

AGREEMENT

THIS AGREEMENT is by and between the Karegnondi Water Authority, 4610 Beecher Road, Flint, Michigan 48532 ("Buyer") and Flowserve, 5310 Taneytown Pike, P.O. Box 91, Taneytown, Maryland 21787 ("Seller"). Buyer and Seller hereby agree as follows:

ARTICLE 1 - GOODS AND SPECIAL SERVICES

1.0 Seller shall furnish the Goods and Special Services as specified or indicated in the Contract Documents.

ARTICLE 2 - THE PROJECT

2.01 The Project, of which the Goods and Special Services may be the whole or only a part, is identified as follows: KWA Water Supply System Contracts S.4001, Lake Huron Pump Station and Contract S.4004, Intermediate Pump Station.

A. The parties understand that the Buyer may hire different Engineers to design and Installing Contractors to install each different portion of the Project represented by the contract numbers set forth above. To ensure consistency with respect to the Goods and Special Services provided by Seller, Buyer agrees that it will include or cause to be included in the Owner Supplied Pump Equipment Clauses in each and every contract for the Project that relates to the handling or installation of the Goods provided by Seller, including, but not limited to, any contracts with the general contractor and/or installer of any portion of the Project.

ARTICLE 3 - TERM

3.01 The term of this Agreement shall commence on the Effective Date of this Agreement and end on the date which is the earlier of (a) the date on which Seller receives full, final and unqualified payment for all Goods and Special Services, or (b) twenty (20) years from the Effective Date.

ARTICLE 4- POINT OF DESTINATION

4.01 Goods delivered under the Contract Documents will be delivered to the respective Project's site at either: 7705 Fisher Road; Lexington, MI in Worth Twp., Sanilac County Michigan (Contract S.4001) or 8763 Martin Road, Brown City, MI in Lynn Twp., St. Clair County, Michigan (Contract S.4004). Goods will be delivered by Seller as close to the Project site(s) as possible, at locations mutually agreed upon by Buyer and Seller, on passable roads over which the truck can

move safely under its own power. As set forth in Paragraph 6.02.C. of the General Conditions attached hereto as Exhibit A-1, of the Buyer. Seller shall be responsible for arranging and scheduling for unloading of Goods by the Installing Contractor.

ARTICLE 5- CONTRACT TIMES

5.01 Due Diligence

- A. Seller shall use due diligence to achieve all time limits for Milestones, if any, including the submittal of Shop Drawings and Samples, the delivery of Goods, and the furnishing of Special Services as stated in the Contract Documents.

5.02 Milestones

- A. Days for Submittal of Shop Drawings and Samples: Unless otherwise set forth in the Contract Documents, Seller shall submit all Shop Drawings and Samples required by the Contract Documents to Buyer for its review and approval within 45 days after the date when the Contract Times commence to run as provided in Paragraph 2.04 of the General Conditions or as otherwise set forth in the Contract Documents. It is the intent of the parties that: (1) Buyer conduct such review and issue its approval, or a denial accompanied by substantive comments regarding information needed to gain approval, within 30 days of Seller's submittal of such Shop Drawings (which shall include pump curves, data sheets test reports, material schedules) and Samples; and: (2) Resubmittals be limited whenever possible. If more than one resubmittal is necessary for reasons not the fault and beyond the control of Seller, then Seller shall be entitled to seek appropriate relief under Paragraph 7.02.B of the General Conditions.
- B. Days to Achieve Delivery of Goods: The Goods are to be delivered to the Point of Destination and ready for Buyer's receipt of delivery in accordance with a schedule that is mutually agreed upon by the Buyer and Seller; provided, however that, without limitation to the generality of the foregoing, it is generally expected that material will be available for the specific contracts in accordance with the Delivery Schedule, Exhibit A-

The associated pump equipment being supplied under the Contract Documents will be delivered as required to accommodate pump installation as detailed in the Delivery Schedule, and the parties agree that the schedule approved by them will reflect as such. In no event shall Seller be obligated to commence deliveries prior to the dates set forth in the Delivery Schedule; provided, however, that Seller, in its discretion and upon Buyer's request, may make earlier deliveries if Goods are available at such time. The parties agree that the final delivery schedule shall be determined by Seller and Buyer's applicable Installing Contractor in good faith to accommodate mutually agreeable delivery schedules and in accordance with the parameters of the Delivery Schedule and the other terms of the Contract Documents.

- C. Days for Furnishing Special Services. Seller shall furnish Special Services to Buyer on an as-needed basis and upon 15 days written notice to Seller of the Special Services that Buyer is requesting.

5.03 Buyer's Final Inspection

- A. Days to Achieve Final Inspection: Buyer shall make its final inspection of the Goods pursuant to Paragraph 8.01.B of the General Conditions within 10 Business Days after Buyer's acknowledgement of receipt of delivery of the Goods.

5.04 Liquidated Damages

- A. Buyer and Seller recognize that Buyer will suffer financial loss if the Goods are not delivered at the Point of Destination and ready for receipt of delivery by Buyer within the times specified in the final delivery schedule agreed upon by the parties (as contemplated by Paragraph 5.02 above), plus any extensions thereof allowed in accordance with Article 7 of the General Conditions. The parties also recognize that the timely performance of services by others involved in the Project is dependent upon Seller's specific compliance with the delivery requirements. Further, they recognize the delays, expense, and difficulties involved in proving the actual loss suffered by Buyer if complete acceptable Goods are not delivered on time. Accordingly, instead of requiring such proof, Buyer and Seller agree that as liquidated damages for delay (but not as a penalty) Seller shall pay Buyer \$2,500.00 for each day that expires after the time specified in the final agreed upon delivery schedule for delivery of acceptable Goods. Seller's total obligation to pay liquidated damages for delay in no event shall exceed 5% of the contract value.
- B. The Liquidated Damages prescribed by this Paragraph 5.04 are Buyer's sole remedies and Seller's sole liability for Seller's failure to meet the Contract Times.

ARTICLE 6- CONTRACT PRICE

Buyer shall pay Seller for furnishing the Goods and Special Services in accordance with the Contract Documents as follows: The unit prices stated in the Pricing Schedule, which shall be payable in accordance with the Contract Documents. While the unit prices in the Pricing Schedule shall remain firm (absent a Change Order or other amendment to the Contract), Buyer and Seller understand and agree any total price set forth in the Pricing Schedule is based on providing pumping equipment that will meet the stated performance efficiencies and is subject to change based on the final performance of the pumping equipment as measured during the factory witness testing and adjusted using the methodology as explained in the Contract Documents and as agreed to by Buyer and Seller in accordance with this Contract.

ARTICLE 7- PAYMENT PROCEDURES

7.01 Submittal and Processing of Payment

- A. Seller shall submit Invoices in accordance with Article 10 of the General Conditions. Invoices will be processed and paid by Buyer as provided in the General Conditions.

7.02 Advance Payments

- A. Buyer shall make advance payments (the "Advance Payments") in the amounts and at the times set forth in the Advance Payment Schedule, Exhibit H. The Advance Payments shall serve as a credit towards the purchase of Goods, and as Seller ships Goods to Buyer, the Advance Payments shall reduce, dollar for dollar, based on the invoiced amount of Goods shipped to Buyer until it has been reduced to zero. Seller shall communicate with Buyer as reasonably necessary with respect to the outstanding amount of the Advance Payments.

7.03 Contract Price Reduction as Penalty for Lower Efficiency

- A. If the Pumping Equipment does not perform to the efficiency as stated in the Pump Bid Submittal, the Contract Price shall be reduced for each pump that does not test as represented. The formula for price reduction as applied in accordance with the methodology as outlined in the Pump Equipment Specification

ARTICLE 8- INTEREST

- 8.01 All monies not paid when due as provided in Article 10 of the General Conditions shall bear interest at 1.50% per month, charged weekly on the unpaid balance.

ARTICLE 9 - REPRESENTATIONS

- 9.01 In order to induce Buyer to enter into this Agreement, Seller makes the following representations:
 - A. Seller has examined and carefully studied the Contract Documents as applicable to Seller's obligations identified in Article 1 above.
 - B. Seller is familiar with and is satisfied as to all Laws and regulations that may affect cost, progress, and the manufacturing and delivery of the Goods and Special Services.
 - C. Seller has carefully studied, considered, and correlated the information known to Seller; information commonly known to sellers of similar goods doing business in the locality of the Point of Destination and the site where the Goods will be installed or where Special Services will be provided; information and observations obtained from Seller's visits, if any, to the Point of Destination and site where the Goods are to be installed or Services will be provided; and any reports and drawings identified in the Contract Documents

regarding the Point of Destination and the site where the Goods will be installed or where Special Services will be provided, with respect to the effect of such information, observations, and documents on the cost, progress, and performance of Seller's obligations under the Contract Documents.

- D. Seller has given Buyer written notice of all conflicts, errors, ambiguities, or discrepancies that Seller has discovered in the Contract Documents, and the written resolution (if any) thereof by Buyer is acceptable to Seller.
- E. Seller is duly authorized and has the full right, power, and authority to enter into this Contract and to perform all of its duties hereunder.

9.02 In order to induce Seller to enter into this Agreement, Buyer makes the following representations:

- A. Buyer has complied in all respects with all applicable Laws and Regulations in connection with the negotiation of the Contract Documents and the purchase of the Goods and Special Services from Seller.
- B. Buyer is duly authorized and has the full right, power, and authority to enter into this Contract and to perform all of its duties hereunder, and the individual executing this Contract has fully power and authority to bind the Buyer hereto.

ARTICLE 10- CONTRACT DOCUMENTS

10.01 Contents

- A. The Contract Documents consist of the following:
 - 1. This Agreement
 - 2. Invitation to Bid
 - 3. Instructions to Bidders (Including Alden Report on Wetwell Geometry by Reference)
 - 4. Exhibit A-1: General Conditions
 - 5. Exhibit A-2: Delivery Schedule
 - 6. Exhibit B: Specifications and Drawings

Exhibit B-1: Contract S.4001 Specifications (attached separately):

Section 11214 Vertical Turbine Pump Specifications
Section 13304 System Controls (for reference only)
Section 13314 PLC's (for reference only)
Section 16345 Medium Voltage Motor Controllers

Section 16350 Medium Voltage Variable Frequency Drives

Exhibit B-2: Contract S.4001 Drawings (attached separately):

P-1.1 thru 1.12,
E-1.3, 1.4 and 1.10 thru 1.15,

Exhibit B-3: Contract S.4004 Specifications (attached separately):

01100 Summary
01300 Administrative Requirements
01330 Submittal Procedures
01400 Quality Requirements
01420 References
01600 Product Requirements
01700 Execution Requirements
04065 Masonry Mortar and Grout
09900 Paints and Coatings
09960 High Performance Coatings
11214 Vertical Turbine Pumps
15060 Supports and Anchors
15221 Process Piping and Appurtenances
15222 Valves and Gates for Process Piping
16060 Grounding and Bonding
16070 Electrical Hangers and Supports
16075 Electrical Identification
16345 Medium Voltage Motor Controllers

Exhibit B-4: Contract S.4004 Drawings (attached separately):

C-0.1, 0.2, 0.3, 3.2;
A-1.1, 1.2, 1.4, 1.5, 1.6;
P-1.3, 1.4, 1.5, 1.9;
E-1.2, 1.3, 1.4, 1.6, 1.13;
I-1.4, 1.5

5. Exhibit C: Pump Pricing Schedule

Exhibit C-1: Equipment Price Schedule S.4001

Exhibit C-2: Equipment Price Schedule S.4004

Exhibit C-3: Power Guarantees and Penalty Provisions

Exhibit C-4 Legal Status of Bidder

6. Exhibit D: Services Scope of Work
 7. Exhibit E: Owner Supplied Pump Equipment Clauses
 8. Exhibit F. Supply Bond
 9. The following which may be delivered or issued on or after the Effective Date of the Agreement and are not attached hereto:
 - a. Notice to Proceed;
 - b. Change Order(s);
 - c. Work Change Directive(s).
- B. The documents listed in Paragraph 10.01.A above are attached to this Agreement (except as expressly noted otherwise above).
- C. There are no Contract Documents other than those listed above in this Article 10.
- D. The Contract Documents may only be amended, or supplemented as provided in Paragraph 3.04 of the General Conditions.
- E. The Contract Documents are complementary; what is called for by one is as binding as if called for by all words that have a well-known technical or trade meaning are used throughout the Contract Documents in accordance with such recognized or well-known meaning unless specifically defined otherwise. In the event of any conflict between the Contract Documents, the Contract Documents shall be interpreted in the following order of priority: (1) this Agreement; (2) Specifications; (3) Services Scope of Work; (4) General Terms and Conditions; (5) Pricing Schedule; (6) Owner Supplied Pump Equipment Clauses; (7) Hydraulic Institute Standards for Vertical Turbine Pumps; (8) Form of Supply Bond.

ARTICLE 11- MISCELLANEOUS

11.01 Terms

- A. Terms used in this Agreement will have the meanings indicated in the General Conditions.

11.02 Assignment of Contract

- A. No assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound. Notwithstanding the foregoing, however, monies that may become due and monies that are due may be collaterally assigned without such consent. Unless specifically stated to the contrary in any written consent to such an assignment,

such an assignment will not release or discharge the assignor from any duty or responsibility under the Contract Documents.

- B. The foregoing restriction on assignment shall not prohibit Seller from subcontracting, and Seller may engage competent and reputable Subcontractors located in the United States of America for the supply of parts of the Goods and Services. Notwithstanding the foregoing, it is understood and agreed that Seller may obtain a minimal amount of components for the Goods from foreign subsidiaries and/or suppliers.

11.03 Successors and Assigns

- A. Buyer and Seller each binds itself, its partners, successors, assigns, and legal representatives to the other party hereto, its partners, successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

11.04 Severability

- A. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Buyer and Seller. The Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

11.05 Certifications

- A. Each party certifies to the other that it has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for or in executing the Contract. For the purposes of this Paragraph 11.05:
 1. "Corrupt practice" means the offering, giving, receiving, or soliciting of anything of value likely to influence the action of a public official in the bidding process or in the Contract execution;
 2. "Fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the bidding process or the execution of the Contract to the detriment of Buyer, (b) to establish bid or Contract prices at artificial non-competitive levels, or (c) to deprive Buyer of the benefits of free and open competition;
 3. "Collusive practice" means a scheme or arrangement between two or more bidders, with or without the knowledge of Buyer, a purpose of which is to establish bid prices at artificial, non-competitive levels; and
 4. "Coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

11.06 Limitations

- A. Buyer and Seller waive against each other, and against the other's officers, directors, members, partners, employees, agents, consultants, and subcontractors, any and all claims for or entitlement to incidental, indirect, or consequential damages arising out of, resulting from, or related to the Contract, the provision of Goods and/or Special Services and the performance of any work hereunder. Upon assignment the terms of this Paragraph 11 .06.A shall be binding upon the assignee with respect to Seller and assignor.
- B. Mutual Limitation of Liability: Buyer and Seller further agree that the total liability of each party to the other for claims, costs, losses, and damages arising from this Contract shall be limited to the amount established in this Agreement as the Contract Price. Upon assignment the terms of this Paragraph 11.06.B shall be binding upon both the assignor and assignee with respect to Seller's liability, and upon Seller with respect to both assignor's and assignee's liabilities. The terms of this mutual limitation under Paragraph 11.06.B do not apply to or limit any claim by either Buyer or Seller against the other based on:
 - (a) indemnification under Paragraph 5.08 of the General Terms attached as Exhibit A-1 with respect to third-party claims, losses, and damages under this Contract.

11.07 *Counterparts; Delivery by Facsimile or E-Mail.* This Contract may be executed in two counterparts and by facsimile, each of which shall be deemed an original, but both of which together shall constitute but one and the same instrument. This Contract, the Contract Documents the agreements referred to herein, and each other agreement or instrument entered into in connection herewith or therewith or contemplated hereby or thereby, and any amendments hereto or thereto, to the extent signed and delivered by means of a facsimile machine or electronic transmission in portable document format ("PDF"), shall be treated in all manner and respects as an original agreement or instrument and shall be considered to have the same binding legal effect as if it were the original signed version thereof delivered in person. At the request of any party hereto or to any such agreement or instrument, each other party hereto or thereto shall re-execute original forms_ thereof and deliver them to all other parties. No party hereto or to any such agreement or instrument shall raise the use of a facsimile machine or electronic transmission in PDF format to deliver a signature or the fact that any signature or agreement or instrument was transmitted or communicated through the use of a facsimile machine or electronic transmission in PDF format as a defense to the formation or enforceability of a contract and each such party forever waives any such defense.

11.08 *Relationship of Parties.* Seller shall perform and execute the provisions of this Agreement as an independent contractor and shall not in any respect be deemed or act as an agent of Buyer for any purpose or reason whatsoever. All of Seller's employees, agents, and subcontractors shall be subject solely to the control supervision, and authority of Seller. Buyer and Seller disclaim any intention to create a partnership or joint venture. Seller shall not be entitled to make any representation (express or implied) or otherwise act for, or have any power or authority to bind or assume any obligation or responsibility on behalf of Buyer. Neither Seller nor Buyer nor any of

their respective employees, agents or subcontractors shall in any form or fashion maintain, hold out, represent, state or imply to any other person that an employer/employee, joint venture, partnership or agency relationship exists between Buyer and Seller or between Buyer and any of Seller's employees, agents or subcontractors. Neither Seller, nor any employee, agent, or subcontractor of Seller, shall be entitled to any compensation or other benefits given to any employees of Buyer.

IN WITNESS WHEREOF, Buyer and Seller, acting under authority of their respective governing body or corporation, have signed this Contract effective this 15th day of APRIL, 2014. All portions of the Contract Documents have been signed or identified by Buyer and Seller or on their behalf.

Buyer:

KAREGNONDI WATER AUTHORITY

Name:

Date:

Attest:

Seller:

FLOWSERVE US, INC

Name:

Date:

Attest:

Address for giving notice:

Karegnondi Water Authority
G-4610 Beecher Road
Flint, Michigan 48532

Address for giving notice:

FLOWSERVE US, INC.
5310 TANEYTOWN PIKE
TANEYTOWN, MD 21787

Designated Representative:

Name: John F. O'Brien, P.E.

Title: Deputy CEO

Address: 4610 Beecher Road

Flint, MI 48532

Phone: (810) 732-7870

Facsimile: (810) 732-9773

Designated Representative:

Name: RANDY PHILLIPS

Title: PROJECT MANAGER

Address: 5310 TANEYTOWN PIKE

TANEYTOWN, MD 21787

Phone: 410-756-3295

Facsimile: 410-756-2615