

AN ORDINANCE approving ST. JOSEPH DAM
SCREENS 1, 2, AND 3 REBUILD MATERIAL
PROCUREMENT – MATERIAL NUMBER 67248 -
\$195,810.00 between EVOQUA WATER
TECHNOLOGIES LLC and the City of Fort Wayne,
Indiana, as a Special Procurement under I.C. 5-22-10
by and through its Department of Purchasing for the
City Utilities Engineering Department.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON
COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. That the ST. JOSEPH DAM SCREENS 1, 2, AND 3
REBUILD MATERIAL PROCUREMENT – MATERIAL NUMBER 67248 -
\$195,810.00 between EVOQUA WATER TECHNOLOGIES LLC and the City of
Fort Wayne, Indiana, as a Special Procurement under I.C. 5-22-10 by and through
its Department of Purchasing for the City Utilities Engineering Department, is
hereby ratified, and affirmed and approved in all respects, respectfully for:

All labor, insurance, material, equipment, tools, power,
transportation, miscellaneous equipment, etc., necessary for the
St. Joseph Dam Screens 1, 2, and 3 Rebuild Material
Procurement as follows: The procurement of a new head
section assembly for Screen 3 and various chains, shafts,
bushings, gears, and other hardware to rebuild screens;

involving a total cost of ONE HUNDRED NINETY-FIVE THOUSAND EIGHT
HUNDRED TEN AND 00/100 DOLLARS - (\$195,810.00) all as more particularly
set forth in said ST. JOSEPH DAM SCREENS 1, 2, AND 3 REBUILD MATERIAL
PROCUREMENT – MATERIAL NUMBER 67248 - which is on file in the Office of
the Department of Purchasing, and is by reference incorporated herein, made a
part hereof, and is hereby in all things ratified, confirmed and approved.

SECTION 2. That this Ordinance shall be in full force and effect from and after its passage and any and all necessary approval by the Mayor.

Council Member

APPROVED AS TO FORM AND LEGALITY

Malak Heiny, City Attorney

City Utilities Engineering
200 E. Berry St. Suite 250
Fort Wayne, IN 46802

July 27, 2022

City Purchasing Department

RE: St. Joseph Dam Screens 1, 2, and 3 Rebuild Material

Sole-Source (standardization) Letter

To Purchasing Director:

The following correspondence is in regards to the St. Joseph Dam Screens 1, 2, and 3 Rebuild project.

Traveling Water Screens brand parts and equipment are a critical part of existing infrastructure and are essential for the continued operational resiliency of St. Joseph Dam. These parts and equipment include various chains, shafts, bushings, gears, and other hardware to replace screen components that are past their serviceable life through normal wear and tear. This equipment also includes a new head section assembly for Screen 3, complete with frame and motor, which is corroded and past its serviceable life. City Utilities has standardized on Traveling Water Screens for the legacy screen parts and equipment at St. Joseph Dam. City Utilities Engineering is recommending to sole source Evoqua Water Technologies LLC for the procurement of the Traveling Water Screens brand parts and equipment for this project.

City Utilities Engineering has reviewed the costs associated with these Traveling Water Screens parts and equipment and finds them to be reasonable.

If you should have any questions, please contact me at (260) 427-2441.

Sincerely,

Nicholas Till, P.E.
Engineering I

cc: Andrew Schipper
Matthew Wirtz



April 20, 2022

City of Fort Wayne
Fort Wayne City Utilities
St. Joseph Dam Pump Station
3801 North Anthony Boulevard
Fort Wayne, IN 46805
Attention: Adam Lane
Maintenance System Admin

Subject: St. Joseph Dam Pump Station
Traveling Water Screen Equipment
Evoqua - USFilter Contract No. CHI1092 (circa 2007)

Dear Mr. Lane:

Evoqua Water Technologies LLC is the Original Equipment Manufacturer (OEM) of the leading legacy Traveling Water Screen brands such as Chain-Belt, Rex®, Envirex, Royce, Link-Belt®, FMC, USFilter, and Siemens Water Technologies. This letter is to confirm that Evoqua is the Original Equipment Manufacturer (OEM) for the existing Traveling Water Screen Equipment at the Fort Wayne City Utilities St. Joseph Dam Pump Station supplied on our Evoqua Legacy Brand Name of Siemens WT on Contract/Project No. CHI1092 (circa 2007).

As the OEM for your existing Traveling Water Screens, we hold all the original historic detailed design drawings for your Traveling Water Screens and are the sole source provider of OEM Parts and Service for these Screens. Our OEM replacement Parts will comply with all the Parts on your existing Traveling Water Screens assuring proper form, fit, function, and design life. Our OEM Service can support and accompany our OEM Parts assuring all Traveling Water Screen work is performed to OEM Standards.

Replacement Parts must be a duplicate from a dimensional and form, fit and function standpoint to the Parts originally supplied on your existing Traveling Water Screens, to assure proper fit-up and maintain proper engagement and all operational clearances. When replacing Parts on the existing Traveling Water Screens, the new replacement Parts must be dimensional duplicates of the original Parts, to assure design operational clearance tolerances between the new replacement Parts and the existing Parts and between the new replacement Parts and the existing Traveling Water Screen head section, main framework and boot section are maintained. Design operational clearance tolerances not in compliance with the original supplied Parts could result in clearances which are too tight and cause binding during operation or too lenient and result in the passage of debris of a size larger than allowed. Since we are the OEM for the existing Traveling Water Screens, we can guarantee our new replacement Parts will be OEM dimensional duplicates of the original Parts for your Traveling Water Screens. In addition, the design and materials of construction for the replacement Parts need to be equal or greater than the existing Parts to assure design loadings and design life are maintained.



Evoqua as the OEM for your existing Traveling Water Screens is the sole source provider of OEM replacement Traveling Water Screen Parts to meet all the above requirements. In addition, Evoqua Intake Products Service Group includes OEM Factory Trained Service Technicians and Dive Service Teams, to support and perform On-Site Repair, Rebuild, and Removal and Installation of your Traveling Water Screens, assuring these Services are performed to OEM Standards.

Should additional information be required, please do not hesitate to contact your local Evoqua Water Technologies, Municipal Intake Products Representative, The Henry P. Thompson Company, Dean Sizemore, (502) 649-6105 (mobile), E-Mail: dsizemore@hpthompson.com or Evoqua Water Technologies, Intake Products, Technical Service Manager, Jim Couser, (812) 701-5900 (mobile), E-Mail: james.couser@evoqua.com.

Best Regards,

Thomas J. Kofeldt
Regional / Technical Sales Manager, Intake Products
Evoqua Water Technologies LLC
Tel: (215) 712-7032
Mobile: (267) 416-2204
E-Mail: thomas.kofeldt@evoqua.com

Proposal For: CITY OF FORT WAYNE
2601 DWENGER AVE
FORT WAYNE, IN 46803-1413
Phone: 5555555555

Kenneth DeCoursey
Evoqua Water Technologies
2155 112th Avenue
Holland, MI 49424
Phone: (215) 712-7061
kenneth.decoursey@evoqua.com

Item Pricing Summary

1. SCREEN #1 AND #2

Item	Part No Description	Qty	Net Price	Ext. Price
1	W2T342614 CHAIN ASSY-24"PRH,1045,8620,8620,CHRM,W Reference #: 603-81810-80 LEAD TIME: 14-15 WEEKS ARO.	136 FT	\$101.00	\$13,736.00
2	W2T362922 CHAIN ASSY-24"PLH,1045,8620,8620,CHRM,W Reference #: 603-81810-81 LEAD TIME: 14-15 WEEKS ARO.	136 FT	\$101.00	\$13,736.00
3	W3T35494 SHFT,ASSY-FT,TWS,2.44"D,72.00"B,1PC,RYB Reference #: 603-30858-24 LEAD TIME: 5-6 WEEKS ARO.	2 EA	\$10,652.00	\$21,304.00
4	W3T55875 TOOTH INSERT-SPROCKET,410SS W/ HARDWARE Reference #: 23140-2.HDW LEAD TIME: 8-9 WEEKS ARO.	24 EA	\$90.00	\$2,160.00
5	W3T219820 FASTENAL KIT PROJECT BULK ITEMS - ASKET ATTACHMENT HARDWARE LEAD TIME: 3-4 WEEKS ARO.	2 EA	\$680.00	\$1,360.00



6	W3T72012 EXT. SHOE PRIMERED 60352-A RH LEAD TIME: 3-4 WEEKS ARO.	2 EA	\$285.00	\$570.00
7	W3T72013 EXT. SHOE PRIMERED 60352-B LH LEAD TIME: 3-4 WEEKS ARO.	2 EA	\$285.00	\$570.00
8	W3T219820 FASTENAL KIT PROJECT BULK ITEMS - EXTENSION SHOE HARDWARE LEAD TIME: 2-4 WEEKS ARO.	2 EA	\$204.00	\$408.00
9	W3T37752 CAPSTAN-BUSHING ASSY,SEMI-STL & 1.50 BNZ Reference #: A20990-Z LEAD TIME: 8-9 WEEKS ARO.	4 EA	\$2,329.00	\$9,316.00
10	W2T256602 BEARING,THRST 1.5"ID X 2.594"OD X 0.6" Reference #: 303-869-1 LEAD TIME: 2-3 WEEKS ARO.	4 EA	\$83.00	\$332.00
11	W2T258305 ADAPTER,WSH 2.625"OD X 1.56"ID X 0.5" Reference #: 103-80933-01 LEAD TIME: 5-7 WEEKS ARO	4 EA	\$187.00	\$748.00
12	W2T257178 SCREW-TAKE UP, 1.500ACME X 82.00" 416SS, Reference #: 103-10650-1 LEAD TIME: 4-5 WEEKS ARO.	4 EA	\$1,607.00	\$6,428.00

Subtotal: \$70,668.00

2. SCREEN #3

Item	Part No Description	Qty	Net Price	Ext. Price
13	W2T342614 CHAIN ASSY-24"PRH,1045,8620,8620,CHRM,W Reference #: 603-81810-80 LEAD TIME: 14-15 WEEKS ARO.	68 FT	\$101.00	\$6,868.00
14	W2T362922 CHAIN ASSY-24"PLH,1045,8620,8620,CHRM,W Reference #: 603-81810-81 LEAD TIME: 14-15 WEEKS ARO.	68 FT	\$101.00	\$6,868.00
15	W3T35494 SHFT,ASSY-FT,TWS,2.44"D,72.00"B,1PC,RYB Reference #: 603-30858-24 LEAD TIME: 5-6 WEEKS ARO.	1 EA	\$10,652.00	\$10,652.00
16	W3T219820 FASTENAL KIT PROJECT BULK ITEMS - ASKET ATTACHMENT HARDWARE LEAD TIME: 3-4 WEEKS ARO	1 EA	\$680.00	\$680.00
17	W3T72012 EXT. SHOE PRIMERED 60352-A RH LEAD TIME: 3-4 WEEKS ARO.	1 EA	\$285.00	\$285.00
18	W3T72013 EXT. SHOE PRIMERED 60352-B LH LEAD TIME: 3-4 WEEKS ARO.	1 EA	\$285.00	\$285.00



19	W3T219820 FASTENAL KIT PROJECT BULK ITEMS - EXTENSION SHOE HARDWARE LEAD TIME: 2-4 WEEKS ARO	1 EA	\$204.00	\$204.00
20	W3T31642 HEAD SECTION ASSEMBLY Reference #: CHI1092-100-C LEAD TIME: 12-14 WEEKS ARO.	1 EA	\$99,300.00	\$99,300.00

Subtotal: \$125,142.00

Currency: USD

Total Net Price: \$195,810.00

Right to requote: Due to current raw material price fluctuation, Evoqua reserves the right to re-quote the equipment proposed herein at the time of award.

Post-award: Due to the volatility in material costs, Evoqua may adjust the price after contract award to reflect changes in the Metal and Metal Products Index (MMPI) published by the U.S. Department of Labor, Bureau of Labor Statistics. The most recent published MMPI is 333.6 for January 2022. If the MMPI increases by 4% or more at the time of material purchase, then the total price will be increased by the same percentage as the MMPI factor.

https://data.bls.gov/timeseries/WPU10?amp%253bdata_tool=XGtable&output_view=data&include_graphs=true

Please note that the minimum order amount is \$250.

Payment Terms and Delivery

PO Terms

Purchaser acknowledges that Seller is required to comply with applicable export laws and regulations relating to the sale, exportation, transfer, assignment, disposal and usage of the goods and/or services provided under the Contract, including any export license requirements. Purchaser agrees that such goods and/or services shall not at any time directly or indirectly be used, exported, sold, transferred, assigned or otherwise disposed of in a manner which will result in non-compliance with such applicable export laws and regulations. It shall be a condition of the continuing performance by Seller of its obligations hereunder that compliance with such export laws and regulations be maintained at all times. PURCHASER AGREES TO INDEMNIFY AND HOLD SELLER HARMLESS FROM ANY AND ALL COSTS, LIABILITIES, PENALTIES, SANCTIONS AND FINES RELATED TO NON-COMPLIANCE WITH APPLICABLE EXPORT LAWS AND REGULATIONS.

Shipping Information

- Prepaid and Add: Shipping and Handling Fee to be added
- Incoterms: FCA - Free Carrier
- Incoterms 2: SHIPPING POINT

Terms

- This quote is valid until 08-05-2022
 - Payment terms are N30 - Net 30 days with proper credit, and are subject to the attached Evoqua Water Technologies Terms and Conditions
- Sales Tax & GST:
- The pricing provided in this proposal does not include applicable Sales Tax or GST.
 - If your company is exempt from Sales Tax or GST, or eligible for a reduced rate of tax, a tax exemption certificate must be provided no later than with your purchase order.
 - If a timely, valid exemption certificate or other documentation is not provided, any applicable Sales Tax or GST will be invoiced and payable.
- New customers may be required to supply a signed credit application to be approved for credit terms.
 - **NOTE:** Effective May 2022, you may be assessed a 3% fee if paying via Credit Card. Find more info on our website here > <https://www.evoqua.com/en/about-us/terms-conditions-sale-products-services/credit-card-fee-faqs/>. Ask us how to avoid paying fees by migrating to ACH CTX payment type.
 - We require hard documentation of your ordering for Evoqua to process your order. For your convenience, we can start processing your order by signing and returning:
 - Fax to:
 - or Email to: kenneth.decoursey@evoqua.com
 - You may also mail to:
 - Evoqua Water Technologies
 - 500 Horizon Dr. Suite 503
 - Chalfont, PA 18914



Evoqua Water Technologies Banking Details

ACH - CTX

Evoqua's preferred payment method is via ACH - CTX:

JP Morgan Chase Bank
Attn: Evoqua Water Technologies, LLC
Account #: 603148011
Swift Code: CHASUS33
ACH Routing / ABA: **044000037**
Wire Routing / ABA: **021000021**
Remittance details should go to: **electronicfunds@evoqua.com**

Paper checks via Postal Service

Paper checks via Postal Service:

Send to our Lockbox, address is:
Evoqua Water Technologies LLC
28563 Network Place
Chicago, IL 60673-1285

Paper checks via Overnight / Courier

Paper checks via Overnight / Courier:

JP Morgan Chase Bank
Attn: Evoqua Water Technologies Lockbox 28563
131 S Dearborn, 6th Floor
Chicago, IL 60603
Remittance details should go to: **electronicfunds@evoqua.com**

**** If ever instructed to change banking information, contact us immediately at 1-800-466-7873 ****

Standard Terms of Sale

1. **Applicable Terms.** These terms govern the purchase and sale of equipment, products, related services, leased products, and media goods if any (collectively herein "Work"), referred to in Seller's proposal ("Seller's Documentation"). Whether these terms are included in an offer or an acceptance by Seller, such offer or acceptance is expressly conditioned on Buyer's assent to these terms. Seller rejects all additional or different terms in any of Buyer's forms or documents.
2. **Payment.** Buyer shall pay Seller the full purchase price as set forth in Seller's Documentation. Unless Seller's Documentation specifically provides otherwise, freight, storage, insurance and all taxes, levies, duties, tariffs, permits or license fees or other governmental charges relating to the Work or any incremental increases thereto shall be paid by Buyer. If Seller is required to pay any such charges, Buyer shall immediately reimburse Seller. If Buyer claims a tax or other exemption or direct payment permit, it shall provide Seller with a valid exemption certificate or permit and indemnify, defend and hold Seller harmless from any taxes, costs and penalties arising out of same. All payments are due within 30 days of invoice date. Buyer shall be charged the lower of 1 ½% interest per month or the maximum legal rate on all amounts not received by the due date and shall pay all of Seller's reasonable costs (including attorneys' fees) of collecting amounts due but unpaid. All orders are subject to credit approval by Seller. Back charges without Seller's prior written approval shall not be accepted.
3. **Delivery.** Delivery of the Work shall be in material compliance with the schedule in Seller's Documentation. Unless Seller's Documentation provides otherwise, delivery terms are ExWorks Seller's factory (Incoterms 2010). Title to all Work shall pass upon receipt of payment for the Work under the respective invoice. Unless otherwise agreed to in writing by Seller, shipping dates are approximate only and Seller shall not be liable for any loss or expense (consequential or otherwise) incurred by Buyer or Buyer's customer if Seller fails to meet the specified delivery schedule.
4. **Ownership of Materials and Licenses.** All devices, designs (including drawings, plans and specifications), estimates, prices, notes, electronic data, software and other documents or information prepared or disclosed by Seller, and all related intellectual property rights, shall remain Seller's property. Seller grants Buyer a non-exclusive, non-transferable license to use any such material solely for Buyer's use of the Work. Buyer shall not disclose any such material to third parties without Seller's prior written consent. Buyer grants Seller a non-exclusive, non-transferable license to use Buyer's name and logo for marketing purposes, including but not limited to, press releases, marketing and promotional materials, and web site content.
5. **Changes.** Neither party shall implement any changes in the scope of Work described in Seller's Documentation without a mutually agreed upon change order. Any change to the scope of the Work, delivery schedule for the Work, any Force Majeure Event, any law, rule, regulation, order, code, standard or requirement which requires any change hereunder shall entitle Seller to an equitable adjustment in the price and time of performance.
6. **Force Majeure Event.** Neither Buyer nor Seller shall have any liability for any breach or delay (except for breach of payment obligations) caused by a Force Majeure Event. If a Force Majeure Event exceeds six (6) months in duration, the Seller shall have the right to terminate the Agreement without liability, upon fifteen (15) days written notice to Buyer, and shall be entitled to payment for work performed prior to the date of termination. "Force Majeure Event" shall mean events or circumstances that are beyond the affected party's control and could not reasonably have been easily avoided or overcome by the affected party and are not substantially attributable to the other party. Force Majeure Event may include, but is not limited to, the following circumstances or events: war, act of foreign enemies, terrorism, riot, strike, or lockout by persons other than by Seller or its sub-suppliers, natural catastrophes or (with respect to on-site work), unusual weather conditions.
7. **Warranty.** Subject to the following sentence, Seller warrants to Buyer that the (i) Work shall materially conform to the description in Seller's Documentation and shall be free from defects in material and workmanship and (ii) the Services shall be performed in a timely and workmanlike manner. Determination of suitability of treated water for any use by Buyer shall be the sole and exclusive responsibility of Buyer. The foregoing warranty shall not apply to any Work that is specified or otherwise demanded by Buyer and is not manufactured or selected by Seller, as to which (i) Seller hereby assigns to Buyer, to the extent assignable, any warranties made to Seller and (ii) Seller shall have no other liability to Buyer under warranty, tort or any other legal theory. The Seller warrants the Work, or any components thereof, through the earlier of (i) eighteen (18) months from delivery of the Work or (ii) twelve (12) months from initial operation of the Work or ninety (90) days from the performance of services (the "Warranty Period"). If Buyer gives Seller prompt written notice of breach of this warranty within the Warranty Period, Seller shall, at its sole option and as Buyer's sole and exclusive remedy, repair or replace the subject parts, re-perform the Service or refund the purchase price. Unless otherwise agreed to in writing by Seller, (i) Buyer shall be responsible for any labor required to gain access to the Work so that Seller can assess the available remedies and (ii) Buyer shall be responsible for all costs of installation of repaired or replaced Work. If Seller determines that any claimed breach is not, in fact, covered by this warranty, Buyer shall pay Seller its then customary charges for any repair or replacement made by Seller. Seller's warranty is conditioned on Buyer's (a) operating and maintaining the Work in accordance with Seller's instructions, (b) not making any unauthorized repairs or alterations, and (c) not being in default of any payment obligation to Seller. Seller's warranty does not cover (i) damage caused by chemical action or abrasive material, misuse or improper installation (unless installed by Seller) and (ii) media goods (such as, but not limited to, resin, membranes, or granular activated carbon media) once media goods are installed. THE WARRANTIES SET FORTH IN THIS SECTION 7 ARE THE SELLER'S SOLE AND EXCLUSIVE WARRANTIES AND ARE SUBJECT TO THE LIMITATION OF LIABILITY PROVISION BELOW. SELLER MAKES NO OTHER WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR PURPOSE.
8. **Indemnity.** Seller shall indemnify, defend and hold Buyer harmless from any claim, cause of action or liability incurred by Buyer as a result of third party claims for personal injury, death or damage to tangible property, to the extent caused by Seller's negligence. Seller shall have the sole authority to direct the defense of and settle any indemnified claim. Seller's indemnification is conditioned on Buyer (a) promptly, within the Warranty Period, notifying Seller of any claim, and (b) providing reasonable cooperation in the defense of any claim.
9. **Assignment.** Neither party may assign this Agreement, in whole or in part, nor any rights or obligations hereunder without the prior written consent of the other party; provided, however, the Seller may assign its rights and obligations under these terms to its affiliates or in connection with the sale or transfer of the Seller's business and Seller may grant a security interest in the Agreement and/or assign proceeds of the agreement without Buyer's consent.
10. **Termination.** Either party may terminate this agreement, upon issuance of a written notice of breach and a thirty (30) day cure period, for a material breach (including but not limited to, filing of bankruptcy, or failure to fulfill the material obligations of this agreement). If Buyer suspends an order without a change order for ninety (90) or more days, Seller may thereafter terminate this Agreement without liability, upon fifteen (15) days written notice to Buyer, and shall be entitled to payment for work performed, whether delivered or undelivered, prior to the date of termination.
11. **Dispute Resolution.** Seller and Buyer shall negotiate in good faith to resolve any dispute relating hereto. If, despite good faith efforts, the parties are unable to resolve a dispute or claim arising out of or relating to this Agreement or its breach, termination, enforcement, interpretation or validity, the parties will first seek to agree on a forum for mediation to be held in a mutually agreeable site. If the parties are unable to resolve the dispute through mediation, then any dispute, claim or controversy arising out of or relating to this Agreement or the breach, termination, enforcement, interpretation or validity thereof, including the determination of the scope or applicability of this agreement to arbitrate, shall be determined by arbitration in Pittsburgh, Pennsylvania before three arbitrators who are lawyers experienced in the discipline that is the subject of the dispute and shall be jointly selected by Seller and Buyer. The arbitration shall be administered by JAMS pursuant to its Comprehensive Arbitration Rules and Procedures. The Arbitrators shall issue a reasoned decision of a majority of the arbitrators, which shall be the decision of the panel. Judgment may be entered upon the arbitrators' decision in any court of competent jurisdiction. The substantially prevailing party as determined by the arbitrators shall be reimbursed by the other party for all costs, expenses and charges, including without limitation reasonable attorneys' fees, incurred by the prevailing party in connection with the arbitration. For any order shipped outside of the United States, any dispute shall be referred to and finally determined by the International Center for

Dispute Resolution in accordance with the provisions of its International Arbitration Rules, enforceable under the New York Convention (Convention on the Recognition and Enforcement of Foreign Arbitral Awards) and the governing language shall be English.

12. **Export Compliance.** Buyer acknowledges that Seller is required to comply with applicable export laws and regulations relating to the sale, exportation, transfer, assignment, disposal and usage of the Work provided under this Agreement, including any export license requirements. Buyer agrees that such Work shall not at any time directly or indirectly be used, exported, sold, transferred, assigned or otherwise disposed of in a manner which will result in non-compliance with such applicable export laws and regulations. It shall be a condition of the continuing performance by Seller of its obligations hereunder that compliance with such export laws and regulations be maintained at all times. BUYER AGREES TO INDEMNIFY AND HOLD SELLER HARMLESS FROM ANY AND ALL COSTS, LIABILITIES, PENALTIES, SANCTIONS AND FINES RELATED TO NON-COMPLIANCE WITH APPLICABLE EXPORT LAWS AND REGULATIONS.

13. **LIMITATION OF LIABILITY.** NOTWITHSTANDING ANYTHING ELSE TO THE CONTRARY, SELLER SHALL NOT BE LIABLE FOR ANY CONSEQUENTIAL, INCIDENTAL, SPECIAL, PUNITIVE OR OTHER INDIRECT DAMAGES, AND SELLER'S TOTAL LIABILITY ARISING AT ANY TIME FROM THE SALE OR USE OF THE WORK, INCLUDING WITHOUT LIMITATION ANY LIABILITY FOR ALL WARRANTY CLAIMS OR FOR ANY BREACH OR FAILURE TO PERFORM ANY OBLIGATION UNDER THE CONTRACT, SHALL NOT EXCEED THE PURCHASE PRICE PAID FOR THE WORK. THESE LIMITATIONS APPLY WHETHER THE LIABILITY IS BASED ON CONTRACT, TORT, STRICT LIABILITY OR ANY OTHER THEORY.

14. **Rental Equipment / Services.** Any leased or rented equipment ("Leased Equipment") provided by Seller shall at all times be the property of Seller with the exception of certain miscellaneous installation materials purchased by the Buyer, and no right or property interest is transferred to the Buyer, except the right to use any such Leased Equipment as provided herein. Buyer agrees that it shall not pledge, lend, or create a security interest in, part with possession of, or relocate the Leased Equipment. Buyer shall be responsible to maintain the Leased Equipment in good and efficient working order. At the end of the initial term specified in the order, the terms shall automatically renew for the identical period unless canceled in writing by Buyer or Seller not sooner than three (3) months nor later than one (1) month from termination of the initial order or any renewal terms. Upon any renewal, Seller shall have the right to issue notice of increased pricing which shall be effective for any renewed terms unless Buyer objects in writing within fifteen (15) days of issuance of said notice. If Buyer timely cancels service in writing prior to the end of the initial or any renewal term this shall not relieve Buyer of its obligations under the order for the monthly rental service charge which shall continue to be due and owing. Upon the expiration or termination of this Agreement, Buyer shall promptly make any Leased Equipment available to Seller for removal. Buyer hereby agrees that it shall grant Seller access to the Leased Equipment location and shall permit Seller to take possession of and remove the Leased Equipment without resort to legal process and hereby releases Seller from any claim or right of action for trespass or damages caused by reason of such entry and removal.

15. **Miscellaneous.** These terms, together with any Contract Documents issued or signed by the Seller, comprise the complete and exclusive statement of the agreement between the parties (the "Agreement") and supersede any terms contained in Buyer's documents, unless separately signed by Seller. No part of the Agreement may be changed or cancelled except by a written document signed by Seller and Buyer. No course of dealing or performance, usage of trade or failure to enforce any term shall be used to modify the Agreement. To the extent the Agreement is considered a subcontract under Buyer's prime contract with an agency of the United States government, in case of Federal Acquisition Regulations (FARs) flow down terms, Seller will be in compliance with Section 44.403 of the FAR relating to commercial items and those additional clauses as specifically listed in 52.244-6, Subcontracts for Commercial Items (OCT 2014). If any of these terms is unenforceable, such term shall be limited only to the extent necessary to make it enforceable, and all other terms shall remain in full force and effect. The Agreement shall be governed by the laws of the Commonwealth of Pennsylvania without regard to its conflict of laws provisions. Both Buyer and Seller reject the applicability of the United Nations Convention on Contracts for the international sales of goods to the relationship between the parties and to all transactions arising from said relationship.

Accepted by: _____

Print: _____

Date: _____

CITY OF FORT WAYNE, INDIANA

Evoqua Water Technologies LLC

(Vendor Name)

VENDOR DISCLOSURE STATEMENT RELATING TO:

1. **FINANCIAL INTERESTS;**
2. **POTENTIAL CONFLICTS OF INTEREST;**
3. **CURRENT AND PENDING CONTRACTS OR PROCUREMENTS**

Vendors desiring to enter into certain contracts with the City of Fort Wayne, Indiana (the "City") shall disclose their financial interests, potential conflicts of interest and current and pending contract or procurement information as set forth below.

The following disclosures by Vendors are required for all contracts with annual payments by the City in the amount of \$50,000 or more. Vendors shall disclose their financial interests, potential conflicts of interest and other contract and procurement information identified in Sections 1, 2 and 3 below as a prerequisite for consideration for a contract awarded by the City. This Disclosure Statement must be completed and submitted together with the Vendor's contract, bid, proposal or offer.

A publicly traded entity may submit its current 10K disclosure filing in satisfaction of the disclosure requirements set forth in Sections 1 and 2 below.

Section 1: Disclosure of Financial Interest in Vendor

- a. If any individuals have either of the following financial interests in Vendor (or its parent), please check all that apply and provide their names and addresses (attach additional pages as necessary):

(i) Equity ownership exceeding 5% ☐

(ii) Distributable income share exceeding 5% ☐

(iii) Not Applicable (If N/A, go to Section 2) ☒

Name: _____

Name: _____

Address: _____

Address: _____

- b. For each individual listed in Section 1a. show his/her type of equity ownership:

sole proprietorship ☐ stock ☐

partnership interest ☐ units (LLC) ☐

other (explain) _____

- c. For each individual listed in Section 1a. show the percentage of ownership interest in Vendor (or its parent):
ownership interest:

Name: _____ %

Name: _____ %

Section 2: Disclosure of Potential Conflicts of Interest (not applicable for vendors who file a 10K) N/A
<https://www.sec.gov/ix?doc=/Archives/edgar/data/1604643/000160464321000094/aqua-20210930.htm>
For each individual listed in Section 1a, check "Yes" or "No" to indicate which, if any, of the following potential conflict of interest relationships apply. If "Yes", please describe using space under applicable subsection (attach additional pages as necessary):

- a. City employment, currently or in the previous 3 years, including contractual employment for services:
Yes _____ No _____

- b. City employment of "Member of Immediate Family" (defined herein as: *Spouse, Child, Step Child, Parent or Step Parent, Father-in-law or Mother-in-law, Brother or Sister, Step Brother or Step Sister, Half Brother or Half Sister, Brother-in-law or Sister-in-law, Son-in-law or Daughter-in-law, Grandparent or Step Grandparent, Grandparent or Step Grandparent of Spouse, Grandchild*)
Including contractual employment for services in the previous 3 years:
Yes _____ No _____

- c. Relationship to Member of Immediate Family holding elective City office currently or in the previous 3 years: Yes _____ No _____

Section 3: DISCLOSURE OF OTHER CONTRACT AND PROCUREMENT RELATED INFORMATION

- a. Does Vendor have current contracts (including leases) with the City? Yes _____ No X

If "Yes", identify each current contract with descriptive information including purchase order or contract reference number, contract date and City contact below (attach additional pages as necessary).

- b. Does Vendor have pending contracts (including leases), bids, proposals, or other pending procurement relationship with the City? Yes X No _____

If "Yes", identify each pending matter with descriptive information including bid or project number, contract date and City contact using space below (attach additional pages as necessary).

Evoqua currently has our Proposal No. 21095 open for work on the Water Screens, and Quotation 2022-541896 for replacement parts for (3)

Traveling Water Screens at St. Joe Dam Water Treatment facility.

- c. Does vendor have any existing employees that are also employed by the City of Fort Wayne?

Yes _____ No X _____

If "Yes", provide the employee's name, current position held at vendor, and employment payment terms (hourly, salaried, commissioned, etc.).

Name / Position / Payment Terms:

Name / Position / Payment Terms:

Name / Position / Payment Terms:

- d. Does vendor's representative, agent, broker, dealer or distributor (if applicable) have any existing employees that are also employed by the City of Fort Wayne? For each instance, please provide the name of the representative, agent, broker, dealer or distributor; the name of the City employee, and the payment terms (hourly, salaried, commissioned, etc.). None

Company / Name / Payment Terms: _____

Company / Name / Payment Terms: _____

Section 4: CERTIFICATION OF DISCLOSURES

In connection with the disclosures contained in Sections 1, 2 and 3 Vendor hereby certifies that, except as described in attached Schedule A:

- a. Vendor (or its parent) has not, within the five (5) year period preceding the date of this Disclosure Statement, been debarred, suspended, proposed for debarment declared ineligible or voluntarily excluded from any transactions by any federal, state or local unit of government;
- b. No officer or director of Vendor (or its parent) or individual listed in Section 1a. is presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any offense;
- c. Vendor (or its parent) has not, within the five (5) year period preceding the date of this Disclosure Statement, had one or more public transactions (federal, state or local) terminated for cause or default;
- d. No officer or director of Vendor (or its parent) or individual listed in Section 1a. has, within the five (5) year period preceding the date of this Disclosure Statement, been convicted, adjudged guilty, or found liable in any criminal or civil action instituted by the City, the federal or state government or any other unit of local government; and
- e. Neither Vendor, nor its parent, nor any affiliated entity of Vendor, or any of their respective officers, directors, or individuals listed in Section 1a. is barred from contracting with any unit of any federal, state or local government as a result of engaging in or being convicted of: (i) bid-rigging; (ii) bid-rotating; or (iii) any similar federal or state offense that contains the same

elements as the offense of bid-rigging or bid-rotating

- f. Pursuant to IC 5-22-16.5, Vendor hereby certifies they do NOT provide \$20 million dollars or more in goods or services to the energy sector of Iran. Vendor also certifies it is not a financial institution that extends \$20 million dollars or more in credit that will provide goods or services to the energy sector of Iran or extends \$20 million dollars or more in credit to a person identified on the list as a person engaging in investment activities in Iran.

The disclosures contained Sections 1, 2 and 3 and the foregoing Certifications are submitted by

Evoqua Water Technologies LLC

(Name of Vendor)

Address

()

Telephone

E-Mail Address

The individual authorized to sign on behalf of Vendor represents that he/she: (a) is fully informed regarding the matters pertaining to Vendor and its business; (b) has adequate knowledge to make the above representations and disclosures concerning Vendor; and (c) certifies that the foregoing representations and disclosures are true and accurate to the best of his/her knowledge and belief.

Name (Printed) Thomas J. Kofeldt Title Sales Manager, Intake Products

Signature Thomas J. Hofeltt. Date July 28th, 2022

NOTE: FAILURE TO COMPLETE AND RETURN THIS FORM WITH YOUR DOCUMENTATION MAY RESULT IN YOUR CONTRACT, OFFER, BID OR PROPOSAL BEING DISQUALIFIED FROM CONSIDERATION.

Interoffice Memo

Date: August 30, 2022
To: Common Council Members
From: Michael Kiester, Manager, City Utilities Engineering
RE: St. Joseph Dam Screens 1, 2, and 3 Rebuild
Material 67248

Michael Kiester
8.30.2022

Council District: N/A

The contractor shall furnish all labor, insurance, equipment, materials and power for the completion of the project: St. Joseph Dam Screens 1, 2, and 3 Rebuild Material Procurement as follows: The procurement of a new head section assembly for Screen 3 and various chains, shafts, bushings, gears, and other hardware to rebuild screens.

Implications of not being approved: The existing screens at St. Joseph Dam require that certain parts be replaced in order to extend the useful life of the equipment. The screens are a critical part of existing infrastructure and are essential for the continued operational resiliency of St. Joseph Dam.

If Prior Approval is being Requested, Justify: N/A

Selection and Approval Process:

Evoqua Water Technologies LLC is the Original Equipment Manufacturer (OEM) for the existing Traveling Water Screens brand parts and equipment at St. Joseph Dam. To ensure that we receive a one-to-one replacement, the same manufacturer has been selected. Evoqua Water Technologies LLC is the sole supplier for these items in our area. The total purchase price is \$195,810.00.

The cost of said project funded by Utility Revenue.

Council Introduction Date: September 13, 2022

CC: Matthew Wirtz
Jill Helfrich
File