

SOLE SOURCE REQUEST AND DETERMINATION FORM

This form must be forwarded to the Purchasing Officer for the City of Santa Fe Purchasing Office for processing.

Date: September 5, 2022

Prepared By: Andrew Hardinge

Title: Automation and Security
Systems Administrator

Vendor Name: Andritz Separation Inc.

Address: 1010 Commercial Blvd. South

City: Arlington

State: TX

Zip Code: 76001

Description of Good/Service to be Procured:

Estimated Cost:

\$107,687.00

Term of Contract:

September 30, 2023

1. Explain why this is the only available source that can be meet the needs of your department.

The Belt Fed Press equipment and control panel is in the Compost facility which is part of the sludge treatment process that de-waters the sludge and prepares it to be used in compost that is sold to the public. One of only three units, has failed and has decreased the facility designed capacity, as well as removed equipment redundancy the facility had.

The original Belt Fed Press was installed with the construction of the building to the contractor's specifications. The concrete channels and existing electrical/controls are specific for the Andritz Separation Inc. equipment. Replacing the failed components with exact parts that are required to run the contractor's equipment will match the treatment process footprint, connections, and keep standardization of process equipment.

2. Explain why this vendor is the only available source from which to obtain this product of service.

The company has affirmed (memo from vendor is attached) that there is no other source for this item. Our search for possible vendors proved unsuccessful; or

Other reason, please explain in full. Attach additional sheets, if necessary.

See above. This is the only organization for this purpose.

3. Explain why the price is considered fair and reasonable.

The amount to be encumbered is \$107,687.00 for the purchase of inimitable equipment and software programming logic within the belt fed press system. Andritz Separation Inc. is the only authorized representative/distributor to provide the equipment and service required to replace the control panel components.

4. Describe the efforts made to obtain the best possible price from this sole source vendor for the taxpayers. What (if any) is the total cost savings from the original quote? (Attach additional sheets, if necessary.)

The original Belt Fed Presses were installed with the construction of the building to the contractor's specifications (Andritz Separation Inc.). The control panels and existing electrical/controls are specific for the Andritz Separation Inc. equipment. Replacing the failed components with industry standard equipment will match treatment process footprint, connections, and keep standardization of process equipment.

Approvals:

Based on the above facts, the Purchasing Office has made the determination that the justification for the Sole Source procurement is in accordance with Section 13-1-126, NMSA 1978 and will be posted for a 30-day period prior to award.

JoAnn Lovato
Joann Lovato, Purchasing Officer

10.7.22
Date

Pursuant to Section 13-1-126, NMSA 1978, the 30-day posting period of the Notice of Intent to Award this Sole Source request was met and no obligation to the award to the above referenced contractor were received. This Sole Source determination will be valid for a period of one (1) year from the date of the award.

**Joann Lovato, Procurement Officer
Purchasing Director
City of Santa Fe**

Date

Required Attachments:

***Letter from Contractor, if applicable**

***Agenda Item to be presented to City Council if over \$50,000 for Professional Services and \$50,000 for Goods and Non-Professional Services**



October 5, 2022

Santa Fe Wastewater Management
73 Paseo Real
Santa Fe, New Mexico 87507-8482

Kimberly Bullard
Office Operations & Marketing Manager- NA
Sales, Business Development &
Communications
SEPARATION

p: 817-419-1746
f: 817-419-1946
Kimberly.Bullard@andritz.com

SUBJECT: SOLE SOURCE SUPPLIER

Page: 1 (total 2)

Andritz Separation, Inc. is an original equipment manufacturer (OEM) of the liquid/solid separation equipment and hold the sole rights and ownership to the Andritz-Ruthner, Bird Machine, Netzsch, R & B and Humboldt product lines. We are the sole source for all replacement parts, accessories, proprietary control system logic and services.

All manufacturing components are based on Andritz's proprietary drawings, operating control systems are based on intellectual property programs and developed code. Commercial items are based on Andritz engineered specifications, they hold the highest manufacturing tolerances and we strive to achieve and maintain the most optimized efficiency in all of our products.

Andritz Separation, Inc. is the exclusive supplier of these components and we do not operate with local distributor networks. We have multiple facilities throughout North America and regional Sales Engineers available to handle all of your service needs. Please feel free to contact Andritz Separation, Inc. directly or visit our website at www.usa.Andritz.com.

Kimberly Bullard

ANDRITZ SEPARATION INC
Office Operations & Marketing Manager – NA
Sales, Business Development & Communications
SEPARATION

ANDRITZ Separation Inc.
1010 Commercial Blvd. South
Arlington, Texas 76001 USA
Direct Phone: 817-419-1746
Direct Fax: 817-419-1946
Kimberly.Bullard@andritz.com
www.andritz.com

ENGINEERED SUCCESS





City of Santa Fe, New Mexico License # 19-00141553
CRS # 03029610002.



QUOTATION

Customer: 142624

Santa Fe Wastewater Management

73 Paseo Real
Santa Fe NM 87507-8482

Contact: **Mr. Julian Gonzales**

Fax: **+15059554677**

Copy to:

Your inquiry: **Email**

Our quote no: **20825527**

Supplier:

Contact:

Phone:

Fax:

E-mail:

Date:

Sales

Responsible:

Andritz Separation Inc.

Victoria Torres

+1 817 375 4439

victoria.torres@andritz.com

09/14/2022

GREEN, BRICE

Dear Mr. Julian Gonzales,

We thank you for your inquiry and are pleased to quote as follows:

1. Scope of supply

For 400201816 Heavy Duty Belt Press
Model: Heavy Duty Belt Press SMX 2,0
Serial number: 0752
Job#1628 SMX

Should you choose to place an order, please provide the following information:

1. Shipping Address for Delivery
2. Billing Address for Invoice
3. Shipping Terms: If a specific carrier is preferred, please list as FCA, Origin Collect with preferred carrier. Otherwise, list as FCA, Origin Prepaid & Add.
4. Reference this quote number.

Freight is included.

Installation is included.

****ANDRITZ HAS A \$250 USD MINIMUM ORDER AMOUNT****

Please note currency is in US Dollars

Andritz Inc Standard Terms & Conditions apply

Returned goods require pre approval and are subject to restocking and inspection fees.

Item	Product	ID No.	S/W*	Quantity	Unit	Unit Price	Amount
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Page 1 of 5

ANDRITZ Separation Inc.
1010 Commercial Blvd. South
Arlington, TX 76001 USA

Tel: +1 (817) 465-5611
Fax: +1 (817) 468-3961

Remit to:
ANDRITZ Separation Inc.
Dept: 0312
P.O. Box 120312
Dallas, TX 75312-0312
Federal Tax ID Number: 59-3773483

Wire instructions:
Nordea Bank Abp
New York Branch
SWIFT: NDEAUS3N
Account: 8879433001
ABA: 026010786



Our quote no: **20825527**

Item	Product	ID No.	S/W*	Quantity	Unit	Unit Price	Amount
10	BFP Control Upgrade Per Scope Description attached	129999901		1	PC	39,789.00	39,789.00
20	Sub Contractor Scope of Work Per Scope Description attached	129999901		1	PC	67,898.00	67,898.00
Total Amount						USD	107,687.00

* S = Spare Parts, W = Wear Parts

Technical contact: Jeff Congleton /Phone: +1 817 419 1753 / jeff.congleton@andritz.com

Terms and Conditions

2. Delivery Time:

after receipt of order and any clarifications.

Equipment: 16 weeks After Acknowledgement of PO

3. Terms of delivery:

Our terms of delivery are FCA Origin, PrePaid, Add, according to INCOTERMS 2020.

4. Terms of Payment:

Within 30 days Due net
(1% default interest per month for delayed payment).

5. Validity of quotation:

This quotation is valid to 12/13/2022.

Other Terms:

6. *****

COVID-19 pandemic delays, disrupts, or prevents Andritz's performance, or increases shipping or freight costs, Andritz shall be entitled to change order containing an appropriate adjustment in the contract price and/or delivery schedule. Furthermore, in the event that developments related to the pandemic, whether initiated prior to or after the date of this proposal, quotation, or order, including but not limited to travel advisories, steps taken to protect the health and safety of employees, Government orders, and temporary facility shutdowns, increase the cost or time for



Our quote no: 20825527

delivery, Andritz shall be entitled to adjust the price and delivery dates herein to reflect these impacts. Andritz's delivery date and prices (including freight) are estimates only based on Andritz's standard delivery dates and prices and do not account for the present and future schedule impacts of the COVID-19 pandemic. Nothing in this proposal, quotation, or order, or any contract based hereon, shall be construed as a waiver of these rights.

The crisis in Russia/Ukraine is impacting the complete global supply chain, including but not limited to, raw material shortages, extended delivery times, unavailability/restricted availability of transport as well as unforeseeable price increases. The Parties therefore agree that the price and delivery times in this order confirmation are indicative only. In case the crisis leads to any impacts on the delivery time or to a price increase of more than 5% of the order value after the date of the order confirmation, we reserve our right to adapt the prices and/or the delivery times accordingly. Nothing in this order confirmation can be construed as a waiver of such right. Of course, we will stay in close contact with you, being stipulated that we are doing our best effort to overcome this significant cost pressure and hurdles in the supply chain.

TERMS APPLICABLE

This quotation or acknowledgement and Seller's sale of Products and/or provision of Services described in Buyer's purchase order issued in whole or in part in response to this quotation or in response to which this acknowledgement is issued are expressly limited to and expressly made conditional on Buyer's acceptance of the Terms and Conditions of Sale and/or Service listed below, which are the exclusive terms and conditions upon which Andritz Separation Inc. or the applicable Andritz entity supplying the same ("Seller") will accept a purchase order for the sale of new, used and refurbished products, equipment, parts and/or the provision of services ("Products" and "Services"). These Terms and Conditions of Sale and/or Service control, supersede and replace any and all other additional and/or different terms and conditions of Buyer and Seller hereby objects to and rejects all such terms and conditions of Buyer without further notification, except to the extent Seller expressly agrees to such conditions in writing. Seller's commencement of work under the Purchase Order or Buyer's acceptance of delivery of or payment for any Products or Services covered by this Agreement, in whole or in part shall be deemed Buyer's agreement to the foregoing. The term "this Agreement" as used herein means this quotation or acknowledgement or Buyer's purchase order, together with any attachment thereto, any documents expressly incorporated by reference (but excluding any Buyer terms and conditions attached thereto or incorporated therein by reference), and these Terms and Conditions of Sale and/or Service.

7. DELIVERY OR PERFORMANCE

Delivery or performance dates are good faith estimates and do not mean that "time is of the essence." Buyer's failure to promptly make advance or interim payments, supply technical information, drawings and approvals will result in a commensurate delay in delivery or performance. Installation of any Product shall not be Seller's responsibility unless specifically provided for in this Agreement. Upon and after delivery, risk of loss or damage to the Products shall be Buyer's. Delivery of the Products hereunder will be made on the terms agreed to by the parties as set forth in this Agreement, according to INCOTERMS 2010.

8. WARRANTY

(a) Products Warranty

(i) New Equipment Warranty. In the case of the purchase of new equipment the Seller warrants to Buyer that the new equipment manufactured by it will be delivered free from defects in material and workmanship. This warranty shall commence upon delivery of the new equipment to Buyer and shall expire on the earlier to occur of 12 months from initial operation of the new equipment and 18 months from delivery thereof (the "Warranty Period").

(ii) Parts and Used or Reconditioned Machinery or Equipment Warranty. In the case of parts or used or reconditioned machinery or equipment, and unless otherwise indicated, Seller warrants to Buyer that the parts or the used or reconditioned machinery or equipment manufactured by it will be delivered free from defects in material and workmanship. This warranty shall commence upon delivery of the parts or the used or reconditioned machinery or equipment to the buyer and shall expire 6 months from delivery thereof (the "Warranty Period").

(iii) If during the Warranty Period Buyer discovers a defect in material or workmanship of a Product and gives Seller written notice thereof within 10 days of such discovery, Seller will, at its option, either deliver to Buyer, on the same terms as the original delivery was made, according to INCOTERMS 2010, a replacement part or repair the defect in place. Any repair or replacement part furnished pursuant to this warranty are warranted against defects in material and workmanship for one period of 12 months from completion of such repair or replacement, with no further extension. Seller will have no warranty obligations for the Products under this Paragraph 3(a) (i) if the Products have not been stored, installed, operated and maintained in accordance with generally approved industry practice and with Seller's specific written instructions, (ii) if the Products are used in connection with any mixture or substance or operating condition other than that for which they were designed, (iii) if Buyer fails to give Seller such written 10 day notice, (iv) if the Products are repaired by someone other than Seller or have been intentionally or accidentally damaged, (v) for corrosion, erosion, ordinary wear and tear or in respect of any parts which by their nature are exposed to severe wear and tear or are considered expendable, or (vi) for expenses incurred for work in connection with the removal of the defective articles and reinstallation following repair or replacement.

(b) Services Warranty. Seller warrants to Buyer that the Services performed will be free from defects in workmanship and will conform to any mutually agreed upon specifications. If any failure to meet this warranty appears within 12 months from the date of completion of the Services, on the condition that Seller be promptly notified in writing thereof, Seller as its sole obligation for breach of this warranty will correct the failure by re-performing any defective portion of the Services furnished. Seller does not warrant the accuracy of, or performance results of, any conclusions or recommendations provided, nor that any desired objective will result from the Service provided and Seller shall not be liable for any loss of use or any production losses whatsoever.

(c) Seller further warrants to Buyer that at delivery, the Products manufactured by it will be free of any liens or encumbrances. If there are any such liens or encumbrances Seller will cause them to be discharged promptly after notification from Buyer of their existence.

(d) THE EXPRESS WARRANTIES SELLER MAKES IN THIS PARAGRAPH 3 ARE THE ONLY WARRANTIES IT WILL MAKE. THERE ARE NO OTHER WARRANTIES, WHETHER STATUTORY, ORAL, EXPRESS OR IMPLIED, IN PARTICULAR, THERE ARE NO IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

(e) The remedies provided in Paragraphs 3(a), 3(b) and 3(c) are Buyer's exclusive remedy for breach of warranty.

(f) With respect to any Product or part thereof not manufactured by Seller, Seller shall pass on to Buyer only those warranties made to Seller by the manufacturer of such Product or part which are capable of being so passed on.

9. LIMITATION OF LIABILITY

Notwithstanding any other provision in this Agreement, the following limitations of liability shall apply:

(a) In no event, whether based on contract, tort (including negligence), strict liability or otherwise, shall Seller, its officers, directors, employees, subcontractors, suppliers or affiliated companies be liable for loss of profits, revenue or business opportunity, loss by reason of shutdown of facilities or inability to operate any facility at full capacity, or cost of obtaining other means for performing the functions performed by the Products, loss of future contracts, claims of customers, cost of money or loss of use of capital, in each case whether or not foreseeable, or for any indirect, special, incidental or consequential damages of any nature resulting from arising out of or connected with the Products, Services, or this Agreement or from the performance or breach hereof.

(b) The aggregate liability of Seller, its officers, directors, employees, subcontractors, suppliers or affiliated companies for all claims of any kind for any loss, damage, or expense resulting from arising out of or connected with the Products, Services or this Agreement or from the performance or breach hereof, together with the cost of performing make good obligations to pass performance tests, if applicable, shall in no event exceed the contract price.

(c) The limitations and exclusions of liability set forth in this Paragraph 4 shall have precedence over any other provision of this Agreement and shall apply whether the claim of liability is based on contract, warranty, tort (including negligence), strict liability, indemnity, or otherwise. The remedies provided in this Agreement are Buyer's exclusive remedies.



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(c) All liability of Seller, its officers, directors, employees, subcontractors, suppliers or affiliated companies, resulting from, arising out of or connected with the Products, Services or this Agreement or from the performance or breach hereof shall terminate on the third anniversary of the date of this Agreement.

(e) In no event shall Seller be liable for any loss or damage whatsoever arising from its failure to discover or repair latent defects or defects inherent in the design of goods serviced (unless such discovery or repair is normally discoverable by tests expressly specified in the scope of work under this Agreement) or caused by the use of goods by the Buyer against the advice of Seller. If Seller furnishes Buyer with advice or assistance concerning any products or systems that is not required pursuant to this Agreement, the furnishing of such advice or assistance will not subject Seller to any liability whether in contract, indemnity, warranty, tort (including negligence), strict liability or otherwise.

10. CHANGES, DELETIONS AND EXTRA WORK

Seller will not make changes in the Products unless Buyer and Seller have executed a written Change Order for such change. Buyer, without invalidating this Agreement, may make changes by altering, adding to or deducting from the general scope of the Services by written Change Order. Any such Change Order will include an appropriate adjustment to the contract price and delivery schedule. If the change impairs Seller's ability to satisfy any of its obligations to Buyer, the Change Order will include appropriate modifications to this Agreement. Seller shall be entitled to a Change Order adjusting the contract price, delivery schedule and/or any affected obligations of Seller if, after the date of this Agreement, a change in applicable law should require a change in the Products or Services or in the event and to the extent that an act or omission of Buyer, or any error or change in Buyer-provided information, affects the Seller's performance hereunder.

11. TAXES

Seller's prices do not include any sales, use, excise or other taxes. In addition to the price specified herein, the amount of any present or future sales, use, excise or other tax applicable to the sale or use of the Products or Services shall be billed to and paid by Buyer unless Buyer provides to Seller a tax-exemption certificate acceptable to the relevant taxing authorities.

12. SECURITY INTEREST

Seller shall retain a purchase money security interest and Buyer hereby grants Seller a lien upon and security interest in the Products until all payments hereunder have been made in full. Buyer acknowledges that Seller may file a financing statement or comparable document as required by applicable law and may take all other action it deems reasonably necessary to perfect and maintain such security interest in Seller and to protect Seller's interests in the Products.

13. SET OFF

Neither Buyer nor any of its affiliates shall have any right to set off claims against Seller or any of its affiliates for amounts owed under this Agreement or otherwise.

14. PATENTS

Unless the Products or any part thereof are designed to Buyer's specifications and provided the Product or any part thereof is not used in any manner other than as specified or approved by Seller in writing, (i) Seller shall defend against claims made in a suit or proceeding brought against Buyer by an unaffiliated third party that any Product infringes a device claim of a United States or Canadian patent issued as of the effective date of this Agreement and limited to the field of the specific Products provided under this Agreement, provided Seller is notified promptly in writing and given the necessary authority, information and assistance for the defense of such claims, (ii) Seller shall satisfy any judgment (after all appeals) for damages entered against Buyer on such claims so long as such damages are not attributable to willful conduct or sanctioned litigation conduct, and (iii) if such judgment enjoins Buyer from using any Product or a part thereof, then Seller will, at its option: (a) obtain for Buyer the right to continue using such Product or part, (b) eliminate the infringement by replacing or modifying all or part of the Products, or (c) take back such Product or part and refund to Buyer all payments on the purchase price that Seller has received for such Product or part. The foregoing states Seller's entire liability for patent infringement by any Product or part thereof.

15. SOFTWARE LICENSE, WARRANTY, FEES

The following Software Terms and Conditions apply to any embedded or separately packaged software produced by Seller and furnished by Seller hereunder:

(a) Seller hereby grants to Buyer a non-exclusive, non-transferable, non-sub-licensable license to the Software and any modifications made by Seller thereto only in connection with configuration of the Products and operating system for which the Software is ordered hereunder, and for the end-use purpose stated in the related Seller operating documentation. Buyer agrees that neither it nor any third party shall modify, reverse engineer, decompile or reproduce the Software, except Buyer may create a single copy for backup or archival purposes in accordance with the related Seller operating documentation (the "Copy"). Buyer's license to use the Software and the Copy of such Software shall terminate upon any breach of this Agreement by Buyer. All copies of the Software, including the Copy, are the property of Seller, and all copies for which the license is terminated shall be returned to Seller with written confirmation after termination.

(b) Seller warrants that, on the date of shipment of the Software or the Products containing the Software to Buyer: (1) the Software media contain a true and correct copy of the Software and are free from material defects; (2) Seller has the right to grant the license hereunder; and (3) the Software will function substantially in accordance with the related Seller operating documentation.

(c) If within 12 months from the date of delivery of the Software or Products containing the Software, Buyer discovers that the Software is not as warranted above and notifies Seller in writing prior to the end of such 12 month period, and if Seller determines that it cannot or will not correct the nonconformity, Buyer's and Buyer's Seller-authorized transferee's exclusive remedies, at Seller's option, are: (1) replacement of the nonconforming Software, or (2) termination of this license and a refund of a pro rata share of the contract price or license fee paid.

(d) If any infringement claims are made against Buyer arising out of Buyer's use of the Software in a manner specified by Seller, Seller shall: (i) defend against any claim in a suit or proceeding brought by an unaffiliated third party against Buyer that the Software violates a registered copyright or a confidentiality agreement to which Seller was a party, provided that Seller is notified promptly in writing and given the necessary authority, information and assistance for the defense and settlement of such claims (including the sole authority to select counsel and remove the Software or stop accused infringing usage); (ii) Seller shall satisfy a final judgment (after all appeals) for damages entered against Buyer for such claims, so long as such damages are not attributable to willful conduct or sanctioned litigation conduct; and (iii) if such judgment enjoins Buyer from using the Software, Seller may, at its option: (a) obtain for Buyer the right to continue using such Software, (b) eliminate the infringement by replacing or modifying the Software, or (c) take back such Software and refund to Buyer all payments on the purchase price that Seller has received. However, Seller's obligations under this Paragraph shall not apply to the extent that the claim or adverse final judgment relates to: (1) Buyer's running of the Software after being notified to discontinue; (2) non-Seller software, products, data or processes; (3) Buyer's alteration of the Software; (4) Buyer's distribution of the Software to, or its use for the benefit of, any third party; or (5) Buyer's acquisition of confidential information (a) through improper means, (b) under circumstances giving rise to a duty to maintain its secrecy or limit its use, or (c) from a third party who owed to the party asserting the claim a duty to maintain the secrecy or limit the use of the confidential information. Buyer will reimburse Seller for any costs or damages that result from actions 1 to 5. In Seller's discretion and at Seller's own expense, with regard to any actual or perceived infringement claim related to the Software, Seller may: (i) procure the right to use the Software, (ii) replace the Software with a functional equivalent, and/or (iii) modify the Software. Under (a) and (ii) above, Buyer shall immediately stop use of the allegedly infringing Software.

(e) This warranty set forth in subparagraph (c) above shall only apply when: (1) the Software is not modified by anyone other than Seller or its agents authorized in writing; (2) there is no modification in the Products in which the Software is installed by anyone other than Seller or its agents authorized in writing; (3) the Products are in good operating order and installed in a suitable operating environment; (4) the nonconformity is not caused by Buyer or a third party; (5) Buyer promptly notifies Seller in writing, within the period of time set forth in subparagraph (c) above, of the nonconformity; and (6) all fees for the Software due to Seller have been timely paid. SELLER HEREBY DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, WITH REGARD TO THE SOFTWARE, INCLUDING BUT NOT LIMITED TO IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, COURSE OF DEALING AND USAGE OF TRADE.

(f) Buyer and its successors are limited to the remedies specified in this Paragraph.

(g) Any subsequent modifications or enhancements to the Software made by Seller are, at Seller's option, subject to a fee.

16. SITE RISKS

(a) Concealed Conditions. The parties acknowledge and agree that increased costs or schedule extensions due to any concealed conditions at the job site shall be to Buyer's account. Buyer shall hold Seller harmless for increased costs and grant any necessary schedule extensions if any concealed or hazardous conditions are found.

(b) Environmental Remediation. Buyer acknowledges that Seller is not an expert in environmental remediation and shall not be directed by change order or otherwise to perform any environmental remediation as part of the Services, including but not limited to asbestos and lead paint removal. If any environmental remediation becomes necessary, Buyer will contract directly with a qualified third party to perform such work.

17. TERMINATION

(a) Buyer may terminate this Agreement upon breach by Seller of a material obligation hereunder and Seller's failure to cure, or to commence a cure of, such breach within a reasonable period of time (but not less than 30 days) following written receipt of notice of the same from Buyer.

(b) Buyer may only terminate this Agreement for Buyer's convenience upon written notice to Seller and upon payment to Seller of Seller's termination charges, which shall be specified to Buyer and shall take into account among other things expenses (direct and indirect) incurred and commitments already made by Seller and an appropriate profit, provided that in no event shall Seller's termination charges be less than 25% of the contract price.

(c) Seller shall have the right to suspend and/or terminate its obligations under this Agreement if payment is not received within 30 days of due date. In the event of the bankruptcy or insolvency of Buyer or in the event of any bankruptcy or insolvency proceeding brought by or against Buyer, Seller shall be entitled to terminate any order outstanding at any time during the period allowed for filing claims against the estate, and shall receive reimbursement for its cancellation charges.

18. CONFIDENTIALITY

Buyer acknowledges that the information that Seller submits to Buyer in connection with this Agreement and the performance hereof includes Seller's confidential and proprietary information, both of a technical and commercial nature. Buyer agrees not to disclose such information to third parties without Seller's prior written consent. Seller grants to Buyer a non-exclusive, royalty-free, perpetual, non-transferable license to use Seller's confidential and proprietary information for the purpose of the installation, operation, maintenance and repair of the Products that are the subject hereof only. Buyer further agrees not to and not to permit any third party to analyze, measure the properties of or otherwise reverse engineer the Products, fabricate the Products or any



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parts thereof from Seller's drawings or to use the drawings other than in connection with this Agreement. Buyer will defend and indemnify Seller from any claim, suit or liability based on personal injury (including death) or property damage related to any Product or part thereof which is fabricated by a third party without Seller's prior written consent and from and against related costs, charges and expenses (including attorneys' fees). All copies of Seller's confidential and proprietary information shall remain Seller's property and may be reclaimed by Seller at any time in the event Buyer is in breach of its obligations under this Paragraph.

19. END USER

If Buyer is not the end user of the Products sold hereunder (the "End User"), then Buyer will use its best efforts to obtain the End User's written consent to be bound to Seller by the provisions hereof. If Buyer does not obtain such End User's consent, Buyer shall defend and indemnify Seller and Seller's agents, employees, subcontractors and suppliers from any action, liability, cost, loss, or expense for which Seller would not have been liable or from which Seller would have been indemnified if Buyer had obtained such End User's consent.

20. FORCE MAJEURE

(a) **Force Majeure Defined.** For the purpose of this Agreement "Force Majeure" will mean all events, whether or not foreseeable, beyond the reasonable control of either party which affect the performance of this Agreement, including, without limitation, acts of God, acts or advisories of governmental or quasi-governmental authorities, laws or regulations, strikes, lock-outs or other industrial disturbances, acts of public enemy, wars, insurrections, riots, epidemics, pandemics, outbreaks of infectious disease or other threats to public health, lightning, earthquakes, fires, storms, severe weather, floods, sabotage, delays in transportation, rejection of main forgings and castings, lack of available shipping by land, sea or air, lack of dock lighterage or loading or unloading facilities, inability to obtain labor or materials from usual sources, serious accidents involving the work of suppliers or sub-suppliers, thefts and explosions.

(b) **Suspension of Obligations.** If either Buyer or Seller is unable to carry out its obligations under this Agreement due to Force Majeure, other than the obligation to make payments due hereunder, and the party affected promptly notifies the other of such delay, then all obligations that are affected by Force Majeure will be suspended or reduced for the period of Force Majeure and for such additional time as is required to resume the performance of its obligations, and the delivery schedule will be adjusted to account for the delay.

(c) **Option to Terminate.** If the period of suspension or reduction of operations will extend for more than four (4) consecutive months or periods of suspension or reduction total more than 6 months in any 12 month period, then either Buyer or Seller may terminate this Agreement.

(d) **Strikes On-Site.** Notwithstanding anything herein to the contrary, in the event a strike, lock-out, labor union or other industrial disturbance at Buyer's site affects, delays, disrupts or prevents Seller's performance of this Agreement, Seller shall be entitled to a Change Order containing an appropriate adjustment in the contract price and delivery schedule.

21. INDEMNIFICATION AND INSURANCE

(a) **Indemnification.** Seller agrees to defend and indemnify Buyer from and against any third-party claim for bodily injury or damage to tangible property ("Loss") arising in connection with the Products or the Services provided by Seller hereunder, but only to the extent such Loss has been caused by the negligence, willful misconduct or other legal fault ("Fault") of Seller. Buyer shall promptly tender the defense of any such third-party claim to Seller. Seller shall be entitled to control the defense and resolution of such claim, provided that Buyer shall be entitled to be represented in the matter by counsel of its choosing at Buyer's sole expense. Where such Loss results from the Fault of both Seller and Buyer or a third party, then Seller's defense and indemnity obligation shall be limited to the proportion of the Loss that Seller's Fault bears to the total Fault.

(b) **Insurance.** Seller shall maintain commercial general liability insurance with limits of \$2,000,000 per occurrence and in the aggregate covering claims for bodily injury (including death) and physical property damage arising out of the Products or Services. Seller shall also provide workers' compensation insurance or the like as required by the laws of the jurisdiction where the Services will be performed, and owned and non-owned auto liability insurance with limits of \$1,000,000 combined single limit. Seller will provide a Certificate of Insurance certifying the existence of such coverages upon request.

22. GENERAL

(a) Seller represents that any Products or parts thereof manufactured by Seller will be produced in compliance with all applicable federal, state, and local laws applicable to their manufacture and in accordance with Seller's engineering standards. Seller shall not be liable for failure of the Products to comply with any other specifications, standards, laws or regulations.

(b) This Agreement shall inure only to the benefit of Buyer and Seller and their respective successors and assigns. Any assignment of this Agreement or any of the rights or obligations hereunder, by either party without the written consent of the other party shall be void.

(c) This Agreement contains the entire and only agreement between the parties with respect to the subject matter hereof and supersedes all prior oral and written understandings between Buyer and Seller concerning the Products, Services and any prior course of dealings or usage of the Trade not expressly incorporated herein.

(d) This Agreement may be modified, supplemented or amended only by a writing signed by an authorized representative of Seller. Seller's waiver of any breach by Buyer of any terms of this Agreement must also be in writing and any waiver by Seller or failure by Seller to enforce any of the terms and conditions of this Agreement at any time, shall not affect, limit, or waive Seller's right thereafter to enforce and compel strict compliance with every term and condition hereof.

(e) All terms of this Agreement which by their nature should apply after the cancellation, completion or termination of this Agreement shall survive and remain fully enforceable after any cancellation, completion, or termination hereof.

(f) (i) If Seller's office is located in the United States, this Agreement and the performance hereof will be governed by and construed according to the laws of the State of Georgia. (ii) If Seller's office is located in Canada, this Agreement and the performance hereof will be governed by and construed according to the laws of the Province of New Brunswick.

(g) (i) In the circumstances of f(i) above, any controversy or claim arising out of or relating to this Agreement, or the breach hereof, or to the Products or the Services provided pursuant hereto, shall be definitively settled by arbitration, to the exclusion of courts of law, administered by the American Arbitration Association ("AAA") in accordance with its Construction Industry Arbitration Rules in force at the time this Agreement is signed and to which the parties declare they will adhere (the "AAA Rules"), and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction over the party against whom enforcement is sought or having jurisdiction over any of such party's assets. The arbitration shall be conducted in Atlanta, Georgia by a panel of three members, one of whom will be appointed by each of Buyer and Seller and the third of whom will be the chairman of the panel and will be appointed by mutual agreement of the two party appointed arbitrators. All arbitrators must be persons who are not employees, agents, or former employees or agents of either party. In the event of failure of the two party appointed arbitrators to agree within 45 days after submission of the dispute to arbitration upon the appointment of the third arbitrator, the third arbitrator will be appointed by the AAA in accordance with the AAA Rules. (ii) In the circumstances of f(i) above, any controversy or claim arising out of or relating to this Agreement, or the breach hereof, or to the Products or the Services provided pursuant hereto, shall be definitively settled under the auspices of the Canadian Commercial Arbitration Centre ("CCAC") by means of arbitration and to the exclusion of courts of law, in accordance with its General Commercial Arbitration Rules in force at the time the Agreement is signed and to which the parties declare they will adhere (the "CCAC Rules"), and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction over the party against whom enforcement is sought or having jurisdiction over any of such party's assets. The arbitration shall be conducted in Saint John, New Brunswick by a panel of three arbitrators, one of whom will be appointed by each of Buyer and Seller and the third of whom will be the chairman of the arbitral tribunal and will be appointed by mutual agreement of the two party-appointed arbitrators. All arbitrators must be persons who are not employees, agents, or former employees or agents of either party. In the event of failure of the two party-appointed arbitrators to agree within 45 days after submission of the dispute to arbitration upon the appointment of the third arbitrator, the third arbitrator will be appointed by the CCAC in accordance with the CCAC Rules. In the event that either of Buyer or Seller fails to appoint an arbitrator within 30 days after submission of the dispute to arbitration, such arbitrator, as well as the third arbitrator, will be appointed by the CCAC in accordance with the CCAC Rules.

(h) In the event this Agreement pertains to the sale of any goods outside the United States or Canada, the parties agree that the United Nations Convention for the International Sale of Goods shall not apply to this Agreement.

(i) The parties hereto have agreed that this Agreement be drawn up in English. Les parties sus-présentes ont également accepté que la présente convention soit rédigée en anglais.

Please do not hesitate to contact us if you require further information.

Yours sincerely

Andritz Separation Inc.

This document is issued electronically and valid without signature.



ATTACHMENT – BFP Control System Upgrade

Design Criteria: Santa Fe, NM Paseo Real WWTP, ANDRITZ Project 1628 & 834175

Item 10: Upgrade the existing BFP-201 Control Panel with new PLC system, Operator Interface Terminal (OIT), VFD, and for all three (3) BFP's Andritz will install Main Belt Drive VFD remote HMI modules on control panel door.

The PLC / OIT / VFD will match the systems provided with the two (2) new BFP's supplied with project 834175.

BFP-201 current communication, (DH+) will be change to Ethernet/IP communication protocol for SCADA integration. The BFP control process and OIT operator controls will be same as the newer BFP controls.

Additionally, the two new BFP's VFD HMI will be relocated and mounted on the control panel door.

Scope of Supply:

ANDRITZ will supply components, revised electrical drawings, documentation on new components and revised programming. In addition, ANDRITZ will provide Service Engineer on site for demolition of old components and installation/wiring of new components.

Customer to provide CAT6 cable runs from the OIT local control panel to the BFP-201 control panel for PLC and OIT Ethernet communication.

Components: (BFP-201 control panel)

- AB CompactLogix PLC, L30ER CPU, Power supply, required I/O with Ethernet communication
- AB Stratix Ethernet Switch, 8 port, unmanaged switch
- AB PanelView Plus 7, 12" color, touchscreen OIT, adapter plate
- ABB ACS550 VFD, 3HP
- ABB Panel HMI Mounting Kit (include for all 3 BFP's)

Engineering Services provided:

- Electrical drawings –Revised Electrical drawings and schematics
- BOM of new components
- Updated Annotated PLC code / OIT application code
- PLC data exchange tag list for SCADA
- All documentation and programs to be provided in electronic format.

Attachment Page 1 of 3

ANDRITZ Separation Inc
1010 Commercial Blvd. South
Arlington TX 76001 USA
Tel: +1 (817) 465-5611
Fax: +1 (817) 468-3961

Remit to:
ANDRITZ Separation Inc.
Dept. 0312
P. O. Box 120312
Dallas TX 75312-0312
Federal Tax ID Number: 59-3773483

Wire instructions:
Nordea Bank Finland PLC
New York Branch
SWIFT: NDEAUS3N
Account: 8879433001
ABA: 026010786



Site Work

ANDRITZ to supply Service Engineer for the removal of existing components, installation and wiring of new BFP control system components. Revised PLC/OIT programming, functional testing, start-up, and training.

One (1) trip, four (4) days onsite

Additional time required due to delays outside of ANDRITZ control or request for additional programming will be charged per the attached 2021Field Service Policy and Rate Sheet.

Spares

- No Spares included in this proposal.

Software

- No Software included in this proposal.

Shipping

- Shipping of components to site is included, off loading and storage is by customer.

Warranty

- Warranty of supplied components is per the attached ANDRITZ Terms & Conditions.

Scope Not Included in ANDRITZ Price: (To be provided by others)

- v Cable runs and wiring outside of BFP Control Panels
- v Relocation or wiring of BFP Local Control Panels
- v Disposal of obsolete equipment.
- v Field wiring and plumbing modifications outside of BFP control panels
- v Civil and structural engineering work including preparation of foundations, platforms, and channels
- v Building modifications
- v All utilities required for operation
- v Cranes or other lifting devices
- v Unloading at site and on-site storage if required
- v Components and other instruments not specified in our scope of supply

Attachment Page 2 of 3

ANDRITZ Separation Inc.
1010 Commercial Blvd. South
Arlington, TX 76001 USA
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Fax: +1 (817) 468-3951

Remit to:
ANDRITZ Separation Inc.
Dept. 0312
P.O. Box 120312
Dallas, TX 75312-0312
Federal Tax ID Number: 59-3773483

Wire instructions:
Nordea Bank Finland PLC
New York Branch
SWIFT: NDEAUS3N
Account: 8879433001
ABA: 026010786



Additional Information:

- The control panel components will be shipped to customer site. Customer to provide off-loading and temporary storage of components until arrival of Service Engineer.
- Customer to provide the services of Plant SCADA system programmer for data exchange tag list if PLC communication is required and coordination during Andritz engineering program development and during on-site functional testing phase for system check out.

Item 20: MCC modification provided by McDade-Woodcock, Inc per their quote provided on June 14, 2022, Per attached



McDade-Woodcock, Inc.

P.O. Box 11592
Albuquerque, NM 87192
Phone (505) 884-0155 Fax (505) 884-6073

DATE: June 14, 2022
INVOICE:
JOB:

Bill To:
Brice Green
Andritz Separation Inc.
1010 Commercial Blvd. S
Arlington TX 76001

Email: Brice.Green@Andritz.com

LINE	DESCRIPTION-	AMOUNT
1	Labor, Material & Equipment	
2	Misc. Labor Hrs. _____	
3	Additional helper Hrs. _____	
<u>Scope and Clarifications:</u>		
Removal the existing MCC doors and buckets. Furnish and install a new		
MCC Bucket with SPD, Meter and relay. We have included programming		
of the new relay to match the existing relay settings.		
The new buckets have a 8-10 week lead time after approval.		
Exclusions: Paint/stucco repair or patching, landscaping, power/water consumption charges, structure modifications, temporary heating/cooling/power, asbestos abatement/lead paint removal, building demolition, fencing repair/replacement, relocation of any existing utilities, upgrading of any existing equipment due to NEC/local code violations not included in the scope of work. We specifically exclude any work in the existing control panels or equipment not listed above. This quote is valid for 15 days.		
SUBTOTAL		\$
Tax 8.4375%		\$
TOTAL		Andritz Quote

ACCEPTANCE OF PROPOSAL

Name (Print):

Sign:

Date:

ELECTRICAL ◊ INSTRUMENTATION ◊ CONTROLS



Detail Bill of Material

Page 1 of 1

Project Name: City of Santa Fe MCC Buckets
General Order No:

Negotiation No: AQ120920X1K1
Alternate No: 0000

Item No.	Qty	Product	Description
	1	MCC Aftermarket	MCC plug-in unit base price includes operating handle, bus stabs, door and all mounting hardwareCatalog: FZF1D18Z1 # Freedom/F2100 Vintage, 480V.
		Catalog No	FZF1D18Z1
		Designation	MCC Bucket w/SPD
		Qty	List of Materials
	1		FREEDOM 2100 30A Feeder Breaker Unit 18"
	1		SPD250480D2J

Item No.	Qty	Product	Description
	1	MCC Aftermarket	MCC plug-in unit base price includes operating handle, bus stabs, door and all mounting hardwareCatalog: 4719A91G21RP2Z1 # Freedom/F2100 Vintage, , Vintage MCC Doors.
		Catalog No	4719A91G21RP2Z1
		Designation	MCC Bucket w/Meter
		Qty	List of Materials
	1		Blank Door 12" HIGH For F2100/ADVANTAGE/5 STAR
	1		12 in. blank relay panel
	1		Metering unit with PXM3000MA15 meter

Item No.	Qty	Product	Description
	1	MCC Aftermarket	MCC plug-in unit base price includes operating handle, bus stabs, door and all mounting hardwareCatalog: 4719A91G20 # Freedom/F2100 Vintage, , Vintage MCC Doors.
		Catalog No	4719A91G20
		Designation	6" Door
		Qty	List of Materials
	1		Blank Door 6" HIGH For F2100/ADVANTAGE/5 STAR

Eaton Selling Policy 25-000 applies.

All orders must be released for manufacture within 90 days of date of order entry. If approval drawings are required, drawings must be returned approved for release within 60 days of mailing. If drawings are not returned accordingly, and/or if shipment is delayed for any reason, the price of the order will increase by 1.0% per month or fraction thereof for the time the shipment is delayed.

Seller shall not be responsible for any failure to perform, or delay in performance of, its obligations resulting from the COVID-19 pandemic or any future epidemic, and Buyer shall not be entitled to any damages resulting thereof.

Seller shall not be responsible for any failure to perform, or delay in performance of, its obligations resulting from the COVID-19 pandemic or any future epidemic, and Buyer shall not be entitled to any damages resulting thereof.



2021 FIELD SERVICE POLICY AND RATE SHEET

Installation and Start-up Assistance

All the equipment furnished by ANDRITZ Separation Inc. shall be installed and started up by, and at the expense of the purchaser. There is available, however, upon the request of the purchaser, the service of ANDRITZ Separation Inc. field service personnel for consultation and advice in the installation and start-up of ANDRITZ Separation Inc. equipment. This service is provided with the understanding that ANDRITZ Separation Inc. will function only as technical consultants and coordinators in an advisory capacity, and shall have no responsibility for the supervision or the quality of workmanship of such an installation and/or start-up. Such responsibility will be that of the purchaser.

Certain types of ANDRITZ Separation Inc. equipment, such as that with mechanical seals, require the checkout of the equipment by experienced field personnel before the equipment is put into operation. In these instances, the equipment is tagged upon time of shipment. The failure to have proper mechanical check out by ANDRITZ Separation Inc. field personnel will void our mechanical warranty. For the check out, power and all necessary utilities for the operation of equipment must be available.

Service Rates (Rates/Pricing are in US currency)

Service Rates are applicable for all the time the field service employee spends on the job. This includes traveling to or from either our designated plant or point of residence of the employee. Any holdover time, i.e. time where the employee is required to stay on the job site because time does not permit travel home, or for the convenience of the customer, shall be at regular rates, listed below:

Description	Standard Hourly Rates	Overtime Hourly Rates
Work:		
Weekday	\$185.00 (Up to 8 hrs.)	\$277.50 (Over 8 hrs.)
Saturday	\$277.50 (Up to 8 hrs.)	\$277.50 (Over 8 hrs.)
Sunday	\$370.00 (Up to 8 hrs.)	\$370.00 (Over 8 hrs.)
Holidays	\$370.00 (Up to 8 hrs.)	\$370.00/ hr. up to 4 hrs.
Travel:		
Weekday	\$130.00 (Up to 8 hrs.)	\$277.50 (Over 8 hrs.)
Saturday	\$195.00 (Up to 8 hrs.)	\$277.50 (Over 8 hrs.)
Sunday	\$260.00 (Up to 8 hrs.)	\$370.00 (Over 8 hrs.)
Holidays	\$260.00 (Up to 8 hrs.)	\$370.00/ hr. up to 4 hrs.

ANDRITZ SEPARATION INC.

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Fax (817) 468-3961
separation.us@andritz.com



Travel & Holiday Service

If travel and work requirements carry through weekends and holidays, the premium rates above will be charged. (For example, if a customer requires field service personnel to be on site early Monday, necessitating the need to travel Sunday or a Holiday, the Sunday/Holiday rate will be charged. If work continues through a weekend and/or holiday, the Sunday/Holiday rate will be charged.)

Cancellation Notice

In an effort to keep costs down for our customers, service personnel will book advanced, non-refundable tickets as quickly as possible after the request for service is received. This is a conscientious effort to keep costs to the customer, for air travel, as low as possible. If such expenses have been incurred in good faith, and the customer must cancel, we must invoice for those expenses to be fairly reimbursed.

Other Considerations

Because our Field Service employees are away from home for extended periods for most of the year, we feel they should be with their families over the Christmas and New Year holidays. Except for breakdowns or comparable and equally critical service requirements, our personnel are not available at these times.

When our field service personnel travel international and required on site for periods in excess of four weeks, they are allowed to return home to be with their families. The allowable time period is determined on a case-to-case basis. The cost only of transportation to the employee's home and return will be included with the service charges.

It is required that our service personnel have single rooms in first class hotel or motel accommodations where these are available. The charges for all living and travel expense will be for the account of the customer. Travel, if by public conveyance or rented automobile, will be at cost. Travel, if by employee-owned or company owned automobile will be at the rate of US \$ 0.58 per mile plus all toll and parking charges. A 15% administrative fee will apply only to travel and living expenses incurred.

It is the responsibility of the purchaser to provide for all necessary permits, clearances, visas, and other pertinent information required for our personnel to travel to the job site. In the event that public facilities are not available near the job site, it is the purchaser's responsibility to provide the equivalent of first class facilities in single rooms for our personnel at the site. For overseas jobs intended to be of an extended duration in excess of thirty (30) days, special arrangements will be negotiated immediately (and prior to the requirement for personnel to be at the job site) with regard to visits home with their families.

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Service Requirement Notification

Our objective is to provide the best service possible. Experience has proven that one of the best ways to accomplish this is for our employees to arrive on the job site when they are needed - but not before. Our personnel are in short supply from time to time and personnel with the special skills you may require may not be available on short notice. We request, therefore, that for projects requiring extended service (in excess of thirty (30) days) and/or special skills, ANDRITZ Separation Inc. be given at least sixty (60) days' notice as to when field service personnel are required on site. We also ask that this be confirmed within fourteen (14) days of the start of their services. In other instances, for a shorter duration of service, we request that at least a minimum of ten (10) days' notice be given prior to requirement of our service personnel. After receipt of such advance notice, while we endeavor to comply with all requested time schedules, purchaser should be aware that on rare occasions we might not be able to meet all demands immediately. Negotiations will continue until the best schedule is attained. In the event that emergencies arise, we will work to meet the customers' needs as quickly and as completely as possible.

Please Note: If time is scheduled and the customer must cancel on short notice, there is no guarantee of the immediate availability of field service personnel for rescheduling.

Insurance & Warranty

ANDRITZ Separation Inc. service personnel are fully covered by Worker's Compensation Insurance. ANDRITZ Separation Inc. makes no warranty either express or implied or by trade usage in connection with the services of its field personnel and shall have no liability direct, indirect or for any loss, damage, injury or expense resulting from or arising out of their services other than by reason of their negligence, and in no event for consequential injury or damage or for any amount in excess of the cost of repair or replacement of specific part damaged by their negligence

Rates Effective -07_1_2021

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