

**AGREEMENT WITH GEA MECHANICAL EQUIPMENT US, INC.  
FOR CENTRIFUGE REPAIR AND SPARE PARTS SERVICES  
FOR  
THE WASTEWATER TREATMENT PLANT CENTRIFUGES**

This Agreement, made and entered into this day of \_\_\_\_\_, by and between the **CITY OF SAN MATEO**, a municipal corporation existing under the laws of the State of California ("CITY"), and GEA Mechanical Equipment US, Inc. a Corporation ("CONTRACTOR"), whose address is 100 Fairway Court, Northvale, NJ 07647.

**RECITALS:**

A. CITY desires certain repair services hereinafter described.

B. CITY desires to engage CONTRACTOR to provide these repair services by reason of its qualifications and experience for performing such services and CONTRACTOR has offered to provide the required services on the terms and in the manner set forth herein.

**NOW, THEREFORE, IT IS AGREED** as follows:

**SECTION 1 - SCOPE OF SERVICES**

The scope of services to be performed by CONTRACTOR under this Agreement is as described in Exhibit A to this Agreement, which is attached and incorporated by reference.

**SECTION 2 - DUTIES OF CONTRACTOR**

CONTRACTOR shall be responsible for the professional quality, technical accuracy and coordination of all work furnished by CONTRACTOR under this Agreement. CONTRACTOR shall, without additional compensation, correct or revise any errors or deficiencies in its work.

CONTRACTOR represents that it is qualified to furnish the services described under this Agreement.

CONTRACTOR shall be responsible for employing or engaging all persons necessary to perform the services of CONTRACTOR.

CONTRACTOR agrees to comply with the City's minimum wage ordinance as codified in Municipal Code Chapter 5.92, which differs from the state minimum wage and includes a Consumer Price Index escalator.

### **SECTION 3 - DUTIES OF CITY**

CITY shall provide pertinent information regarding its requirements for the project. CITY shall examine documents submitted by CONTRACTOR and shall render decisions pertaining thereto promptly, to avoid unreasonable delay in the progress of CONTRACTOR's work.

### **SECTION 4 - TERM**

The services to be performed under this Agreement shall commence on July 1, 2021 and be completed on or about June 30, 2022.

### **SECTION 5 - PAYMENT**

Payment shall be made by CITY only for services rendered and upon submission of a payment request upon completion and CITY approval of the work performed. In consideration for the full performance of the services set forth in Exhibit A, CITY agrees to pay CONTRACTOR in an amount not to exceed of \$154,100, a fee pursuant to rates stated in Exhibit A, attached and incorporated by reference.

### **SECTION 6 – TERMINATION**

Without limitation to such rights or remedies as CITY shall otherwise have by law, CITY shall have the right to terminate this Agreement or suspend work on the Project for any reason, upon ten (10) days' written notice to CONTRACTOR. CONTRACTOR agrees to cease all work under this Agreement upon receipt of said written notice.

### **SECTION 7 - OWNERSHIP OF DOCUMENTS**

All documents prepared by CONTRACTOR in the performance of this Agreement are and shall be the property of CITY, whether the project for which they are made is executed or not.

### **SECTION 8 - CONFIDENTIALITY**

All reports and documents prepared by CONTRACTOR in connection with the performance of this Agreement are confidential until released by CITY to the public. CONTRACTOR shall not make any such documents or information available to any individual or organization not employed by CONTRACTOR or CITY without the written consent of CITY before any such release.

## **SECTION 9 - INTEREST OF CONTRACTOR**

CONTRACTOR covenants that it presently has no interest, and shall not acquire any interest, direct or indirect, financial or otherwise, which would conflict in any manner or degree with the performance of the services under this Agreement.

## **SECTION 10 - CONTRACTOR'S STATUS**

It is expressly agreed that in the performance of the services required under this Agreement, CONTRACTOR shall at all times be considered an independent contractor as defined in Labor Code Section 3353, under control of the CITY as to the result of the work but not the means by which the result is accomplished. Nothing herein shall be construed to make CONTRACTOR an agent or employee of CITY while providing services under this Agreement.

## **SECTION 11 - INDEMNITY**

CONTRACTOR agrees to hold harmless and indemnify City of San Mateo and the Estero Municipal Improvement District, their elected and appointed officials, employees, and agents from and against any and all claims, loss, liability, damage, and expense arising out of CONTRACTOR's performance of this Agreement, except for those claims arising out of CITY's sole negligence or willful misconduct. CONTRACTOR agrees to defend City of San Mateo and the Estero Municipal Improvement District, their elected and appointed officials, employees, and agents against any such claims.

## **SECTION 12 - INSURANCE**

Contractor shall procure and maintain for the duration of the contract the insurance specified in Exhibit B to this Agreement.

## **SECTION 13 - NONASSIGNABILITY**

Both parties hereto recognize that this Agreement is for the personal services of CONTRACTOR and cannot be transferred, assigned, or subcontracted by CONTRACTOR without the prior written consent of CITY.

## **SECTION 14 - RELIANCE UPON SKILL OF CONTRACTOR**

It is mutually understood and agreed by and between the parties hereto that CONTRACTOR is skilled in the performance of the work agreed to be done under this Agreement and that CITY relies upon the skill of CONTRACTOR to do and perform the work in the most skillful manner, and CONTRACTOR agrees to thus perform the work. The acceptance of CONTRACTOR's work by CITY does not operate as a release of CONTRACTOR from said obligation.

### **SECTION 15 - WAIVERS**

The waiver by either party of any breach or violation of any term, covenant, or condition of this Agreement or of any provisions of any ordinance or law shall not be deemed to be a waiver of such term, covenant, condition, ordinance or law or of any subsequent breach or violation of the same or of any other term, condition, ordinance, or law. The subsequent acceptance by either party of any fee or other money which may become due hereunder shall not be deemed to be a waiver of any preceding breach or violation by the other party of any term, covenant, or condition of this Agreement or of any applicable law or ordinance.

### **SECTION 16 - COSTS AND ATTORNEY FEES**

Attorney fees in total amount not exceeding \$5000, shall be recoverable as costs (by the filing of a cost bill) by the prevailing party in any action or actions to enforce the provisions of this Agreement. The above \$5000 limit is the total of attorney fees recoverable whether in the trial court, appellate court, or otherwise, and regardless of the number of attorneys, trials, appeals, or actions. It is the intent of this provision that neither party shall have to pay the other more than \$5000 for attorney fees arising out of an action, or actions to enforce the provisions of this Agreement.

### **SECTION 17 - NON-DISCRIMINATION**

CONTRACTOR warrants that it is an Equal Opportunity Employer and shall comply with applicable regulations governing equal employment opportunity. Neither CONTRACTOR nor any of its subcontractors shall discriminate in the employment of any person because of race, color, national origin, ancestry, physical handicap, medical condition, marital status, sex, or age, unless based upon a bona fide occupational qualification pursuant to the California Fair Employment and Housing Act.

### **SECTION 18 - MEDIATION**

Should any dispute arise out of this Agreement, any party may request that it be submitted to mediation. The parties shall meet in mediation within 30 days of a request. The mediator shall be agreed to by the mediating parties; in the absence of an agreement, the parties shall each submit one name from mediators listed by either the American Arbitration Association, the State Mediation and Conciliation Service, or other agreed-upon service. The mediator shall be selected by a blind draw.

The cost of mediation shall be borne equally by the parties. Neither party shall be deemed the prevailing party. No party shall be permitted to file a legal action without first meeting in mediation and making a good faith attempt to reach a mediated settlement. The mediation process, once commenced by a meeting with the mediator, shall last until agreement is reached by the parties but not more than 60 days, unless the maximum time is extended by the parties.

## **SECTION 19 - LITIGATION**

CONTRACTOR shall testify at CITY's request if litigation is brought against CITY in connection with CONTRACTOR'S services under this Agreement. Unless the action is brought by CONTRACTOR, or is based upon CONTRACTOR's wrongdoing, CITY shall compensate CONTRACTOR for preparation for testimony, testimony, and travel at CONTRACTOR's standard hourly rates at the time of actual testimony.

## **SECTION 20 - NOTICES**

All notices hereunder shall be given in writing and mailed, postage prepaid, addressed as follows:

To CITY: *Robert Learmonth*  
City of San Mateo  
2050 Detroit Dr  
San Mateo Ca, 94404

To CONTRACTOR: *GEA Mechanical Equipment US*  
Attn: Waly Niane  
100 Fairway Court  
Northvale NJ, 07647

## **SECTION 21 - AGREEMENT CONTAINS ALL UNDERSTANDINGS; AMENDMENT**

This document represents the entire and integrated agreement between CITY and CONTRACTOR and supersedes all prior negotiations, representations, and agreements, either written or oral.

This document may be amended only by written instrument, signed by both CITY and CONTRACTOR.

## **SECTION 22 - GOVERNING LAW AND VENUE**

This Agreement shall be governed by the laws of the State of California and, in the event of litigation, venue will be in the County of San Mateo.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, this agreement between the CITY OF SAN MATEO and GEA Mechanical Equipment US, Inc. has been duly executed by the parties hereinabove named, as of the day and year first above written.

CITY OF SAN MATEO

CONTRACTOR

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Azalea Mitch  
Public Works Director

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Michael Vick  
Its Authorized Agent  
President

APPROVED AS TO FORM

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Linh Nguyen  
Assistant City Attorney

**Attachments:**

Exhibit A: Scope of Services

Exhibit B: Insurance Requirements

## Exhibit A

GEA Mechanical Equipment US, inc. GEA Westfalia Separator Division - 100 Fairway Court - N

San Mateo WWTP  
Robert Learmonth  
2050 Detroit Drive  
San Mateo CA 94404

**Period of validity**  
06/23/2021 to 07/23/2021  
**Offer No.**                      **Date**  
8700.342.014                      06/24/2021  
**Enquiry No. customer**  
  
from 00/00/0000  
**Customer No.**  
14073878  
**Co-ordinator**  
Eric Avila  
Tel.:  
Eric.Avila1@gea.com

## Quotation

**Terms of delivery INCOTERMS 2010**  
EXW Ex Works Naperville

**Terms of payment    currency: USD**  
30 days

Trading conditions

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"THIS IS AN ESTIMATE OF THE APPROXIMATE COSTS. Final charges will be totaled at the completion of the service and may differ from the quotation.  
Any parts to be returned after service is completed must be sent back within two weeks of the service date otherwise you will be charged a restocking fee of 18%.  
A PURCHASE ORDER IS REQUIRED BEFORE WORK CAN BE SCHEDULED, OR PARTS SHIPPED."

"ESTIMATE OF COST FOR: One (1) technician to perform a major Service.  
Unused Parts can be returned within 10 days of completion of service for full credit.  
\*\*PRICES VALID FOR 30 DAYS FROM DATE OF QUOTE  
\*\*LABOR & TRAVEL TIMES ARE ESTIMATED AND SUBJECT TO CHANGE  
\*\*EXPENSES WILL BE INVOICED AT ACTUAL COST  
\*\*PLEASE INCLUDE QUOTE NUMBER ON PURCHASE ORDER"

**GEA Mechanical Equipment US, Inc.**  
**GEA Westfalia Separator Division**  
100 Fairway Court, Northvale, NJ, 07647 USA  
Tel: +1 201 767 3900  
www.gea.com

Goods and services provided in accordance with GEA Mechanical Equipment US, Inc. **Standard Terms and Conditions of Sale.**

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Robert Learmonth  
2050 Detroit Drive  
San Mateo CA 94404

**Offer No.**  
8700.342.014  
**Date**  
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**Enquiry No. customer**  
from 00/00/0000

## Equipment

185492 San Mateo WWTP, San Mateo, CA, US 0014073878  
0010-0114-895 8004-147 /CC 458-00-32

Item	Material Designation	Qty	UQ	Net (USD)	Price (USD)
000003	9300-0002-900 SERVICE - WORKING HOURS	8.00	PC	170.00	1,360.00
000006	9300-0002-230 LABOUR SATURDAY	2.00	PC	215.00	430.00
000009	9300-0002-120 TRAVEL MON.-FRI.	8.00	PC	170.00	1,360.00
000012	9300-0005-000 MATERIAL WITHOUT STOCK MOVEMENT	1.00	PC	400.00	400.00
000015	9300-0002-202 INVOICING OF FREIGHT ACCORDING COSTS	1.00	PC	165.00	165.00
000018	0007-2153-750 GASKET	2.00	PC	31.85	63.70
000021	0004-3018-850 SHAFT SEALING RING	2.00	PC	853.78	1,707.56
000024	0007-1739-750 GASKET	1.00	PC	93.56	93.56
000027	0004-2232-780 GASKET	1.00	PC	34.60	34.60
000030	0007-2433-380 GASKET	1.00	PC	544.23	544.23
000033	0015-0124-000 HIGH PRESSURE GREASE	26.00	PC	58.62	1,524.12
Net value:				7,682.77	USD
Tax				710.66	USD
<b>Sum total</b>				<b>8,393.43</b>	<b>USD</b>

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Eric Avila  
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\*\*PRICES VALID FOR 30 DAYS FROM DATE OF QUOTE

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000006	9300-0002-230 LABOUR SATURDAY	4.00	PC	215.00	860.00
000009	9300-0002-120 TRAVEL MON.-FRI.	8.00	PC	170.00	1,360.00
000012	9300-0005-000 MATERIAL WITHOUT STOCK MOVEMENT	1.00	PC	800.00	800.00
000015	9300-0002-202 INVOICING OF FREIGHT ACCORDING COSTS	1.00	PC	275.00	275.00
000018	0011-1026-500 CYLINDRICAL ROLLER BEARING	1.00	PC	1,269.50	1,269.50
000021	0011-6026-400 GROOVED BALL BEARING	1.00	PC	1,801.03	1,801.03
000024	0007-2153-750 GASKET	2.00	PC	31.85	63.70
000027	0004-3018-850 SHAFT SEALING RING	2.00	PC	853.78	1,707.56
000030	0007-1739-750 GASKET	1.00	PC	93.56	93.56
000033	0004-2232-780 GASKET	1.00	PC	34.60	34.60
000036	0007-2433-380 GASKET	1.00	PC	544.23	544.23
000039	0011-3222-470 ANGULAR CONTACT BALL BEARING	1.00	PC	2,151.04	2,151.04
000042	0004-2123-300	2.00	PC	196.24	392.48

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0010-0114-895 8004-147 /CC 458-00-32

Item	Material Designation	Qty	UQ	Net (USD)	Price (USD)
000045	NILOS GASKET 0004-2124-750	1.00	PC	256.20	256.20
000048	RADIAL GASKET 0007-2766-750	2.00	PC	52.70	105.40
000051	GASKET 0004-2126-750	1.00	PC	195.62	195.62
000054	RADIAL GASKET 0021-2891-890	1.00	PC	334.14	334.14
000057	DRIVE BELT 0021-2889-810	1.00	PC	898.15	898.15
000060	SET OF NARROW V-BELTS 0004-2889-850	1.00	PC	369.18	369.18
000063	SHAFT SEALING RING 0004-3131-850	1.00	PC	661.54	661.54
000066	SHAFT SEALING RING 0011-1026-500	1.00	PC	1,269.50	1,269.50
000069	CYLINDRICAL ROLLER BEARING 0007-2153-750	2.00	PC	31.85	63.70
000072	GASKET 0004-3018-850	2.00	PC	853.78	1,707.56
000075	SHAFT SEALING RING 0007-3591-830	1.00	PC	138.71	138.71
000078	GASKET 0004-3131-850	1.00	PC	661.54	661.54
000081	SHAFT SEALING RING 0004-2889-850	1.00	PC	369.18	369.18
	SHAFT SEALING RING				

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### Equipment

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0010-0114-895 8004-147 /CC 458-00-32

Item	Material Designation	Qty	UQ	Net (USD)	Price (USD)
000084	0015-0124-000 HIGH PRESSURE GREASE	26.00	PC	58.62	1,524.12
Net value:				23,987.24	USD
Tax				2,218.82	USD
<b>Sum total</b>				<b>26,206.06</b>	<b>USD</b>

We thank you for your inquiry and look forward to receiving your firm order.

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GEA Mechanical Equipment US, Inc.

**GEA Westfalia Separator Division**

100 Fairway Court  
Northvale, NJ 07647

Phone (201) 767-3900  
Fax (201) 767-3901  
Sales.wsus@gea.com  
www.gea.com

06.25.2021

**CITY OF SAN MATEO WWTP**

Dear Sir,

GEA Mechanical Equipment US Inc. is pleased to present the following exchange gear offer for your Westfalia Centrifuge.

**Model: CC 458**  
**Serial Number: 8004-147/148**

**Exchange Gear Offer**

OFFER	P/N	UNIT PRICE	AVAILABILITY*
Reconditioned with acceptable core return	8404 - 3270 - 029	\$7,817.48	STOCK IN GERMANY
Reconditioned without core return	8404 - 3270 - 029	\$10,423.30	
New with acceptable core return	8404 - 3270 - 020	\$9,197.03	STOCK IN USA
New without core return	8404 - 3270 - 020	\$12,262.71	

OFFER	P/N	UNIT PRICE	AVAILABILITY*
New with acceptable core return	8175 3230 040	\$27,361.45	STOCK IN USA
New without core return	8175 3230 040	\$36,481.94	

Estimated delivery time: 5-10 Business days

Subject to prior sale.

**Notes:**

1. ONLY a used gear assembly whose casing has not been opened can be considered for a core return.
2. After the used assembly has been received in Northvale (freight prepaid by customer) and inspected by GEA Quality Control in Germany, a core credit for the price difference between the assemblies with/without a core return shall be issued as applicable.

Gears quoted for an exchange with our Factory in Germany will not be quoted for repair.

Gears sent in for repairs and disassembled for detailed quotes are no longer acceptable by our Factory for exchanges.

3. The offer for reconditioned units is entirely dependent upon availability

4. \* Availability noted is always subject to prior sale. Reconditioned units may not be available for extended periods of time.

**Terms & Conditions:**

Pricing valid for 30 days.

Shipping terms: Ex-Works current stock location (shipping charges are not included)

*Goods and Services provided in accordance with GEA Mechanical Equipment US, Inc. Standard Terms and Conditions. Copy is available upon request. Issuance of a Purchase order shall constitute unqualified acceptance of all the Terms and Conditions of this Order.*

**WARRANTY TIME PERIODS**

**NEW decanter gears**

Standard: 3 months

Extended: 6 months WHEN the component is installed and commissioned with Seller Field Service oversight.

**Reconditioned decanter gears**

Standard: 30 days

Extended: 6 months WHEN the component is installed and commissioned with Seller Field Service oversight.

If you would like to make arrangements perform the exchange, please contact Paula Brown at 201-784-4353 or Paula.Brown@gea.com for Return Goods Authorization. A copy of relevant MSDS sheets for products and cleaning solutions will be required with the returned gear.

Luigi DeNegri

Repair Department

## EXHIBIT B

### INSURANCE REQUIREMENTS

#### MINIMUM SCOPE OF INSURANCE

Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL):** Insurance Services Office (ISO) Form CG 00 01 12 07 covering CGL on an “occurrence” basis, including products-completed operations, personal & advertising injury, with limits no less than **\$2,000,000** per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
2. **Automobile Liability:** ISO Form Number CA 00 01 covering any auto (Code 1), or if Contractor has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limit no less than **\$1,000,000** per accident for bodily injury and property damage.
3. **Workers’ Compensation:** as required by the State of California, with Statutory Limits, and Employer’s Liability Insurance with limit of no less than **\$1,000,000** per accident for bodily injury or disease.

If the contractor maintains higher limits than the minimums shown above, the City requires and shall be entitled to coverage for the higher limits maintained by the contractor.

#### Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions:

##### ***Additional Insured Status***

**The City of San Mateo and the Estero Municipal Improvement District, their elected and appointed officials, employees, and agents are to be covered as insureds** on the auto policy for liability arising out of automobiles owned, leased, hired or borrowed by or on behalf of the Contractor; and on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Contractor’s insurance (at least as broad as ISO Form CG 20 10, 11 85 or both CG 20 10 and CG 20 37 forms if later revisions used).

##### ***Primary Coverage***

For any claims related to this contract, the **Contractor’s insurance coverage shall be primary** insurance as respects the City of San Mateo and the Estero Municipal Improvement District, their elected and appointed officials, employees, and agents. Any insurance or self-insurance maintained by the City of San Mateo and the Estero Municipal Improvement District, their elected and appointed officials, employees, or agents shall be excess of the Contractor’s insurance and shall not contribute with it.

##### ***Notice of Cancellation***

Each insurance policy required above shall provide that **coverage shall not be canceled, except after thirty (30) days’ prior written notice** (10 days for non-payment) has been given to the City.



***Waiver of Subrogation***

Contractor hereby grants to the City of San Mateo and the Estero Municipal Improvement District a waiver of any right to subrogation which any insurer of said Contractor may acquire against the City by virtue of the payment of any loss under such insurance. Contractor agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation, but this provision applies regardless of whether or not the City has received a waiver of subrogation endorsement from the insurer.

***Deductibles and Self-Insured Retentions***

Any deductibles or self-insured retentions must be declared to and approved by the City. The City may require the Contractor to purchase coverage with a lower deductible or retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

***Acceptability of Insurers***

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the City.

***Verification of Coverage***

Contractor shall furnish the City with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the City before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor's obligation to provide them. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.