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PROPOSAL TO: City of Lee's Summit, MO
 Water Utilities
 220 SE Green St.
 Lee's Summit, MO 64063

DATE: July 1, 2019

ATTENTION: **Michael Riley**

SUBJECT: Scruggs WW
 Lift Station Odor Control

ITEM	QUAN.	DESCRIPTION	PRICE EA.	TOTAL
1	1	Vapex Odor Control Unit Model MICRO with the following: (4) HV Nozzle Flexible Type Install 300 ft. Oxidant Tubing 300 ft. Water Tubing 300 ft. HV Air Tubing 300 ft. 2.5" diameter Zipper Cable Sheath for existing submersible pump cables (3) Annual maintenance kits with field labor at the 12 month, 24 month & 36 month after installation (2) O & M Manuals (1) Intake and outlet kit <ul style="list-style-type: none"> • 1-day startup Service in 1 Trip Warranty is 12 months after start-up or 18 months after delivery-whichever occurs first. NOTES: 1) This is an equipment quote only and installation materials and labor from the Vapex unit to nozzle assembly is not included. 2) A 120 volt power source is required and the wiring and conduit is not included 3) A small water source is required and labor and materials including freeze protection to the unit is not included		
		Total:		<u>\$118,000.00</u>

"IF WE SUPPLY IT, WE MAKE IT WORK!"

TERMS: Net Cash 30 Days from Date of Shipment. No Sales and/or Use Taxes are included in this proposal	FOB Factory
SEE TERMS & CONDITIONS ATTACHED TO PROPOSAL	
TIME OF SHIPMENT Submittal (3-4 wks) Shipment +/-8 wks A.S.A.	
ACCEPTED BY: _____ DATE: _____	
SIGN _____	
	James Bellerive, President

THIS PROPOSAL SUBJECT TO ACCEPTANCE BY PURCHASER WITHIN THIRTY DAYS FROM DATE HEREOF
 WE ARE AN EQUAL EMPLOYMENT OPPORTUNITY EMPLOYER.

HAYNES EQUIPMENT COMPANY, INC.
HECI

TERMS AND CONDITIONS

1. **Acceptance:** this proposal is submitted to Purchaser subject to the terms and conditions hereinafter set forth. There are no other agreements or representations, verbal or otherwise, outside of this proposal. Upon acceptance hereof by Purchaser by signing acceptance copy of this proposal and returning same to Seller, and upon execution of this proposal by an authorized representative of Seller, this proposal shall become a binding contract. In the event that Purchaser submits their own Purchase Order in lieu of accepting this proposal, no contract shall be formed until Seller shall submit to Purchaser, Sellers acknowledgement, in which event a contract shall thereupon become effective, subject to the terms and conditions of said acknowledgment. Seller rejects all additional or different terms in any of the Purchasers forms or documents.
2. **Payment:** Customer shall pay HECI the full cost as set forth in HECI's documentation. Unless HECI's documentation provides otherwise, all taxes, duties or other governmental charges relating to the goods and services provided shall be paid by Customer. If HECI is required to pay any such charges, Customer shall immediately reimburse HECI. All payments are due within 30 days after receipt of invoice. Customer shall be charged the lower of 1 1/2% interest per month or the maximum legal rate on all amounts not received by the due date and shall pay all of HECI's reasonable costs (including attorney's fees) of collecting amounts due but unpaid. All orders are subject to credit approval.
3. **Delivery:** Unless otherwise specified, delivery shall be FOB Factory. Any delivery date set forth in this proposal is approximate. Seller recognizes the desirability of making delivery promptly. However, Seller shall not be responsible for any loss or damage resulting from any delay in delivering or failure to deliver the equipment (as used herein "equipment refers to all equipment, materials, accessories and/or parts which Seller proposes to sell hereunder) where such delay or failure is caused by fire, flood, natural causes, labor trouble (including strikes, slowdowns and lockouts), war, Government regulations, riots, civil disorders, interruption of or delay in transportation, power failure, inability to obtain materials and supplies, accidents, acts of God, or any other cause beyond Sellers control.
4. **Taxes:** Prices specified herein do not include any Federal, State, or Municipal sales, excise or other taxes. Therefore, in addition to the prices specified herein, the amount of any such sales, use, excise or other taxes applicable to the sale of the equipment shall be paid by the Purchaser or in lieu thereof Purchaser shall furnish Seller with tax exemption certificate acceptable to said taxing authorities.
5. **Implied Warranties of Merchantability:** In return for purchase and full payment for Seller's products, Seller warrants each new product supplied by Seller to be free from defects in material and workmanship under normal conditions and use for a period of one year (unless otherwise specified). SELLERS OBLIGATION UNDER THIS WARRANTY IS EXPRESSLY AND EXCLUSIVELY LIMITED to replacing or repairing (at a location dictated by Seller) any part or parts returned with transportation charges prepaid, and which Seller's examination shall show to have been defective. Prior to return of any product or its parts, purchaser shall notify Seller of the claimed defect, and Seller shall have the privilege of examining the product at Buyer's place of business; in the event this examination discloses no defect, Buyer shall have no authority to return the product or parts (to Sellers location) for further examination or repair. All products and parts shall be to buyer FOB (from location dictated by Seller). This warranty shall not apply to any product or part which has been repaired or altered outside of Sellers control, or applied, operated or installed contrary to Seller's instruction, or subjected to misuse, negligence or accident. Seller's Warranty on accessories and component parts not supplied by Seller is expressly limited to that of the manufacturer thereof.
THE FOREGOING WARRANTY IS MADE IN LIEU OF ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, AND OF ALL OTHER LIABILITIES AND OBLIGATIONS ON SELLER'S PART, INCLUDING ANY LIABILITY FOR NEGLIGENCE. ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE IS EXPRESSLY DISCLAIMED. SELLER EXPRESSLY DENIES THE RIGHT OF ANY OTHER PERSON TO INCUR OR ASSUME FOR SELLER ANY OTHER LIABILITY IN CONNECTION WITH THE SALE OF ANY PRODUCT OR PARTS BY THE SELLER.
UNDER NO CIRCUMSTANCES, INCLUDING ANY CLAIMS FOR NEGLIGENCE, SHALL SELLER BE LIABLE FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES, COSTS OF INSTALLING OR CONNECTING OR REMOVING OR DISCONNECTING, ANY LOSS OR DAMAGES RESULTING FROM A DEFECT IN THE PRODUCT OR PARTS. SELLER WILL NOT ACCEPT ANY CHARGES FOR MODIFICATIONS, SERVICING, REPAIR, ADJUSTMENTS, OR ANY OTHER ITEM WITHOUT AUTHORITY IN THE FORM OF A WRITTEN ORDER ISSUED FROM HECI'S OFFICE, IN ADVANCE OF DOING THE WORK.
6. **Compliance With Law:** Purchaser shall be solely responsible for securing any necessary permit under and for compliance with all safety, health and sanitation laws, ordinances and regulations in connection with the installation and operation of the equipment. Purchaser agrees to provide Seller, upon request, evidence of the securing of any such permits and of compliance with such laws, ordinances and regulations.

7. **Indemnity:** The parties shall indemnify, defend and hold harmless one another from any claim, cause of action or liability incurred by the other as a result of third party claims for personal injury, death or damage to tangible property, to the extent caused by the indemnifying party's negligence. The indemnifying party shall have sole authority to direct the defense and settle any indemnified claim, unless the indemnified party elects to decline the right of indemnification, which it may do at any time. The obligation to indemnify is conditioned on the indemnified party: (a) promptly notifying the other party (in the case of the Customer being the indemnifying party), within the warranty period set forth in Section 5: and (b) providing reasonable cooperation in the defense of the claim. It is further understood that seller has relied upon data furnished by and on behalf of Purchaser with respect to the safety aspects of the equipment and that it is the purchasers responsibility to assure that the equipment will, when installed and put to use, be in compliance with safety requirements fixed by law and otherwise legally adequate to safeguard against injuries or damage to persons and property. Purchaser hereby agrees to defend, indemnify and hold harmless Seller, it's agents and employees against any and all losses, costs, damages, claims, liabilities or expenses, including but not limited to reasonable attorney's fees, arising out of or resulting from any injury or damage to the person or property caused by inadequacy of safety features, devices or characteristics in the equipment or in the installation, use or operation of the same, except claims for repair or replacement of defective parts as provided in Paragraph 5 hereof.
8. **Scope of Services:** HECI shall provide the services specifically described in Seller's Documentation during normal business hours, otherwise specified in HECI's Documentation. Services requested or required by the Customer outside of these hours will be charged at HECI's then current schedule of rates including overtime charges, if applicable, and will be in addition to the charges outlined in HECI's Documentation. Where the Customer requests additional services which are outside of the scope of work itemized in HECI's Documentation, HECI shall provide those services at its standard time and material rates and pursuant to it's standard terms and conditions then in effect, unless HECI agrees otherwise in writing.
9. **Patent Infringement:** Seller, at its own expense, shall defend any suit brought against Purchaser on the ground that use of the equipment for the purpose for which it was sold hereunder, infringes any United States Letters of Patent existing on the date of submission hereof, and shall pay the amount of any judgment that may be awarded against Purchaser in any such suit, provided and upon the condition that Purchaser shall have made all payments due for the equipment and shall (a) promptly deliver to Seller all infringement notices and other papers received by or served upon Purchaser, (b) permit Seller to take complete charge of the defense of such suit (and to settle the same if this be deemed advisable by Seller); and (c) assist in every reasonable way in the conduct of such defense. In the event that Purchaser shall be enjoined by any court of competent jurisdiction from using the equipment for the purpose for which sold hereunder on the grounds that such use infringes any United States Letters of Patent existing on the date of submission hereof, or if it is at any time established to Sellers satisfaction, upon due investigation, that the equipment infringes such United States Patent, Seller, at its option may either: (1) procure for Purchaser a license to continue using the equipment; (2) modify the equipment so as to make it non-infringing without seriously impairing its performance; (3) replace the equipment with equipment that is substantially equal but non-infringing; or (4) remove the equipment from point of installation, in which event Seller shall refund to Purchaser or owner the purchase price less depreciation at the rate of 15% per year. The forgoing sets forth Sellers entire liability to Purchaser for patent infringement based on the possession and the use of the equipment by Purchaser, it being understood and agreed that the aforesaid obligations of Seller do not extend to, and are not applicable in the case of, any patent infringement claims directed to a method or process.
10. **Prices:** This proposal is valid for a period of 30 days from the date hereof. If this proposal should become a binding contract as herein above provided, the prices set forth herein are firm for 12 months from the date this proposal becomes a binding contract, providing drawings are returned approved within 30 days after issuance, and providing Seller is released to ship the equipment as soon as possible.
11. **Limitation of Liability:** Notwithstanding anything else to the contrary, Seller shall not be liable for any consequential, incidental, special, punitive or other indirect damages and Seller's total liability under the warranty and under the agreement to purchase the equipment, arising at any time from the sale or use of the equipment shall not exceed the purchase price paid for the equipment. These limitations apply whether the liability is based on contract, tort, strict liability or any other theory.
12. **Force Majeure:** Under no circumstances shall either HECI or Customer have any liability for any breach (except for payment obligation) caused by extreme weather or other act of God, strike or other labor shortage or disturbance, fire, accident, war or civil disturbance, delay of carriers, failure of normal sources of supply, change in law or other act of government or any other cause beyond such party's reasonable control.
13. **Changes:** HECI shall not implement any changes in the scope of services described in HECI's Documentation unless Customer and HECI agree in writing to the details of the change and any resulting price, schedule or other modifications. This includes any changes necessitated by a change in law.
14. **Cancellation:** Either party may terminate the services specified in HECI's Documentation by providing prompt written notice to the other party. If Customer cancels or suspends its service order for any reason other than HECI's breach, Customer shall pay HECI for work performed prior to cancellation or suspension and any other direct costs incurred by HECI as a result of such cancellation or suspension including HECI's anticipated profit.
15. **Ownership of materials:** All devices, equipment (other than the goods), designs (including drawings, plans and specifications), estimates, prices, notes, electronic data and other documents or information prepared or disclosed by HECI in connection with services provided, and all related intellectual property rights (including without limitation those associated with the Goods), shall remain HECI's property. HECI grants Customer a non-exclusive, non-transferable license to facilitate Customer's use of the Goods supplied and the equipment serviced. Customer shall not disclose any such material to third parties without HECI's written consent.

- 16. **Title:** Title to equipment specified herein and to any and all additions and accessories thereto and substitutions therefore, shall remain with Seller until the purchase price thereof is paid in full by customer.
- 17. **Risk of Loss:** The risk of loss or damage to the equipment is on Purchaser, from and after delivery to Purchaser or to carrier for shipment to Purchaser.
- 18. **Disclaimer of Consequential Damages, Liquidation, or Penalties:** Seller shall not be liable for consequential damages. Consequential damages for the purpose of this agreement shall include, but not be limited to, loss of use, income or profit, or loss or damage to property including, but without limitation, products manufactured, processed or transported by the use of the equipment, occasioned by or arising out of the operation, use, installation, repair or replacement of the equipment or otherwise. Seller shall not be liable for any penalty or liquidated damages based upon or relating to failure or inability to ship within a specified time. Notwithstanding anything else to the contrary, as mentioned in Paragraph 11 hereof, seller's total liability under the warranty and under the agreement to purchase the equipment, arising at any time from the sale and use of the equipment shall not exceed the purchase price paid for the equipment.
- 19. **Miscellaneous:** If these terms are issued in connection with a government contract they shall be deemed to include those federal acquisition regulations that are required by law to be included. These terms, together with any quotation, purchase order or acknowledgment issued or signed by HECI comprise the complete and exclusive statement of the agreement between the parties (the "agreement") and supersede any terms contained in Customer's documents, unless separately signed by HECI. No course of dealing or performance, usage of trade or failure to enforce any term shall be used to modify this Agreement. If any of these terms are unenforceable, such term shall be limited only to the extent necessary to make it enforceable, and all other terms shall remain in full force and effect. Customer may not assign or permit any other transfer of the Agreement without HECI's prior written consent. The agreement shall be governed by the laws of the State of Kansas without regard to its conflict of Laws provisions.

Contract:

This proposal and the Purchaser's acceptance shall not become a contract until approved by an authorized official of Haynes Equipment Co., Inc., and when so approved, shall constitute the entire agreement between the parties hereto, and no change or variation of the terms and conditions herein will be accepted by or be binding on Haynes Equipment Co., Inc.

The undersigned Buyer acknowledges all terms of this proposal and agreement and acknowledges receipt of a complete and correct copy of same.

For Buyer

For Seller

Buyer Certifies that the Bonding Company covering payment of this obligation is:

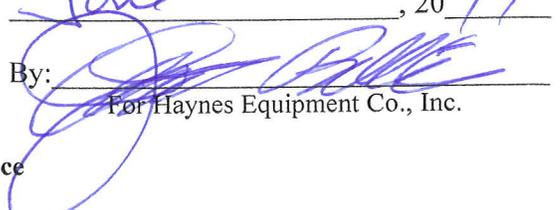
Name _____

Street _____

City, State & Zip Code _____

Submitted this 6th day of

June, 2019

By:  For Haynes Equipment Co., Inc.

Order Acceptance

Accepted This _____ day of _____, 20____

(Buyer) _____

By: _____
(Title)

Approved at Olathe, Kansas _____ day of

_____, 20____

By: _____
For Haynes Equipment Co., Inc. (Title)

Note: If Buyer is a corporation, its duly authorized officer should sign giving his/her official title; if a partnership, its firm name should be signed by a partner who is authorized to sign and such partner should also sign his/her individual name.