

AGREEMENT FOR PURCHASE AND SALE OF GOODS

Bid/Proposal No.

Contract No. _____

Project Name **Flygt Products**

THIS AGREEMENT FOR PURCHASE AND SALE OF GOODS (the "Agreement") is made this 18 day of May, 2011, by and between ITT Water & Wastewater Florida, LLC whose address is 5771 Country Lakes Drive, Fort Myers, FL 33905 ("Seller") and THE CITY OF NAPLES, a Florida municipal corporation, the address of which is 735 Eighth Street South, Naples, Florida 34102 ("Buyer"). In consideration of the mutual covenants and agreements hereinafter set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby mutually acknowledged, Buyer and Seller agree as follows:

1. **Description of Goods; Sale and Delivery.** Seller shall sell, transfer, and deliver to Buyer the goods described on the Description/Proposal attached hereto and made a part of as Exhibit "A" subject to such terms as are set forth in the Description/Proposal and in this Agreement.

2. **Acceptance; Purchase.** Buyer shall accept the goods and pay an amount not to exceed: \$270,868.00 for the goods in accordance with the terms of this Agreement.

3. **Identification of Goods.** Identification of the goods shall not be deemed to have been made until both Buyer and Seller have agreed that the goods in question are to be appropriate to the performance of this Agreement.

4. **Rate and Time of Payment.** Unless otherwise specified, Buyer shall make payment to Seller for the goods within 30 days after the goods are received by Buyer.

5. **Receipt of Goods.** The goods shall be deemed received by Buyer when delivered to Buyer at City of Naples, 1450 4th Ave North, # 900, Naples, Florida 34102. Delivery of the goods to Buyer shall occur on a business day and shall not occur after 3:15 p.m. on the delivery day.

6. **Risk of Loss.** The risk of loss from any casualty to the goods, regardless of the cause, shall be on Seller up to the time of receipt of the goods by Buyer at the place of delivery, but only after any proper inspection has been completed without rejection of the goods. Thereafter, such risk shall be on Buyer, including any goods thereafter returned to Seller until their receipt by Seller.

7. **Warranty Against Encumbrances.** Seller warrants that the goods are now free, and at the time of delivery shall be free, from any security interest or other lien or encumbrance.

8. **Warranty of Title.** Seller warrants that at the time of signing this Agreement, Seller neither knows, nor has reason to know, of the existence of any outstanding title or claim of title hostile to the rights of Seller in the goods.

9. **Product Warranty.** Seller provides general warranties of fitness and general warranties that the goods are free from defects, for 1 year from acceptance of the goods, except as may otherwise be set forth in the Description/Proposal, or other attached warranty.

10. **Right of Inspection.** Buyer shall have the right to inspect the goods at the time and place of delivery, and within 5 business days after delivery, Buyer must give notice to Seller of any claim for damages on account of the condition, quality, or grade of the goods, and Buyer must specify in detail the basis of such claim. The failure of Buyer to comply with these conditions shall constitute irrevocable acceptance of the goods by Buyer.

11. **Procedure as to Rejected Goods.** On receipt of notification of rejection, Seller will immediately arrange to receive back the goods for shipment and return. However, within 5 days, Seller may have an agent inspect such goods for nonconformity; otherwise, such inspection will be made on return to Seller's storage facility. When such goods are confirmed or acquiesced in as nonconforming, Seller will ship conforming goods within 30 days of the notice of rejection unless Buyer earlier notifies Seller to forgo such shipment.

12. **Governing Law.** The parties acknowledge that the transaction that is the subject matter of this Agreement bears a reasonable relation to the State of Florida and agree that the law of the State of Florida will govern their rights and duties. The parties specifically intend that the provisions of Article 2 of the Florida Uniform Commercial Code will control as to all aspects of this Agreement and its interpretation, and that all the definitions contained therein will be applicable to this Agreement except where this Agreement may expressly provide otherwise.

13. **Notices and Address of Record.** All notices required or made pursuant to this Agreement to be given by Seller to Buyer shall be in writing and shall be delivered by overnight courier, by hand or by United States Postal Service Department, first class mail service, postage prepaid, return receipt requested, addressed to the following:

To Buyer:

City of Naples
Attention: A. William Moss, City Manager
735 Eighth Street South
Naples, Florida 34102-3796

All notices required or made pursuant to this Agreement to be given by Buyer to Seller shall be made in writing and shall be delivered by overnight courier, by hand or by the United States Postal Service Department, first class mail service, postage prepaid, return receipt requested, addressed to the following:

To Seller: ITT Water & Wastewater Florida, LLC
Address: 5771 Country Lakes Dr.,
Ft. Myers, FL 33919
Attention: Chris Stewart, Branch Manager

Either party may change its address of record by written notice to the other party given in accordance with requirements of this Article.

15. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original as against any party whose signature appears thereon and all of which shall together constitute one and the same instrument.

16. **Effective Date.** This Agreement shall take effect on the day of execution by the last party to execute this agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day first written above.

ATTEST:

(Print Name: _____)

"SELLER":

ITT Water & Wastewater Florida, LLC
(Corporate Seal)

By: _____
Authorized Representative

ATTEST:

By: _____
Tara A. Norman, City Clerk

"BUYER"

City of Naples, Florida

By: _____
A. William Moss, City Manager

Approved as to form and legal sufficiency:

By: _____
Robert D. Pritt, City Attorney

Agreement for Purchase and Sale of Goods
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ITT WATER & WASTEWATER FLORIDA, LLC
5771 Country Lakes Dr. FT. Myers, FL 33919
Phone: 239-693-5228 • Fax: 239-693-1485

Date: April 27, 2011
To: City of Naples
Attn: Ben Copeland

Subject: FLYGT PRODUCTS – SALES & SERVICE

Please be advised the ITT Water & Wastewater Florida, LLC is the only authorized vendor for Flygt Products and is the only authorized service repair and warranty organization in the State of Florida; (East of the Apalachicola River). Their staff is properly trained to provide you the best service available.

ITT Water & Wastewater Florida, LLC, a division of ITT Industries and the sole shipping point for Florida is the Apopka, Florida facility.

Thank you for your interest in Flygt Products. Do not hesitate to call me if you have any questions regarding distribution or any other matter.

Very truly yours,

ITT Water & Wastewater Florida, LLC

A handwritten signature in black ink, appearing to read "Chris Stewart".

Chris Stewart, Branch Manager





ITT Water & Wastewater Florida, LLC
 Flygt Products
 5771 Country Lakes Drive Fort Myers, Florida 33905
 Phone: 239-693-5226 Fax: 239-693-1485

To: City of Naples
 Subject: Golden Gate Canal

Date: April 28, 2011
 Quote Number: 2011-APO-0461

We are pleased to offer the following equipment:

- (2) CP3231 665 Drive 430 imp 160hp/460v/3ph 35-45AA Motor, 8" Discharge Including 100' X2 Motor Cable and 100" Pilot Cable
- (2) Test FAL 2.2 Plotted
- (2) Bronzing, FFL 3300
- (2) Mini Cas
- (2) VFD
- (2) 20'X3/8" Lift Chain 316SS
- (2) 8"X 8" Discharge Connection
- (8) J-Bolts 1"X12" w/Nuts and Washers
- (4) 3"X20' Guide Rail 316SS
- (2) 3" Upper Guide Bar Brackets 316SS, Including Hooks
- (1) Cable Holder 316SS
- (2) Start Up Charge

This quote is inclusive of all items required for compliance with specifications 11307 and 16371, including those pertaining to Operating Instructions and Execution"

The VFD is an Allen Bradley drive and was quoted per the above mentioned specifications and the spare parts are included.

Price: \$ 270,868.00, including freight, F.O.B. Factory allowed to jobsite

THIS PROPOSAL WILL EXPIRE IN NINETY (90) DAYS UNLESS EXTENDED IN WRITING BY ITT WATER & WASTEWATER.

NOTE: WE DO NOT SUPPLY, PIPING, VALVES, GUIDE BARS, PRESSURE GAUGES, DISCONNECTS, JUNCTION BOXES, KELLUMS GRIPS, SURGE PROTECTION EQUIPMENT, SPARE PARTS, LABOR OR ANY OTHER ITEM NOT SPECIFICALLY LISTED ABOVE.

TERMS: Subject to credit approval net 45 days after date of invoice or 100% payable before start-up of equipment (whichever comes first). A service charge of 1.5% per month will be added to all balances unpaid 30 days after invoice date. Failure to pay in accordance with these terms will void all warranties. A cancellation charge of 20% of the value of the order will be assessed for special orders or control panels cancelled after production is completed.

- CONDITIONS:**
1. Price is firm based on our receiving complete approval and release for productions four (4) weeks after drawings have been submitted by ITT Water & Wastewater, Florida, LLC.
 2. PARTIAL BILLING WILL BE MADE ON ANY PARTIAL SHIPMENT.

We thank you for your interest in our equipment and look forward to being of service to you in the near future.

IN THE ABSENCE OF A FORMAL ISSUED PURCHASE ORDER, A SIGNED FACSIMILE COPY OF THIS PROPOSAL IS ACCEPTABLE AS A BINDING CONTRACT.

ITT Water & Wastewater, Florida, LLC

Company Name: _____

Accepted By: _____

Print Name: _____

Date: _____


 Chris Stewart





ITT FLYGT WARRANTY

For the period defined, ITT FLYGT offers a commercial warranty to the original End Purchaser against defects in workmanship and material. Warranty covers parts and labor as outlined in **ADDENDUM – A**.

COVERAGE:

ITT FLYGT will pay the cost of parts and labor during the warranty period, provided that the product, with cable attached, is returned prepaid to an ITT FLYGT Authorized Service Facility for repairs. Coverage for parts and labor will be provided for the period shown in **ADDENDUM - A**. The warranty period will begin from date of shipment or date of a valid Start-up (For permanently installed pumps only). In cases where the Start-up date is used as the beginning of the warranty on a permanently installed pump, a Start-up Report completed by an approved service technician from an ITT FLYGT Authorized Service Facility must be received by the ITT FLYGT Area Service Manager within thirty (30) days of the initial onset of the unit placed into service. If not received, the beginning of the warranty coverage will default to the product ship date. A Start-up for a permanently installed pump must occur within one (1) year from the date of shipment from ITT FLYGT or warranty will automatically default to ship date as start of warranty. (See **STORAGE** section). When using the start-up date as the beginning of the warranty period then a copy of the Start-up Report is required to support a Warranty Claim. Warranty on Dewatering pumps will begin with ship date.

ITT FLYGT'S sole obligation under this Warranty shall be to replace, repair or grant credit for product upon ITT FLYGT'S exclusive determination that the product does not conform to the above warranty. In the event that the product is replaced, warranty on the replacement product will be equal to the balance remaining on the original product or ninety (90) days, which ever is greater.

MISUSE:

This Warranty shall not apply to any product or part of product which (i) has been subjected to misuse, misapplication, accident, alteration, neglect, or physical damage (ii) has been installed, operated, used or maintained in a manner and/or in an application contrary to ITT FLYGT's printed instructions for installation, operation and maintenance, including without limitation operation without being connected to monitoring devices supplied with specific products for protection; or (iii) has been damaged due to a defective power supply, improper electrical protection, faulty installation or repair, ordinary wear and tear, corrosion or chemical attack, an act of God, an act of war or by an act of terrorism; or (iv) has been damaged resulting from the use of accessory equipment not sold by ITT FLYGT or not approved by ITT FLYGT in connection with the product.

WEAR PARTS:

This warranty does not cover costs for standard and/or scheduled maintenance performed, nor does it cover parts that, by virtue of their operation, require replacement through normal wear (aka: Wear Parts), unless a defect in material or workmanship can be determined by ITT FLYGT. Wear Parts are defined as Cutters, Cutting Plates, Impellers, Agitators, Diffusers, Wear Rings (Stationary or Rotating), Volutes (when used in an abrasive environment), oil, grease and/or any items deemed necessary to perform normal maintenance on ITT FLYGT equipment.

DISCLAIMERS:

(i) ITT FLYGT'S warranties are null and void when the product is exported outside of the United States of America without the knowledge and written consent of ITT Flygt US; (ii) ITT FLYGT makes no independent warranty or representation with respect to parts or products manufactured by others and provided by ITT FLYGT (however, ITT FLYGT will extend to the Purchaser any warranty received from ITT FLYGT'S supplier of such parts or products).

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ITT FLYGT WARRANTY

LIMITATIONS:

ITT FLYGT NEITHER ASSUMES, NOR AUTHORIZES ANY PERSON OR COMPANY TO ASSUME FOR ITT FLYGT, ANY OTHER OBLIGATION IN CONNECTION WITH THE SALE OF ITS EQUIPMENT. ANY ENLARGEMENT OR MODIFICATION OF THIS WARRANTY BY A DISTRIBUTOR, OR OTHER SELLING AGENT SHALL BECOME THE EXCLUSIVE RESPONSIBILITY OF SUCH ENTITY.

THE FOREGOING WARRANTY IS EXCLUSIVE AND IN LIEU OF ANY AND ALL OTHER EXPRESS OR IMPLIED WARRANTIES, GUARANTEES, CONDITIONS OR TERMS OF WHATEVER NATURE RELATING TO THE PRODUCT(S), INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE WHICH ARE HEREBY EXPRESSLY DISCLAIMED AND EXCLUDED. PURCHASER'S EXCLUSIVE REMEDY AND ITT FLYGT'S AGGREGATE LIABILITY FOR BREACH OF ANY OF THE FOREGOING WARRANTIES IS LIMITED TO REPAIRING OR REPLACING THE PRODUCT AND SHALL IN ALL CASES BE LIMITED TO THE AMOUNT PAID BY THE PURCHASER HEREUNDER. IN NO EVENT IS ITT FLYGT LIABLE FOR ANY OTHER FORM OF DAMAGES, WHETHER DIRECT, INDIRECT, LIQUIDATED, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, EXEMPLARY OR SPECIAL DAMAGES, INCLUDING BUT NOT LIMITED TO LOSS OF USE, LOSS OF PROFIT, LOSS OF ANTICIPATED SAVINGS OR REVENUE, LOSS OF INCOME, LOSS OF BUSINESS, LOSS OF PRODUCTION, LOSS OF OPPORTUNITY OR LOSS OF REPUTATION.

ITT FLYGT WILL NOT BE HELD RESPONSIBLE FOR TRAVEL EXPENSES, RENTED EQUIPMENT, OUTSIDE CONTRACTOR'S FEES, EXPENSES PERFORMED BY AN UNAUTHORIZED REPAIR SHOP, UNAUTHORIZED ALTERATIONS, OR FOR PUMPS USED WITHOUT ITT FLYGT SUPPLIED CABLE OR CONTROLS UNLESS IT CAN BE PROVEN SUCH ANCILLARY EQUIPMENT IS SUITABLE FOR THE PURPOSE AND EQUAL TO ITT FLYGT CABLES OR CONTROLS THAT WOULD ORIGINALLY BE SUPPLIED WITH THE TYPE OF EQUIPMENT IN USE. REIMBURSEMENT COSTS FOR CRANES AND/OR ANY SPECIAL EQUIPMENT USED IN CONJUNCTION FOR THE REMOVAL OR REINSTALLATION OF ANY ITT FLYGT EQUIPMENT IS NOT COVERED UNDER THIS WARRANTY.

REQUIREMENTS:

A copy of Electrical System Schematics of the control used (including Control's Bill of Material) could be required to support a Warranty Claim when a non Flygt control is used. In addition, a written record, hereby known as "the log", will be associated with each unit serial number and must be maintained by the organization having product maintenance responsibility. The log must record each preventative maintenance activity and any repair activity during the life of the warranty or verification that a Flygt authorized Service Contract is in force and is available for review and/or auditing. Failure to meet these conditions could render this warrant null and void. Such logs could be required to determine warranty coverage.

STORAGE:

Should a delay occur between ship date and the date of start-up, maintenance as outlined in ITT FLYGT's *Care & Maintenance Manual* must be performed by the "CONTRACTOR" and/or "OWNER" during any such period of storage. Documentation providing proof and outlining what maintenance was performed must be provided to ITT FLYGT or its representative within thirty (30) days of said maintenance, or the ITT FLYGT warranty could be considered void.

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ITT FLYGT WARRANTY

CONTROLS:

Warranty coverage for permanently installed controls start on date of shipment to end purchaser. This warranty does not apply to controls that have been damaged due to a defective and/or improper input power supply, improper electrical protection, accidental damage, improper or unauthorized installation and/or repair, unauthorized alteration, negligence, environmental corrosion or chemical attack, improper maintenance or storage of control, any act of God, an act of war, an act of terrorism or damage resulting from the use of accessory equipment not approved by ITT Flygt. Further, this warranty does not apply in the event an adjustment is found to correct the alleged defect.

Solid state devices will be covered for a period of one year. Electrical control panels containing controllers, PLC's, drives, soft starts, and other computerized equipment require Transient Voltage Surge Suppression (TVSS) protection in order to satisfy the requirements of this warranty. The protection equipment associated with the control must be kept in working condition during the life of the warranty. Auxiliary equipment supplied with the control (air-conditioners etc.) is limited by the respective original equipment manufacturer's warranty offered. Components not supplied by Flygt are not covered by this warranty.

TOPS (The Optimum Pump Station)

ITT Flygt will warrant the TOPS pre-engineered fiberglass pump station components against defects in material and workmanship for a period of one (1) year from date of start-up or eighteen (18) months from date of shipment, whichever is sooner to the original owner of the station. Warranty shall cover the cost of labor and materials, excluding removal and reinstallation costs, required to correct any warrantable defect, FOB, Manufacturer's authorized warranty service location. ITT Flygt products contained within a TOPs pre-engineered fiberglass pump station will carry the standard ITT Flygt warranty for the product and/or accessory installed in the TOPs pre-engineered fiberglass pump station.

All restrictions and/or limitations as outlined and described within the context of this warranty are germane to all sections of this ITT Flygt Warranty document.

ITT Flygt US
National Quality Assurance - US Corporate
prodqual@itt.com

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ITT FLYGT WARRANTY

WARRANTY COVERAGE BY PRODUCT

PRODUCT	WARRANTY COVERAGE BY PRODUCT					
	Months	Months	Months	Months	Months	Months
3000 Series (CP, NP, DP, CT, NT, CZ, LL) 7000 Series (PL), 4000 Series (SR, PP)	1 - 12	13 - 18	19 - 36	37 - 39	40 - 60	
Axial Flow/ Mixed Flow/ Centrifugal Pumps & Mixers	100%	100%	50%		25%	
Electrical Control Panels (permanently installed)	100%					
Abrasion/Corrosion Resistant & Chopper/ Grinder Pumps	100%					
Dewatering Pumps	100% (From Ship Date)					
TOPS	100% (From Ship Date)					
Accessories	100% (From Ship Date)					
Hydro ejectors/ Aerators	100%					
Portable Pump Controls	100% (From Ship Date)					
Small Pumps	100% (From Ship Date)					
Parts - *	100% (From Ship Date)					

* - Parts that fail where used in a repair are warranted for one (1) year from the date of the repair for the failed part only – no labor.
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