vusse, phone . Please call if you need further information or prices.

SCOPE OF SUPPLY

JJ, we are pleased to offer you the following quote.

Quantity	Product / Description	Price per Unit	Total Price
2 each	VPC Enduro M200 45x45x74 CONSTRUCTION -Fiber-Reinforced Plastic (FRP) Construction -Isophthalic Polyester Resin -UV Resistant Gel Coat Exterior -UV Resistant Gel Coat Interior -1" Thick Rigid Polyisocyanurate Insulated Core (R7) OPTIONS -(1) 60 CFM Exhaust Fan with Thermostat -(1) 20A GFI Outlet	\$7,200.00	\$14,400.00
2 each	VPC Enduro M100 37.5 x 37.5 x 50 CONSTRUCTION -Fiber-Reinforced Plastic (FRP) Construction -Isophthalic Polyester Resin -UV Resistant Gel Coat Exterior -UV Resistant Gel Coat Interior -1" Thick Rigid Polyisocyanurate Insulated Core (R7) OPTIONS -(1) 20A GFI Outlet	\$4,200.00	\$8,400.00

Sub-Total: \$22,800.00

Freight: TBD

TOTAL: \$22,800.00

Lead Times: 4-8 weeks ARO

Freight Terms: FOB Factory, prepaid and added to invoice

Sales tax is not included unless specified.

Payment Terms: NET30

Sincerely,

Brad Vande Vusse, Municipal Account Manager Washington

Purchaser's Signature: By signing below, I certify that I am an authorized representative with the authority to enter into contracts on behalf of the company identified below, and that I accept the terms included with this proposal.

Signature

Date

Print Name and Title

BILL TO

SHIP TO

Company or Organization Bill To

Company or Organization Ship To

Bill To Address

Ship To Address

City/State/Zip

City/State/Zip

Billing Contact Name

Shipping Contact Name

Billing Contact Email

Shipping Contact Email

Billing Contact Phone Number

Shipping Contact Phone Number

PO # if applicable _____

If using a Purchase Order:

Make PO out to

Whitney Equipment Company Inc

16120 Woodinville Redmond Rd NE #3

Woodinville, WA 98072

Email: sales@weci.com

**WHITNEY EQUIPMENT CO., INC.
WOODINVILLE, WA
STANDARD CONDITIONS OF SALE**

These are Whitney Equipment Co., Inc., the Seller, Standard Terms and Conditions and the basis of our offer to the Buyer, unless specifically altered in writing as permitted herein. Any changes may affect the quoted price. These Standard Terms and Conditions and the bid quote, purchase order, or other order form to which they are attached (the "Bid Quote") form a contract between Buyer and Seller for the sale of products described in the Bid Quote (the "Contract").

ACCEPTANCE: Submission of this Contract to Buyer constitutes Seller's offer to the Buyer and on acceptance becomes a binding contract on the terms set forth herein. Buyer's acceptance is expressly limited to the terms of this Contract. Seller rejects all terms included in any response by the Buyer to this Contract that are in conflict with, inconsistent with, or in addition to the terms and conditions contained herein. But if a conflict arises between the terms of a purchase order first issued by Buyer and the terms of this Contract, the terms of this Contract shall take precedence.

ENTIRE AGREEMENT: The Contract comprises the entire agreement between the Buyer and the Seller, and supersedes all prior or contemporaneous understandings, agreements, negotiations, representations and warranties, and communications, both written and oral. This Contract prevails over any terms and conditions of purchase provided by Buyer, regardless of whether or when the Buyer has submitted its purchase order or such terms. In addition, implied terms and conditions from the Buyer's contracts with other entities are not valid or enforceable with respect to this Contract. Fulfillment of the Buyer's order does not constitute acceptance of any of Buyer's terms and conditions and does not serve to modify or amend this Contract.

GOVERNING LAWS: Seller will comply with all laws applicable to Seller during sale of the products. Buyer will comply with all laws applicable to Buyer during operation or use of the products. The laws of the State of Washington shall govern the validity, interpretation, and enforcement of any order of which these provisions are a part, without giving effect to any rules governing the conflict of laws. Assignment may be made only with written consent of both parties. Buyer shall be liable to the Seller for any attorney's fees and costs incurred by Seller in enforcing any of its rights hereunder. Unless otherwise specified, any reference to Buyer's order is for identification only.

JURISDICTION AND VENUE: Any legal suit, action or proceeding arising out of relating to this Contract shall be commenced in federal or state court located King County, Washington and Seller and Buyer (i) irrevocably submit to the exclusive jurisdiction and venue of any such court in any such suit, action or proceeding and (ii) irrevocably waive (to the extent permitted by applicable law) any objection which they now or hereafter may have to the laying of venue of any such action or proceeding brought in any of the foregoing courts in and of the State of Washington, and any objection on the ground that any such action or proceeding in any such court has been brought in an inconvenient forum.

ATTORNEYS FEES AND EXPERT COSTS: The prevailing party in any legal suit, action, or proceeding arising out of relating to the Contract shall be awarded its reasonable attorneys' fees and experts costs.

WARRANTY:

THE SELLER MAKES NO WARRANTIES ON ANY PRODUCTS OR SERVICES PROVIDED UNDER THIS CONTRACT, INCLUDING ANY (A) WARRANTY OF MERCHANTABILITY, (B) WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, OR (C) WARRANTY AGAINST INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OF A THIRD PARTY, WHETHER EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OR OTHERWISE. BUT THE BUYER SHALL RECEIVE WARRANTIES, IF ANY, PROVIDED BY THE MANUFACTURER OF THE PRODUCTS SOLD UNDER THIS CONTRACT. THE SELLER IS EXPRESSLY EXCLUDED FROM ANY WARRANTY AND ALL CHARGES, FOR LABOR, INSTALLATION, REMOVAL, REPAIR, REINSTALLATION, SHIPPING, UTILITIES, EQUIPMENT RENTAL, OTHER REQUIRED MATERIALS, OR ANY OTHER ITEMS. THE PARTIES AGREE THAT THE BUYER'S SOLE AND EXCLUSIVE REMEDIES SHALL BE AGAINST THE PRODUCT MANUFACTURER AS PROVIDED HEREIN. THE BUYER AGREES THAT NO OTHER REMEDY (INCLUDING, BUT NOT LIMITED TO, INCIDENTAL OR CONSEQUENTIAL DAMAGES FOR LOST PROFITS, LOST SALES, DOWN TIME, OPERATING OR MAINTENANCE COSTS, INJURY TO PERSONS OR PROPERTY, OR ANY OTHER SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL LOSS) SHALL BE AVAILABLE TO BUYER. BUYER SHALL FOLLOW ALL STORAGE, OPERATION, AND MAINTENANCE PROCEDURES SPECIFIED BY THE MANUFACTURER FOR WARRANTY COVERAGE, FAILURE TO FOLLOW THESE PROCEDURES INCLUDING DOCUMENTATION MAY RESULT IN LOSS OF WARRANTY COVERAGE.

TAXES: Seller does not include any Federal, State, City, County, or other sales, custom duties, or taxes such as sales, use, excise, retailer's, occupation or similar taxes and fees, in the Contract Price unless otherwise explicitly stated in writing. Any taxes not included in the Bid Quote will be added to the Contract Price. In lieu of paying such taxes to the Seller, the Buyer may furnish the Seller with a Tax Exemption Certificate or other legal and appropriate taxing authorities at any time.

PAYMENT TERMS: All quotations or proposals are in US Dollars unless explicitly stated otherwise in writing. Seller shall submit invoices for payment to Buyer for percentages of the Contract Price as described in Bid Quote. Buyer must pay all invoices submitted by Seller no later than 30 days after the date of the invoice. If the shipment is delayed by the Buyer, date of readiness for shipment shall be deemed the date of shipment for payment purposes. The Seller may require advance payment or a certificate of deposit, or may otherwise modify credit terms, should the Buyer's credit standing not meet the Seller's requirements. A service charge of 2.5% per month on the unpaid balance will be charged on all overdue monies payable. Buyer shall not assign or transfer their contract or any interest in it, or monies payable under it, without the written consent of Seller and any assignment made without such consent shall be null and void. Buyer agrees to pay all collection costs and costs of suit, including reasonable attorney fees, in the event Seller institutes collection action for overdue account. Seller expressly reserves all available lien rights in connection with any transaction between the parties. Unless explicitly agreed upon in writing, retainage against the contract amount is not allowed. The Seller reserves the right to repossess all equipment that is not paid for in full per this Contract's payment terms.

CREDIT CARD PAYMENTS: All credit card payments will require an additional 2% surcharge in addition to the Contract Price listed in the Contract. All credit card payments over \$5000.00 require written pre-approval by the Seller prior to processing; approval is not guaranteed.

CREDIT: Buyer is required to provide all necessary credit information to Seller with each order, including bank reference, bonding company, or other necessary information with complete names, addresses, phone numbers, personal references, and account and bond numbers. The Seller will determine, in its sole discretion, what is acceptable and what credit rating is required for the Seller to allow a purchase on credit.

PRICE: The prices specified are in U.S. currency, payable free of all expense to the Seller for collection charges.

STARTUP PAYMENTS: If startup services are included in this Contract, the pre-agreed upon payment amount shall be due when startup is complete. If startup is delayed more than 90 days after equipment delivery, payment for startup shall be due 90 days after equipment delivery prior to the startup occurring. Delaying in paying this portion of the contract is subject to the PAYMENT TERMS above.

SHIPMENTS AND DELIVERY: Delivery and shipping times are Seller's best estimate and do not include product approval time or order processing time. Seller is not liable for any damages, fees, costs, expenses or penalties arising from (1) loss of or damage to product in transit or (2) delays in shipping or delivery of the product, including all delays caused by an accident; riots; insurrections; national emergency; labor disputes of every kind however caused; embargoes; non-delivery by suppliers; delays of carriers or postal authorities; or governmental restrictions, prohibitions, or requirements. Seller may, in its sole discretion, without liability or penalty, make partial shipments of products to Buyer. Each shipment will constitute

Whitney Equipment Company, Inc.

a separate sale, and Buyer shall pay for the units shipped whether such shipment is in whole or partial fulfillment of Buyer's order. Cost of handling and freight is only included when it is explicitly listed in this Contract.

NON-DELIVERY: The quantity of any installment of products as recorded by Seller on dispatch from Seller's place of business is conclusive evidence of the quantity received by Buyer on delivery unless Buyer can provide conclusive evidence proving the contrary. Any liability of Seller for non-delivery of the products shall be limited to replacing the products within a reasonable time or adjusting the invoice respecting such products to reflect the actual quantity delivered.

APPROVALS: Buyer is responsible for obtaining approval on products from project owners and engineers. The Seller represents only those products are as described in this Contract. The Seller does not warrant that the products described will be approved or otherwise satisfactory to project owners or engineers, or that products meet project specifications. Seller does not guarantee compliance with any codes or laws unless explicitly stated in this Contract. Performance of the overall system that incorporates the products is not guaranteed.

OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970 – Seller does not warrant or represent that any of Seller's products by themselves or in a system or with other equipment will conform to or comply with the provisions of the Occupational Safety and Health Act of 1970 and the standards and regulations issued thereunder, or any other federal, state, or local law or regulation of the same or similar nature.

LIMITATION OF LIABILITY - NEITHER SELLER, NOR ITS SUPPLIERS SHALL BE LIABLE, WHETHER IN CONTRACT, WARRANTY, FAILURE OF A REMEDY TO ACHIEVE ITS INTENDED OR ESSENTIAL PURPOSES, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, INDEMNITY OR ANY OTHER LEGAL THEORY, FOR LOSS OF USE, REVENUE OR PROFIT, OR FOR COSTS OF CAPITAL OR OF SUBSTITUTE USE OR PERFORMANCE, OR FOR INDIRECT, SPECIAL, LIQUIDATED, INCIDENTAL OR CONSEQUENTIAL DAMAGES, OR FOR ANY OTHER LOSS OR COST OF A SIMILAR TYPE, OR FOR CLAIMS BY BUYER FOR DAMAGES OF BUYER'S CUSTOMERS. SELLER'S AGGREGATE LIABILITY ARISING OUT OF OR RELATING TO THIS CONTRACT SHALL NOT EXCEED THE CONTRACT PRICE, PROVIDED HOWEVER, IF THE BID QUOTE INCLUDES FIELD OR STARTUP SERVICE, SELLER'S LIABILITY FOR SAID SERVICES SHALL BE LIMITED TO THE VALUE OF THE SERVICES. BUYER AND SELLER AGREE THAT THE EXCLUSIONS AND LIMITATIONS SET FORTH IN THIS ARTICLE ARE SEPARATE AND INDEPENDENT FROM ANY REMEDIES WHICH BUYER MAY HAVE HEREUNDER AND SHALL BE GIVEN FULL FORCE AND EFFECT REGARDLESS OF WHETHER ANY OR ALL SUCH REMEDIES SHALL BE DEEMED TO HAVE FAILED OF THEIR ESSENTIAL PURPOSE.

STORAGE – If for any reason Buyer fails to accept products that have been delivered by Seller, or if Seller is unable to deliver the products because Buyer has not provided appropriate instructions, documents, licenses, or authorizations, then Seller may place the products in storage at Buyer's cost and expense, which includes the cost of storage, shipping fees, insurance, and other incidental expenses. The Buyer carries risk of loss for products in storage.

TITLE - Title to the products and risk of loss or damage passes to Buyer upon delivery of the products at the Point of Delivery listed in the Bid Quote. As collateral security for the payment of the Contract Price for the products, Buyer hereby grants to Seller a lien on and security interest in and to all of the right, title and interest of Buyer in, to, and under the products, wherever located, and whether now existing or hereafter arising or acquired from time to time, and in all accessions thereto and replacements or modifications thereof, as well as all proceeds (including insurance proceeds) of the foregoing. The security interest granted under this provision constitutes a purchase money security interest under the Washington Uniform Commercial Code. Buyer agrees to perform all additional acts necessary to perfect and maintain said security interest.

INSURANCE: Buyer shall, at its own expense, purchase, maintain and carry adequate insurance for the products to protect against loss or damage from any external cause, including losses from fire, wind, water, or other causes. Insurance coverage must be maintained with insurance companies legally authorized to do business where said products are located in an amount at least equal to the value of said products until the products are accepted and paid for in full. Upon Seller's request, Buyer shall provide Seller with a certificate of insurance from Buyer's insurer evidencing the insurance coverage that is satisfactory to Seller. The certificate of insurance must name Seller as an additional insured. In no case does the Contract Price, even if inclusive of freight, cover the cost of insurance beyond the Point of Delivery specified in the Bid Quote]

CANCELLATION: The Buyer may cancel its order only upon written notice, and in turn will make payment to Seller of reasonable cancellation charges specified by Seller.

ORAL STATEMENTS: The Seller's personnel may have made oral statements about the products described in this Contract during the sales process. Such statements do not constitute warranties or guarantees and shall not be relied on by the Buyer. The entire contract is embodied in this writing. This writing constitutes the final expression of the parties' agreement, and it is a complete and exclusive statement of the terms of that agreement.

CHANGES: Seller reserve the right to make changes and to substitute other material as needed to make shipments and fulfill orders under this Contract.

ERRORS: Seller reserves the right to correct clerical or stenographic errors or omissions.

STATUTE OF LIMITATIONS - To the extent permitted by applicable law, any lawsuit for breach of contract, including breach of warranty, arising out of the transactions covered by this order, must be commenced by the Buyer not later than twelve (12) months from the delivery of Seller's Products or the last day Seller performed any services, whichever is earlier.

INSPECTION: Buyer shall inspect Seller's Products upon receipt, and if Buyer's inspection reveals any defects in the Products, Buyer shall notify the Seller within three (3) days after receipt of the Products of any claim Buyer might have concerning such defects in the Products discovered by Buyer. Buyer's failure to notify Seller within such a three (3) day period shall constitute a waiver by Buyer of all claims covering such defects in the Products. It is the Buyer's responsibility to inspect for shipping damage upon delivery and to initiate a damage claim with the freight carrier. Damage occurring in-transit by the freight carrier must be claimed by the Buyer and is not the Seller's responsibility.

NOT INCLUDED: Seller does not include any item not specifically listed as included. References to specifications and drawings in the Scope of Supply section of the Bid Quote does not indicate that all items in those documents are included in the Scope of Supply. Unless clearly included in this Contract, engineering and design services are not included in this Contract.

FREIGHT: Prices quoted are F.O.B. point of manufacture and do not include freight unless specifically listed as included. Title passed to the Buyer at the Point of Delivery listed in the Bid Quote and all freight claims are the responsibility of the Buyer.

BACKCHARGES will not be accepted unless approved by Seller, in writing, before any work is done.

DELAYS: Price and terms and conditions are subject to revision if manufacture is not released at time of order placement or drawings for approval are not returned within 30 days from receipt by customer, or manufacture is released and subsequently held or delayed by the customer for more than 30 days, or customer requests longer than quoted shipment. If Seller suffers delay in performance due to any cause beyond its control, including but not limited to act of God, war, pandemic, act or failure to act of government, act or omission of Buyer, fire, flood, strike or labor troubles, sabotage, or delay in obtaining from others suitable services, materials, components, equipment or transportation, the time of performance shall be extended a period of time equal to the period of the delay and its consequences. Seller will give Buyer notice in writing within a reasonable time after the Seller becomes aware of any such delay.

DECOMPOSITION AND WEAR: Decomposition by chemical action and wear caused by the presence of abrasive materials shall not constitute defects.

BUYER DATA - Timely performance is contingent upon the Buyer supplying to the Seller, when needed, all required technical information, including drawing and submittal approval, and all required commercial documentation. The Buyer shall also supply and complete all shipping delivery information, pre-delivery checklists, and pre-startup checklists in a timely manner or the overall schedule of the project may be impacted at no cost to the Seller regardless of any potential agreed upon damages.

BUYER SUPPLIED COMPONENTS - Buyer acknowledges that the products purchased by Buyer under this Contract may contain products supplied by the Buyer or supplied by a third party at the Buyer's direction ("Buyer Supplied Components"). Buyer Supplied Components are not covered by any warranty or guarantee in this Contract. For the avoidance of doubt, Seller makes no representations or warranties with respect to any Buyer Supplied Components. Seller disclaims any liability arising from Buyer Supplied Components delivered late, damaged, defective, or nonconforming. In no event shall Seller be liable for consequential, indirect, incidental, special, exemplary, punitive damages, or lost profits, arising out of or relating to late delivery of or defective Buyer Supplied Components. Subject to the terms and conditions of this Contract, Buyer shall indemnify, defend and hold harmless Seller and its representatives/officers, directors, employees, agents, affiliates, successors and permitted assigns ("Indemnified Party") against any and all losses, damages, liabilities, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs, or expenses of whatever kind, including attorney and expert fees, fees and costs of enforcing any right to indemnification under this Contract, and the cost of pursuing any insurance providers, incurred by Indemnified Party in a final judgment relating to any third-party claims arising from defective Buyer Supplied Components.