

Exhibit B

**AGREEMENT BETWEEN
BUYER AND SELLER
FOR PROCUREMENT CONTRACTS**

Prepared by



and

Issued and Published Jointly by



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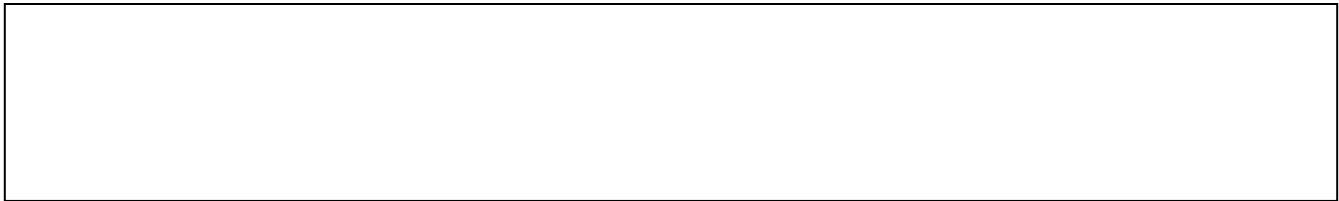


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AGREEMENT

THIS AGREEMENT is by and between The City of Franklin, TN (“Buyer”) and ZENON Environmental Corporation d/b/a GE Water & Process Technologies (“Seller”).

Buyer and Seller hereby agree as follows:

ARTICLE 25 – GOODS AND SPECIAL SERVICES

25.01 Seller shall furnish the Goods and Special Services as described in Seller’s Proposal No. 795690, originally dated September 23, 2014, inclusive of Seller’s terms and conditions contained therein all in response to the RFP for Proposal for a Hollow Fiber Membrane Filtration System for Surface Water Treatment Plant dated September 1, 2014.

ARTICLE 26 – THE PROJECT

26.01 The Project, of which the Goods and Special Services may be the whole or only a part, is identified as follows: The design, fabrication and delivery of a complete Hollow Fiber Membrane Filtration System as described in the contract documents. Installation and commissioning assistance, process guarantees and warranties, and on-going services shall be included as described in the Contact Documents.

ARTICLE 27 – ENGINEER

27.01 The Specifications for the Goods and Special Services have been prepared by Smith Seckman Reid (SSR), 2995 Sidco Drive, Nashville, TN 37204, dated September 1, 2014 ("Engineer"), which is to act as Buyer's representative, assume all duties and responsibilities, and have the rights and authority assigned to Engineer in the Contract Documents in connection with Seller’s furnishing of Goods and Special Services.

ARTICLE 28 – POINT OF DESTINATION

28.01 The Point of Destination is designated as: A point to be determined by the assignee, generally, Franklin, Tennessee.

ARTICLE 29 – CONTRACT TIMES

29.01 *Time of the Essence*

- A. All time limits for Milestones, if any, including the submittal of Shop Drawings and Samples, the delivery of Goods, and the furnishing of Special Services as stated in the Contract Documents, are of the essence of the Contract.

29.02 *Milestones*

- A. Days for Submittal of Shop Drawings and Samples: Seller shall submit all Shop Drawings and Samples required by the Contract Documents to Buyer for Engineer's review and approval within One Hundred-Twenty 120 days after the date when the Contract Times commence to run as provided in Paragraph 2.04 of the General Conditions. It is the intent of the parties that (1) Engineer conducts such review and issue its approval, or a denial accompanied by substantive comments regarding information needed to gain approval, within fourteen (14) days of Seller's submittal of such Shop Drawings and Samples; and (2) resubmittals be limited whenever possible. If more than one resubmittal is necessary for reasons not the fault and beyond the control of Seller, then Seller shall be entitled to seek appropriate relief under Paragraph 7.02.B of the General Conditions.

29.03 *Days to Achieve Delivery of Goods:*

- A. The Goods are to be delivered to the Point of Destination and ready for Buyer's receipt of delivery on the dates approved by both parties.
- B. The place of delivery specified therein shall be firm and fixed, provided that Buyer may notify Seller no later than 45 days prior to the scheduled shipment date of the products of an alternate point of delivery. Provided the parties agree to a change order to take into account any additional cost [or delay] incurred by Seller in implementing this change, the alternate place of delivery shall become the agreed place of delivery for all purposes under this Agreement. In such event the following conditions shall apply: (i) title and risk of loss shall thereupon pass to the Buyer; (ii) any amounts payable to the Seller upon delivery or shipment shall become payable; (iii) any additional expenses incurred by the Seller in connection with such shipment to storage shall become payable by the Buyer upon submission of the Seller's invoice(s) (including but not limited to costs of any additional transportation, preparation for and placement into storage, handling, inspection, preservation, insurance, storage, removal charges and any applicable taxes); (iv) transportation of the products from the storage facility to their place of installation shall be the Buyer's responsibility; and, (v) if the Contract includes Services, subject to the terms and conditions in the Contract the Seller shall resume provision of Services to Buyer when instructed to do so by Buyer provided that all amounts due hereunder plus any costs incurred by Seller in delaying such Services have been paid.
- C. Seller shall provide written notice to Buyer at least 10 days before shipment of the manner of shipment and the anticipated delivery date. The notice shall also include any instructions concerning special equipment or services required at the Point of Destination to unload and care for the Goods. Seller shall also require the carrier to give Buyer at least 24 hours' notice by telephone prior to the anticipated time of delivery.
- D. Buyer will be responsible and bear all costs for unloading the Goods from carrier.

- E. Buyer will assure that adequate facilities are available to receive delivery of the Goods during the Contract Times for delivery set forth in the Agreement, or another date agreed by Buyer and Seller.
- F. Partial deliveries and payments for partial deliveries shall be permitted.
- G. If Seller is prevented from delivering the Goods or performing the Special Services within the Contract Times for any unforeseen reason beyond its control and not attributable to its actions or inactions, then Seller shall be entitled to an adjustment of the Contract Times to the extent attributable to such reason. Such reasons include but are not limited to acts or neglect by Buyer, inspection delays, fires, floods, epidemics, abnormal weather conditions, acts of God, and other like matters. If such an event occurs and delays Seller's performance, Seller shall notify Buyer in writing within 15 days of knowing or having reason to know of the beginning of the event causing the delay, stating the reason therefor.
- H. Seller shall not be entitled to an adjustment in Contract Price or Contract Times for delays within the control of Seller. Delays attributable to and within the control of Seller's subcontractors or suppliers shall be deemed to be delays within the control of Seller.
- I. If Seller is prevented from delivering the Goods or furnishing the Special Services within the Contract Times due to the actions or inactions of Buyer, Seller shall be entitled to any reasonable and necessary additional costs arising out of such delay to the extent directly attributable to Buyer.
- J. Neither Buyer nor Seller shall be entitled to any damages arising from delays which are beyond the control of both Buyer and Seller, including but not limited to fires, floods, epidemics, abnormal weather conditions, acts of God, and other like matters.

29.04 *Days for Furnishing Special Services:*

- A. The furnishing of Special Services to Buyer will commence on the date of Substantial Completion of the Construction Contract or other time that is mutually agreed upon.

29.05 *Buyer's Final Inspection*

- A. Days to Achieve Final Inspection: Buyer shall make its final inspection of the Goods pursuant to Paragraph 8.01.C of the General Conditions within Seven (7) days after Buyer's acknowledgement of receipt of delivery of the Goods and Seller's completion of furnishing Special Services, if any.

29.06 *Liquidated Damages*

- A. Buyer and Seller recognize that Buyer may suffer financial loss if the Goods are not delivered at the Point of Destination and ready for receipt of delivery by Buyer within the times specified in Paragraph 5.02 above, plus any extensions thereof allowed in

accordance with Article 7 of the General Conditions. The parties also recognize that the timely performance of services by others involved in the Project is materially dependent upon Seller's specific compliance with the requirements of Paragraph 5.02. Further, they recognize the delays, expense, and difficulties involved in proving the actual loss suffered by Buyer if complete acceptable Goods are not delivered on time. Accordingly, instead of requiring such proof, Buyer and Seller agree that as liquidated damages for delay (but not as a penalty) attributed solely to Seller, Seller shall pay Buyer \$500.00 for each day that expires after the time specified in Paragraph 5.02.B for delivery of acceptable Goods. Seller shall have no liability to Buyer under this Article if Seller's delay causes no damages or losses to Buyer.

- B. The liquidated damages set forth in Article 5.04 shall constitute the Buyer's sole and exclusive remedy for delay by Seller in achieving completion of the Work within the time specified in the Contract Documents. Seller's obligation to pay liquidated damages pursuant to Article 5.04 shall be limited to an amount equal to ten percent (10%) of the Seller's Contract Price.

ARTICLE 30 – CONTRACT PRICE

30.01 Buyer shall pay Seller for furnishing the Goods and Special Services in accordance with the Contract Documents as follows:

- A. The prices stated in Seller's Proposal, attached hereto as an exhibit and as modified through subsequent negotiations. The Initial Capital Price of the equipment and services shall be US\$1,318,000.00
- B. Upon signing of the agreement the Seller will commence Engineering Services to permit the Buyer and Buyer's Engineer to perform overall WTP design. By signing this agreement Buyer is not authorizing Seller to commence fabrication or procurement as such the Buyer has no financial obligations to the Seller related to providing Goods and Special Services until such time as the Agreement is assigned to a General Contractor who will provide Seller with a Notice to Proceed for the fabrication and procurement of Goods and Special Services.
- C. In the event that a Notice to Proceed is not received September 1st, 2015 or the project is cancelled, Buyer shall reimburse Seller the cost for Engineering Services completed to the date of NPT or cancellation to an upset limit of \$89,000.00.
- D. The parties acknowledge that the Owner may seek loans or grants from various state or federal agencies to fund the project. Buyer and Seller agree that they will comply with the Owner's request for information in order to support applications for loans or grants.

ARTICLE 31 – PAYMENT PROCEDURES

31.01 Submittal and Processing of Payment

- A. Seller shall submit Applications for Payment in accordance with Article 10 of the General Conditions. Applications for Payment will be processed by Engineer as provided in the General Conditions.

31.02 Progress Payments; Retainage

- A. Buyer shall make progress payments on account of the Contract Price on the basis of Seller's Applications for Payment as per Seller's Proposal which are as follows:

- 10% On Approval of Shop Drawings
- 15% On Notice of Proceed with Procurement (NTP)
- 65% On Delivery of Equipment (partial shipments permitted)
- 10% On Substantial Completion

ARTICLE 32 – INTEREST

- 32.01 All monies not paid when due as provided in Article 10 of the General Conditions shall bear interest at the rate of 12% per annum or at the statutory rate, whichever is lowest.

ARTICLE 33 – SELLER'S REPRESENTATIONS

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

- A. Seller has examined and carefully studied the Contract Documents and the other related data identified in the Bidding Documents, as applicable to Seller's obligations identified in Article 1 above.
- B. If required by the Bidding Documents to visit the Point of Destination and site where the Goods are to be installed or Special Services will be provided, or if, in Seller's judgment, any local condition may affect cost, progress, or the furnishing of the Goods and Special Services, Seller has visited the Point of Destination and site where the Goods are to be installed or Special Services will be provided and become familiar with and is satisfied as to the observable local conditions that may affect cost, progress, and the furnishing of the Goods and Special Services.
- C. Seller is familiar with and is satisfied as to all Laws and Regulations that may affect cost, progress, and the furnishing of the Goods and Special Services.

- D. Seller has carefully studied, considered, and correlated the information known to Seller; information commonly known to sellers of similar goods doing business in the locality of the Point of Destination and the site where the Goods will be installed or where Special Services will be provided; information and observations obtained from Seller's visits, if any, to the Point of Destination and site where the Goods are to be installed or Services will be provided; and any reports and drawings identified in the Bidding Documents regarding the Point of Destination and the site where the Goods will be installed or where Special Services will be provided, with respect to the effect of such information, observations, and documents on the cost, progress, and performance of Seller's obligations under the Contract Documents.
- E. Seller has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Seller has discovered in the Contract Documents, and the written resolution (if any) thereof by Engineer is acceptable to Seller.
- F. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for furnishing Goods and Special Services.

ARTICLE 34 – CONTRACT DOCUMENTS

34.01 Contents

- A. The Contract Documents consist of the following:
 - 1. This Agreement (pages 1 to 11, inclusive), including Seller's As-Sold Proposal as accepted by Buyer and attached hereto and forming an integral part of this Agreement;
 - 2. Performance Bond (pages 1__ to 2, inclusive);
 - 3. Payment Bond (pages 1 to 2, inclusive);
 - 4. General Conditions (pages 1 to 18, inclusive);
 - 5. Supplementary Conditions (pages 1 to 4, inclusive). As well as amendments to Supplementary Conditions as provided in Seller's Proposal.
 - 6. Specifications as shown in Article 1.0;
 - 7. Addenda (Numbers ___ to ___, inclusive);
 - 8. Exhibits to this Agreement (enumerated as follows):
 - a. Exhibit A-1 to Agreement between Buyer and Seller dated _____, Assignment of Contract; Consent to Assignment; and Acceptance of Assignment.
 - b. Exhibit A-2 to Agreement between Buyer and Seller dated _____, Agreement to Assignment by Seller's Surety.

- c. Minutes of Negotiation Meeting(s);
9. The following which may be delivered or issued on or after the Effective Date of the Agreement and are not attached hereto:
- a. Notice to Proceed (pages __ to __, inclusive);
 - b. Written Amendments;
 - c. Change Orders(s);
 - d. Field Order(s);
 - e. Engineer's Written Interpretation(s);
- B. The documents listed in Paragraph 10.01.A are attached to this Agreement (except as expressly noted otherwise above).
- C. There are no Contract Documents other than those listed above in this Article 10.
- D. The Contract Documents may only be amended, or supplemented as provided in Paragraph 3.04 of the General Conditions.

ARTICLE 35 – MISCELLANEOUS

35.01 Terms

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

35.02 Assignment of Contract

- A. Buyer has the right to assign this Contract for furnishing Goods and Special Services, but only to a person or entity with sufficient ability to satisfy all of Buyer's obligations under this Contract, and Seller hereby consents to such assignment. Forms documenting the assignment of the Contract, and consent of Seller's surety to the assignment, have been executed by Buyer, Seller, and Seller's surety, and are attached as exhibits to this Agreement. Buyer and Seller agree to the following terms and conditions regarding assignment of Seller's Contract to a General Contractor retained by the Buyer:
 - 1. that the General Contractor shall provide the Buyer with a Labor and Material Payment Bond in the full amount of the general contract, including Seller's contract amount;
 - 2. that Seller's contract shall be assigned 'as is', with no new or additional terms and conditions being imposed upon Seller by the General Contractor;
 - 3. that the General Contractor shall not have the right to re-assign Seller's Contract, other than to re-assign it back to the Buyer, without Seller's prior written approval, such approval may be withheld at Seller's sole discretion;

- B. The Contract will be executed in the name of Buyer initially, and will be assigned to a construction contractor designated by Buyer. Such construction contractor's responsibilities will include the installation of the Goods. The assignment will occur on the effective date of the agreement between Buyer and the construction contractor, which is expected to occur on or about Q3, 2015. As of the date of acceptance of assignment by the construction contractor, all references in the Contract Documents to Buyer shall mean the designated construction contractor whose responsibilities will include the installation or erection or incorporation of the Goods.
1. The assignment of the Contract shall relieve the assignor from all further obligations and liabilities under this Contract. After assignment, Seller shall become a subcontractor or supplier to the assignee and, except as noted herein, all rights, duties, and obligations of Buyer under the Contract shall become the rights, duties, and obligations of the assignee.
 2. After assignment:
 - a. All performance warranties, guarantees, and indemnifications required by the Contract Documents will continue to run for the benefit of assignor and, in addition, for the benefit of the assignee. However, if assignor and assignee make the same warranty or guarantee claim, then Seller shall only be liable once for such claim.
 - b. Except as provided in this Paragraph 11.02.A.2.b, all rights, duties, and obligations of Engineer to assignee and Seller under this Contract will cease.
 - 1) Engineer will review Seller's Applications for Payment and make recommendations to assignee for payments as provided in Paragraphs 10.02 and 10.06 of the General Conditions.
 - 2) Upon the written request of either the assignee or Seller, Engineer will issue with reasonable promptness clarifications or interpretations of the Contract Documents pursuant to the terms of Paragraph 9.02.A of the General Conditions.
- C. No other assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound. Specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by Laws and Regulations). Unless specifically stated to the contrary in any written consent to such an assignment, such an assignment will not release or discharge the assignor from any duty or responsibility under the Contract Documents.

35.03 *Successors and Assigns*

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

35.04 Severability

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

35.05 Seller's Certifications

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

35.06 Limitations

- A. Notwithstanding any other provisions of the Contract Documents, Seller's total liability arising at any time under any of the Contract Documents or otherwise in connection with completing the Project (whether arising under breach of contract, tort, strict liability or any other theory of law) shall not exceed the Seller's contract price. Notwithstanding anything to the contrary in the Contract Documents or otherwise, under no circumstances shall either party to the contract be liable to the other party for any loss of profit or revenues, incidental, consequential, special, punitive or other indirect damages (other than liquidated damages expressly provided for in the Contract Documents), regardless of whether such damages arise under breach of contract, tort, strict liability, or any other theory of law.
- B. Seller's liability shall end upon the expiration of the applicable warranty period, provided that Buyer may continue to enforce a claim for which it has given notice prior to that date by commencing an action or arbitration, as applicable under this Agreement, before the expiration of any statute of limitations or other legal time limitation but in no event – to

the extent permitted by applicable law – later than five (5) months after expiration of such warranty period.

- C. Upon assignment the terms of this Paragraph 11.06.B shall be binding upon both the assignor and assignee with respect to Seller's liability, and upon Seller with respect to both assignor's and assignee's liabilities. The terms of this mutual limitation do not apply to or limit any claim by either Buyer or Seller against the other based on any of the following: (a) contribution or indemnification with respect to third-party claims, losses, and damages; (b) costs, losses, or damages attributable to personal or bodily injury, sickness, disease, or death, or to injury to or destruction of the tangible property of others, (c) intentional or reckless wrongful conduct, or (d) rights conferred by any bond provided by Seller under this Contract.

IN WITNESS WHEREOF, Buyer and Seller have signed this Agreement. Counterparts have been delivered to Buyer and Seller. All portions of the Contract Documents have been signed or identified by Buyer and Seller or on their behalf.

This Agreement will be effective on *[insert date]* (which is the Effective Date of the Agreement).

Buyer: _____ Seller: ZENON Environmental Corporation

By: _____ By: _____
[Corporate Seal] [Corporate Seal]

Attest: _____ Attest: _____

Address for giving notice: _____ Address for giving notice:
_____ 3239 Dundas Street West
_____ Oakville, ON
_____ L6M 4B2

(If Buyer is a corporation, attach evidence of authority to sign. If Buyer is a public body, attach evidence of authority to sign and resolution or other documents authorizing execution of Buyer-Seller Agreement.)

Agent for service of process:
David Bingham
Address as Above

(If Seller is a corporation or a partnership, attach evidence of authority to sign.)

Designated Representative:
Name: _____
Title: _____
Address: _____
Phone: _____

Designated Representative:
Name: TBA
Title: Project Manager
Address: As Above
Phone: 905-465-3030 Extension; xxxx

Facsimile: _____

Facsimile: 905-465-3050 _____

**EXHIBIT A-1 to Agreement Between
Buyer and Seller dated _____**

**ASSIGNMENT OF CONTRACT; CONSENT TO ASSIGNMENT;
AND ACCEPTANCE OF ASSIGNMENT**

This assignment will be effective on the Effective Date of the Agreement between Buyer and Construction Contractor.

The Contract between _____ (“Buyer”) and
_____ (“Seller”)
for furnishing Goods and Special Services under the Contract Documents entitled

_____ is hereby assigned, transferred, and set over to _____ (“Construction Contractor”). Construction Contractor shall be totally responsible for the performance of Seller and for the duties, rights and obligations of Buyer, not otherwise retained by Buyer, under the terms of the Contract between Buyer and Seller.

ASSIGNMENT DIRECTED BY:

Buyer

(If Buyer is a corporation, attach evidence of authority to sign. If Buyer is a public body, attach evidence of authority to sign and resolution or other documents authorizing execution of Buyer-Seller Agreement.)

By: _____
(Signature) (Title)

ASSIGNMENT

ACKNOWLEDGED AND ACCEPTED BY:

Seller

(If Seller is a corporation, attach evidence of authority to sign.)

By: _____
(Signature) (Title)

ASSIGNMENT ACCEPTED BY:

Construction Contractor

(If Construction Contractor is a corporation, attach evidence of authority to sign.)

By: _____

**EXHIBIT A-2 to Agreement Between
Buyer and Seller dated _____**

AGREEMENT TO ASSIGNMENT BY SELLER'S SURETY

Surety hereby acknowledges and agrees that the Contract for furnishing Goods and Special Services under the Contract Documents entitled _____
_____ by and between
_____ (“Buyer”) and

_____ (“Seller”) may be assigned, transferred, and set over to _____
_____ (“Construction Contractor”), in accordance with Paragraph 11.02 of Agreement between Buyer and Seller.

Surety further agrees that, upon assignment of the Contract, the Construction Contractor shall have all the rights of the Buyer under the Performance Bond.

(Corporate Seal)

Surety

Company: _____

By: _____

Signature and Title
(Attach Power of Attorney)