



Since 1919

## EATON SALES & SERVICE LLC

**100 Years of Service**

*SALES SERVICE INSTALLATION*  
*(970) 245-0144 fax: (970) 245-1143*

Eaton Sales & Service is pleased to offer the following proposal for your review.

### **SCOPE OF WORK:**

- Remove Gasboy 1000 from island.
- Provide and install a new FuelMaster system to include 20 Prokees and Prokee encoder.
- Wire in system using existing wiring and program unit.
- Train customer on the system.
- Remove the AutoStick Jr.
- Install a new EVO 200 tank monitor with new probes and sensors. Existing overfill alarm will be reused.
- Wire in new monitor, probes, and sensors.
- Program the system and train customer.

<b>Freight</b>	<b>\$577.00</b>
<b>Electrical</b>	<b>\$6,450.00</b>
<b>Per Diem/Mileage</b>	<b>\$1,137.00</b>
<b>Labor/Travel</b>	<b>\$4,067.00</b>
<b>FuelMaster</b>	<b>\$8,956.00</b>
<b>Tank Monitor</b>	<b>\$6,788.00</b>
<b>TOTAL FOR PROJECT</b>	<b>\$27,975.00</b>

### **OPTION**

- Remove the 2 existing dispensers and replace with 2 new Wayne Fleet Dispensers. This will include the electrical disconnections and reconnections as well as the startup of the new dispensers. Hanging hardware (nozzle, hoses, breakaways) will be reused from old dispensers. Also 20 additional Prokees will be provided for the FuelMaster.

<b>Freight</b>	<b>\$475.00</b>
<b>Electrical</b>	<b>\$2,425.00</b>
<b>Labor</b>	<b>\$1,163.00</b>
<b>Dispensers/Stands/Entry Boots/Piping</b>	<b>\$9,988.50</b>
<b>20 Additional Prokees</b>	<b>\$105.25</b>
<b>ADDER FOR OPTION</b>	<b>\$14,156.75</b>

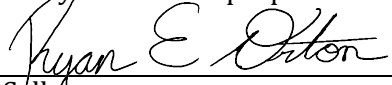
**RECAP**

Tank Monitor/FuelMaster	\$27,975.00
Option Dispensers/Prokees	\$14,156.75
<b>TOTAL</b>	<b>\$42,131.75</b>

**CLARIFICATIONS:**

- Price includes freight.
- Price does not include any taxes.
- Price is valid for 30 days from proposal.
- Price is based on using existing wiring and circuits.
- Systems are capable of communication over network. Would have to be set up with I/T personnel.
- No excavation, trenching, dirt work included.
- No concrete included.

**Acceptance:** The prices, payment terms, specifications and conditions of both sides of this proposal are satisfactory and are hereby accepted. Purchaser is responsible for all sales, use and other governmental taxes and charges, which are not included in the price unless expressly stated. You are authorized to do the work as specified. Seller may revoke this proposal before acceptance.

PROPOSED:		ACCEPTED:	_____
	Seller		Purchaser
6/20/2019	Division Manager	_____	_____
Date	Title	Date	Title

**Terms & Conditions**

1. **Establishment of Credit.** This Contract shall be subject to Purchaser's establishing credit satisfactory to Seller's credit department showing Purchaser's ability to make payments in accordance with the terms of this Contract.
2. **Entire Agreement.** This Contract contains the entire agreement between Purchaser and Seller and shall be governed by and construed in accordance with the laws of the state of Seller's division designated on the applicable purchase order or this Contract, excluding, however, such state's choice of law rule for purposes of conflict of laws. This Contract may not be modified except with the written consent of Seller's Main Office, and cannot be countermanded by Purchaser. The terms hereof may not in any manner whatsoever be varied by Purchaser's acceptance or purchase order. In the event of any inconsistency between the terms and scope hereof and Purchaser's acceptance or purchase order, the terms and scope hereof shall control, and Purchaser shall be deemed to have assented to the same in full.
3. **Errors.** Stenographic and clerical errors are subject to correction. Claims for shortages, defective goods, errors or allowances must be made within thirty (30) days from the date of invoice.
4. **Delivery; Shipment Terms; Freight Damage Claims.**
  - A. Shipping dates are approximate and are contingent on fire, accidents, strikes, floods, manufacturer production schedules, installation schedules and coordination of trades, transportation delays, or other causes beyond Seller's control. Seller will exert the utmost effort to perform satisfactorily its shipping obligations and meet installation schedules, but shall not be liable for delay for any reason or for damage in transit of any merchandise, equipment or materials furnished or purchased hereunder ("Merchandise"). Seller may make delivery of Merchandise in installments, which will be separately invoiced.
  - B. The shipping terms, including the F.O.B. point (such as "shipper's dock" or a designated destination) must be indicated. The shipping terms should also include whether freight is "collect" or to be "prepaid and add." If these terms are not indicated, they may be chosen by Seller. Whenever Merchandise is delivered to the designated F.O.B. point or a common carrier (by manufacturer or Seller), or is received by Purchaser, whichever is earlier, Seller's responsibility shall cease and title and full risk of loss (including transportation delays and losses), injury or destruction with respect to Merchandise by any cause whatsoever, shall pass to Purchaser and Purchaser shall be liable to Seller for the full price of the Merchandise. Delivery to Seller's plant for purposes of convenience, coordination or price protection shall be considered "delivery" for invoice purposes. When any contract is quoted on a F.O.B. destination basis, such destination or jobsite must be accessible for delivery by truck.
  - C. If any damage is evident upon delivery, Purchaser must make a notation on the freight bill of lading and have the carrier's agent sign upon delivery for claim record. Purchaser must immediately notify Seller and file a claim with the carrier, as Seller assumes no responsibility for goods damaged in shipment. Shortages and hidden damages or defects to goods must be reported to Seller and carrier within thirty (30) days of receipt of shipment. The quoted prices do not include the cost of unloading which shall be Purchaser's responsibility.
5. SELLER MAKES NO WARRANTY, EXPRESS OR IMPLIED, WHETHER OF MERCHANTABILITY, FITNESS FOR PURPOSE, OR OTHERWISE, EXCEPT AS PROVIDED BY ORIGINAL MANUFACTURERS.
6. **Indemnification.**
  - A. Purchaser hereby agrees to reimburse, indemnify, protect, defend and hold harmless Seller, and Seller's officers, directors, agents, servants, employees, attorneys, successors and assigns ("Seller's Representatives") against any and all of Seller's or Purchaser's losses, damages, liabilities, costs and expenses, including attorneys' fees, arising from or related to the shipment, installation, storage or use of Merchandise, including, but not limited to claims for property damage, personal injury or death, or any penalty or fine by a governmental agency for pollution, environmental damage, cleanup, or otherwise, and whether such claim is made by any third party against Seller or Purchaser, except to the extent that said damage, personal injury or death, or penalty or fine is proven to have been caused by Seller's sole negligence.
  - B. Seller shall have NO LIABILITY for any Merchandise malfunctions or other problems resulting, directly or indirectly, from any accident (not caused by Seller), subsequent work on Merchandise by Purchaser or any third party, improper operation of Merchandise, inadequate maintenance and/or failure to properly protect Merchandise from environmental hazards. Seller does not assume any liability and Purchaser agrees to hold Seller harmless

from and defend and indemnify Seller for losses or claims for any tanks that emerge from their set position and/or are lost after installation due to improper ballasting, ground water, high water tables, or hydrostatic pressure, unless proper anchorage is provided for under the terms of this Contract. Purchaser shall at all times provide adequate ballast.

- C. Purchaser agrees to reimburse, indemnify, protect, defend and hold harmless Seller and Seller's Representatives against any and all claims for damages or lost profits arising from infringements of patents, designs, trade secrets, copyrights, trade names, and/or trademarks with respect to Merchandise manufactured either in whole or part to Purchaser's specifications. Seller assumes no liability for sales, engineering or application information extended by its personnel. Purchaser agrees to indemnify and hold harmless Seller and Seller's Representatives from any and all claims, losses, suits, damages, judgments, and costs, whether direct or indirect, arising from or related to sales, engineering or application information provided or representations made by Seller and/or Seller's Representatives.
- D. NO EMPLOYEE OR REPRESENTATIVE OF SELLER IS AUTHORIZED TO CHANGE THE FOREGOING INDEMNIFICATION PROVISIONS IN ANY WAY.

7. **Insurance.** Seller shall maintain adequate workers' compensation insurance covering its own employees. Unless otherwise specified, Purchaser shall maintain general liability, completed operations and builders' all-risks insurance, and shall meet financial responsibility requirements of federal and state storage tank regulations sufficient to protect against claims that may arise. Unless otherwise specified, Seller shall not be required to obtain fidelity or surety bonds, and the cost of any such bond may be added to the price.
8. **No Employment Relationship.** Seller, in furnishing services hereunder, is acting only as an independent contractor. Seller does not undertake by this Contract or otherwise to perform any obligations of Purchaser, whether regulatory or contractual, or to assume any responsibility for Purchaser's business or operations.
9. **Progress Payments.** Seller, in its sole discretion, may require progress payments, covering the materials, labor, and subcontractor charges. In the event such payments are required by Seller, they will be invoiced from time to time, as determined by Seller. Payments will be in accordance with Seller's standard terms, as set forth. In the event Purchaser fails to pay any progress payment when due, Seller may suspend work, terminate the contract, or exercise any other rights it may have without incurring any liability whatsoever to Purchaser.
10. **Title.** Title to and the right to possess Merchandise shall remain vested in Seller until Purchaser pays the entire purchase price. In the event Purchaser does not promptly pay the purchase price according to the terms hereof, or in the event Purchaser's credit or financial responsibility becomes impaired or unsatisfactory, as Seller may determine, or in the event Purchaser fails to perform any condition or obligation, Seller may, at its election, demand immediate payment in cash before making delivery, suspend delivery and terminate this contract, or mature the entire unpaid portion of the purchase price, in each event without notice and without any liability whatsoever to Purchaser. Upon Purchaser's bankruptcy, receivership, or failure to pay any amount when due, Seller may, at its option, declare this Contract terminated, enter the premises, and retake possession of Merchandise, whereupon all payments made by Purchaser will be forfeited as liquidated damages, rents and costs.
11. **Cancellation and Return of Merchandise.** Purchaser may cancel an order only upon advance written approval of Seller and provided Purchaser pays the freight charges and Seller's reasonable cancellation and restocking charges, based in part on manufacturer's charges. No Merchandise is returnable without Seller's advance written consent, with shipping instructions furnished, and no Merchandise will be accepted for credit without Seller's authorization. At the option of Seller, return of Merchandise prior to receiving Seller's approval will result in such Merchandise remaining the property of the Purchaser and it will be stored at Purchaser's risk and expense. If Seller accepts Merchandise in return for credit a handling charge, based in part on acceptance of the Merchandise for return by the manufacturer, will be charged and no credit will be issued to Purchaser until credit from the manufacturer is received.
12. **Costs of Collection.** If suit is brought by Seller for collection of the purchase price due under this Contract, Purchaser agrees to pay all costs of collection, including reasonable attorneys' fees and court costs.
13. **Third-Party Installation; Storage Tanks.** Seller will not be held responsible for property damage or other liability resulting from the installation by any third party of equipment or attendant connections; nor will Seller be held responsible for any damage or loss resulting from the use, under air pressure, of any storage tank.

14. **Prior Testing.** All tanks are thoroughly tested for leaks before shipment, and all pumps are set to correct measurement and sealed. Seller will not be responsible for any claims for loss of gasoline or other liquids, or any other losses whatsoever, by reason of leakage or inaccuracy of measurement.
15. IN NO EVENT SHALL SELLER BE HELD LIABLE TO PURCHASER OR ANY OTHER PERSON FOR ANY DAMAGES (INCIDENTAL, CONSEQUENTIAL, OR OTHERWISE) FOR BREACH OF WARRANTY, FAILURE OR DELAY IN MAKING DELIVERY, OR FOR ANY OTHER CAUSE EXCEPT AS SPECIFICALLY SET FORTH HEREIN.
16. **Severability.** The provisions of this Contract will be deemed severable, and if any provision of this Contract is held illegal, void or invalid under applicable law, such provision may be changed to the extent reasonably necessary to make the provision legal, valid and binding. If any provision of this Contract is held illegal, void or invalid in its entirety, the remaining provisions of this Contract will not be voided but will remain binding in accordance with their terms.
17. **Prices; Terms of Sale; Credit.**
- A. All prices are quoted in good faith, however, from time to time, applicable taxes may increase or manufacturers may change prices without notice prior to shipment. As a result, Seller may quote an incorrect price, in which case Seller may, at its discretion, add such price or tax increase to Purchaser's price.
  - B. All payments are to be made to Seller at its address and pursuant to the terms of this Contract and the applicable purchase order. All credits and terms of sale must be approved by Seller's Main Office at the time of the order and are subject to review and approval during the life of any contract. A finance charge of two percent (2%) per month (24% per year) may be charged on any unpaid balance remaining at the end of every thirty (30) day period. If payment is not made promptly when due, Purchaser must pay all costs and expenses of collection, including reasonable attorneys' fees. A time payment plan can be arranged only with advance approval by Seller's Main Office. Seller may revoke any credit extended to Purchaser because of its failure to pay when due or for any other reason.
  - C. Purchaser shall be responsible for and shall pay all sales, use, excise, governmental surcharge, and other taxes (including penalties and interest) levied in connection with a sale. The stated prices do not include applicable taxes unless specified and Seller may charge for the same by a subsequent or supplemental invoice.
  - D. Purchaser hereby grants, and Seller hereby retains, a purchase-money security interest in all Merchandise, including the proceeds therefrom, for the purpose of securing Purchaser's obligation to make payment in full, until payment is received in full in cash or collected funds, at which time the security interest shall cease. Seller may, at its option, repossess Merchandise upon Purchaser's default in payment and charge Purchaser with any deficiency. Purchaser agrees to execute upon demand appropriate financing statements for perfecting this security interest. If any work is to be performed on property not owned by Purchaser, upon Seller's request, Purchaser shall provide a Landlord's Waiver in a form acceptable to Seller.
18. **Governmental Compliance.** Environmental compliance shall be Purchaser's responsibility and Purchaser's failure to comply strictly with applicable federal, state or local requirements, rules and/or regulations (including but not limited to those applicable to notice) shall completely void all express or implied warranties of Seller. It shall be Purchaser's responsibility to report any inventory shortage or suspected releases within 24 hours of such occurrence to federal, state and all other regulatory authorities having jurisdiction, in addition to Seller and a certified tank handler. Purchaser agrees to hold Seller harmless from and indemnify and defend Seller against any claims or liability relating to Purchaser's failure to comply strictly with all federal, state or local environmental requirements, rules and/or regulations, including those applicable to notice. Unless otherwise specified herein, Purchaser or its agent shall furnish a state fire marshal's permit, if required, and all other permits, licenses, inspection fees or approvals, whether required by federal, state or local regulations. Purchaser shall register all new or replacement regulated storage tanks in accordance with applicable state and local regulations. Purchaser represents that no consent, approval or authorization, declaration or filing with any third party or governmental agency is required in connection with the performance of the Purchaser's obligations hereunder or to permit Seller to perform its obligations hereunder, other than those approvals that have been previously obtained by Purchaser.
19. **Hardware/Software Compatibility.** In connection with this Contract, Purchaser and Seller assume that any fueling system hardware and software supplied by Purchaser is inherently compatible and requires only routine start-up and programming. If upon start-up, it is discovered that the hardware and/or software is not compatible or has innate deficiencies that require additional configuration or upgrading, Seller will be held harmless from any resulting delays in completion of the work, and shall be entitled to full payment of the Contract Price notwithstanding.

20. **Administrative Provisions.**

- A. **Changes.** This Contract may be amended at the request of either party from time to time by written Change Order signed by both parties, with such Change Order setting forth the particular changes to be made and the effect of such changes on the price and on the time of completion, subject to Seller's approval. A charge may be made for changes in drawings and/or specifications after Purchaser and Seller have previously agreed upon same. The total charge will include order reprocessing costs and additional material and labor costs. The total charges for these will be agreed to after receipt of written Purchaser authorization or direction for these changes.
- B. **Recordkeeping.** Purchaser is responsible to keep daily accurate inventory records on products stored in tanks, lines, and dispensing equipment. In the event of a shortage within thirty (30) days from date of installation, Purchaser shall immediately notify Seller by telephone, to be followed with written confirmation. In no event shall Seller be responsible for shortages, clean-up or related costs incurred for said shortages prior to notification.
- C. **Contingencies.** Seller will be excused from performance under this Contract and will have no liability for any period it is prevented from performing any of its obligations, in whole or in part, as a result of delays caused by the Purchaser or a third party or by any act of God, war, civil disturbance, fire, floods, frost, manufacturers' production schedules, installation schedules and coordination of trades, delays in transportation, acts of government agencies, accidents, court order, labor disputed third party performance or nonperformance, or other causes beyond Seller's reasonable control, including failures or fluctuations in electrical power, heat, light, or telecommunications, and such nonperformance shall not be a default hereunder, or grounds for termination of this Contract.
- D. **Recordings.** Seller may take photographs and video recording of all aspects of excavation and installation.

- 21. **Notice of Lien Rights.** To Protect all parties, a mechanical lien will be automatically filed when payment is not received according to the terms of this Contract. Seller hereby notifies Purchaser that persons or companies furnishing labor or materials for the construction on Purchaser's land may have lien rights on said land and buildings if not paid.

**TERMS OF PAYMENT:**

1. Net Days 10
2. Terms are COD unless an account had been setup.
3. No retention or liquidated damages are allowed on our price
4. Customer agreements and payment terms with third parties are wholly independent of Seller's term and shall not affect the payment and terms of this Contract.
5. If applicable, Seller takes exception to any third-party licensed surety bonding requirements. Seller may, however, offer alternatives to satisfy Purchaser's bonding requirements
6. Credit Card payments of \$5,000.00 or greater will be charged a convenience fee of 3% per dollar of invoice.
7. Down Payment: **35 % down payment**  
                                   **35% upon shipment of material**  
                                   **Remainder due upon completion of project**

**COMMENTS:**

- 1) The prices on quotes are firm through delivery, based on receipt of an order and authorization to proceed within thirty (30) days from the date of this proposal.
- 2) F.O.B. Hayden, Colorado

**CONSTRUCTION COMMENTS:**

All underground installations are subject to additional charges for rock, shale, frozen earth, water, cave-in, damaged utility lines, excessive concrete thickness, similar non-visible obstructions, and/or contamination.

1. Subject to Terms and Conditions pages 1-5.
2. All terms are subject to change based on payment history.
3. Seller reserves the right to select binding arbitration/venue in case of dispute.

Sincerely,

  
 \_\_\_\_\_  
 Eaton Sales & Service LLC – Ryan E. Orton  
 970-245-0144, ryano@eatonmetal.com

\_\_\_\_\_  
ACCEPTED

\_\_\_\_\_  
TITLE

\_\_\_\_\_  
DATE