

### MEMORANDUM OF CONTRACT

This Memorandum of Contract is executed this 28 day of January, 2019, by the undersigned, as representative of Case and Mann, Ltd. ("Vendor"), hereby confirms that:

1. Vendor submitted a Bid Proposal, dated 1/28/2019 in response to the Invitation to Bid ("ITB") No. 19311 issued by the City of Daytona Beach ("the City"); and
2. As expressly stated in the Bid Proposal, the Bid Proposal constituted an offer to enter into a Contract, incorporating all of the terms and conditions of the ITB, the Bid Proposal, and all other documents contained or referenced therein (hereinafter, the "Contract Documents"); and
3. The Bid Proposal expressly provided that the City may accept the offer through the adoption of a Resolution by the Daytona Beach City Commission; and
4. The City has accepted Vendor's offer through issuance of the attached Resolution; and
5. As referenced in the Contract Documents, the Effective Date of the Contract is >, being the date of bid award by the Daytona Beach City Commission.
6. The Bid Proposal was to METER BOXES AND LIDS TERM CONTRACT for a Term of >years >with > renewal options of > year each, at rates set forth in the Bid Proposal; and

Signed this 28th day of January, 2019.

By: Paul Thomas  
Printed Name: Paul Thomas  
Title: Sales Representative

**BID PROPOSAL FORM**

**ITB No.: 19311**

TO THE MAYOR AND COMMISSIONERS  
THE CITY OF DAYTONA BEACH, A FLORIDA MUNICIPAL CORPORATION

Dear Mayor and Commissioners:

This Bid is submitted by Cove and Main, Ltd.  
(insert Vendor's full legal name; include D/B/A if applicable)

Business Address: 590 Ferguson Dr. Orlando, FL 32805  
(include P.O. Box/street address, city, state and zip code)

Business Phone: (407) 291-1545 Business Fax: (407) 291-2006  
(include area code) (include area code)

Business Email: Paula.Thomas@CoveandMain.com  
(leave blank if n/a)

The undersigned, as VENDOR or VENDOR's authorized representative, hereby declares and affirms each of the following:

1. That VENDOR is fully informed in regard to all conditions pertaining to the site(s).
2. That VENDOR has thoroughly examined all Contract Documents, including Specifications as applicable, relative to the commodities to be provided, and that VENDOR is sufficiently knowledgeable of the commodities to be provided.
3. That, pursuant to and in compliance with the Bid Package, including all other Contract Documents, the VENDOR hereby agrees to furnish all labor, materials, and equipment to provide the commodities in strict accordance with the Contract Documents and for the Unit and/or Lump Sum prices herein stated in the attached Bid Schedule.
4. Subject to the terms and conditions stated in the Contract Documents, that VENDOR will provide the commodities work in accordance with the schedule) specified in the Contract Documents.
5. That VENDOR agrees to indemnify and hold harmless the City any other interests as set forth in the Contract Documents.

**BID PROPOSAL FORM, cont.**

6. That insofar as the attached Bid Schedule includes extended unit prices, the use of extended unit quantities will not be construed to be a guarantee that the City will purchase such quantities if a Contract is awarded; and that, subject to the terms and conditions of the Contract, the VENDOR will be entitled to payment based upon the units delivered and accepted.

7. That VENDOR has received the following Addenda (*leave blank if inapplicable*):

No. \_\_\_\_\_ Dated: \_\_\_\_\_ No. \_\_\_\_\_ Dated: \_\_\_\_\_

No. \_\_\_\_\_ Dated: \_\_\_\_\_ No. \_\_\_\_\_ Dated: \_\_\_\_\_

(*list any additional Addenda by number and date*): \_\_\_\_\_

8. That VENDOR has completed the required information required in this Bid Proposal Form and other documents comprising the Bid Package truthfully.

*Core and Main  
Paul Shumet  
No Addendums as of 1/28/19 @ 9 am*

## BID PROPOSAL FORM, cont.

9. That VENDOR is (mark the appropriate box and include the additional information, as applicable):

- An individual person/sole proprietor
- A Florida corporation/ limited liability company
- A foreign corporation/limited liability company authorized to do business in Florida\*  
\_\_\_\_\_ (specify state of incorporation / formation)
- A Florida limited partnership
- A foreign limited partnership authorized to do business in Florida\*  
\_\_\_\_\_ (specify state of incorporation / formation)
- A general partnership (provide partner names on separate, signed sheet of paper)
- A joint venture\*\*
- Other \_\_\_\_\_ (specify, including type of entity)

\* (If Vendor is a foreign corporation or foreign limited liability company, attach proof of registry from State of Florida)

\*\* (provide on separate signed sheet(s) of paper the full legal names of all persons/firms comprising the joint venture.

In signing below, I certify that I am the above-named VENDOR or a person duly authorized by VENDOR to bind VENDOR to these terms and conditions.

By: Paul B. Thomas  
(Signature)

Printed Name: Paul B. Thomas

Title: Sales Representative

Date signed: 1/28/2019

## BID SCHEDULE METER BOXES AND LIDS TERM CONTRACT ITB Number 19311

**Initial Order**

No.	Description	Unit of Measure	Estimated Quantity	Unit Price	Total Amount
1	Meter Boxes as described in these specifications	Each	1000	\$ 67.24	\$ 67,240.00
2	Lids for Meter Boxes as described in these specifications	Each	1000	\$ 53.23	\$ 53,230.00
<b>TOTAL BID PROPOSAL</b>					\$ A 120,470.00

**Subsequent Orders as needed** (with no minimum order quantity)

No.	Description	Annual Estimated Quantity	List Price	Discount Off List	Discounted Unit Price	Total Amount
1	Meter Boxes as described in these specifications	500	\$ 132.00	49 %	\$ 67.32	\$ 33,660.00
2	Lids for Meter Boxes as described in these specifications	500	\$ 104.50	49 %	\$ 53.29	\$ 26,645.00
<b>ANNUAL ESTIMATED SUBSEQUENT ORDER</b>						\$ B 60,305.00
<b>INITIAL ORDER + ANNUAL EST. SUBSEQUENT ORDER (A + B)</b> <i>(This is the amount which will be considered as total bid price)</i>						\$ 180,775.00

Submit list price with bid submittal to verify list price.

*Bidding GlasMaster Box + Lids*

No guarantee is given or implied as to quantities that will actually be required during the Contract period.

Date Signed: 1/28/2019 By: Paul B. Thomas  
(Signature)  
 Name Typed: Paul B. Thomas  
 Title: Sales Representative  
 Company Name: Core and Main, Ltd.

### NONCOLLUSION AFFIDAVIT OF PRIME BIDDER

STATE OF Florida  
COUNTY OF Orange

Paul Thomas, being first duly sworn deposes and says that:

- (1) He is Salesman of Core and Mann, Ltd., the Bidder that has submitted the attached Bid;
- (2) He is fully informed respecting the preparation and contents of the attached Bid and of all pertinent circumstances respecting such Bid;
- (3) Such Bid is genuine and is not a collusive or sham bid;
- (4) Neither the said Bidder nor any of its officers, partners, owners, agents, representatives, employees or parties in interest, including this affiant, has in any way colluded, conspired, connived or agreed, directly or indirectly with any other Bidder, firm or person to submit a collusive or sham Bid in connection with the Contract for which the attached Bid has been submitted or to refrain from bidding in connection with such Contract, or has in any manner, directly or indirectly, sought by Contract or collusion or communication or conference with any other Bidder, firm or person to fix the price or prices or cost element of the Bid price or the Bid price of any other Bidder, or to secure through any collusion, conspiracy, connivance or unlawful Contract any advantage against the City of Daytona Beach, FL (Local Public Agency) or any person interested in the proposed Contract;
- (5) The price or prices quoted in the attached Bid are fair and proper and are not tainted by any collusion, conspiracy, connivance or unlawful Contract on the part of the Bidder or any of its agents, representatives, owners, employees, or parties in interest, including this affiant.

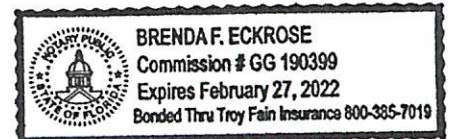
By: Paul Thomas  
(Signature)  
Name Typed: Paul Thomas  
Title: Sales Representative  
Bidder: Core and Mann

Subscribed and sworn to before me

This 28 day of JANUARY, 2019

Brenda F. Eckrose  
(Signature of Notary Public)

My commission expires: 2/27/22



**LOCAL VENDOR AFFIDAVIT**

Complete and submit this form **ONLY** if you qualify for local preference as provided in the City of Daytona Beach Purchasing Code.

A copy of the Bidder's Daytona Beach Business Tax Receipt must be submitted with this Affidavit.

NAME OF BIDDER: Core and Main

LOCAL BUSINESS ADDRESS (street address being used to claim Local Preference, including zip code):  
N/A

The undersigned certifies under penalty of perjury each of the following:

The Local Business Address has continuously been used as a Permanent Place of Business with at least one full-time employee since \_\_\_\_\_  
(Insert date)

The Local Business Address has consistently offered or provided the goods or services being solicited by the City of Daytona Beach during the time referenced above.

The Local Business Address has not been established with the sole purpose of obtaining the advantages that may be granted pursuant to the Local Preference provisions of the City of Daytona Beach Purchasing Code.

\_\_\_\_\_  
Signature (Must be same person as person signing the Bid Proposal)

\_\_\_\_\_  
Print Name/Title

Subscribed and sworn to before me

This \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
(Signature of Notary Public)  
My commission expires: \_\_\_\_\_

**The City of Daytona Beach reserves authority to require a copy of the corporate charter, corporate income tax filing return, and any other documents(s) to evaluate the Bidder's Local Preference claim.**

## CERTIFICATION OF COMPLIANCE WITH AFFIRMATIVE ACTION PROGRAMS

The Vendor []has []has not developed and []has []has not on file at each establishment, Affirmative Action Programs pursuant to Executive Order 11246.

The Vendor []has []has not participated in a previous Contract or subContract subject to Executive Order 11246.

The Vendor []has []has not filed with the Joint Reporting Committee, the Director or the Equal Employment Opportunity Commission all reports due under the applicable filing requirements.

Date Jan. 28, 20 19

Vendor: Core and Main, Ltd.

By: Paul Thomas  
(Signature)

Name: Paul Thomas

Title: Sales Representative

Address: 590 Ferguson Dr.  
Orlando, FL 32805



## DRUG-FREE WORKPLACE CERTIFICATION

**IDENTICAL TIE BIDS:** - If there are two or more low responsive bids from responsible bidders that are identical in price and other evaluation criteria, the tie will be awarded to the following in order of preference: a) the bidder qualifying for local preference under Code 30-86; b) the bidder in compliance with the drug free workplace certification requirements set forth in Florida Statutes 287.087; or c) the most responsible bidder as defined under the City Code 30-82 (9)(c).

In order to have a drug-free workplace program, a business will:

- 1) Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.
- 2) Inform employees about the dangers of drug abuse in the workplace, the business's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violation.
- 3) Give each employee engaged in providing the commodities or Contractual services that are under bid a copy of the statement specified in subsection 1).
- 4) In the statement specified in subsection 1), notify the employees that, as a condition of working on the commodities or Contractual services that are underbid, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or *nolo contendere* to, any violation occurring in the workplace no later than five days after such conviction.
- 5) Impose sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program if such is available in the employee's community, by any employee who is so convicted.
- 6) Make a good faith effort to continue to maintain a drug-free workplace through implementation of this section.

  
(Signature)

**AFFIDAVIT ON PUBLIC ENTITY CRIMES**

*(To be signed in the presence of a notary public or other officer authorized to administer oaths.)*

Before me, the undersigned authority, personally appeared Paul Thomas, who, being by me first duly sworn, made the following statements:

1. The business address of 590 Ferguson Dr. Orlando, FL (insert Bidder's name), hereinafter the "Bidder," is Core and Main

2. My relationship to Bidder is Sales Representative. (relationship such as "sole proprietor," "partner," "president," "vice president," etc.)

3. I understand that a "public entity crime" as defined in Section 287.133(1)(g), *Florida Statutes*, means a violation of any state or federal law by a person with respect to and directly related to the transaction of business with any public entity or with an agency or political subdivision of any other state or of the United States, including, but not limited to, any bid or Contract for goods or services to be provided to any public entity or an agency or political subdivision of any other state or of the United States and involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, or material misrepresentation.

4. I understand that "convicted" or "conviction" as defined in Section 287.133(1)(b), *Florida Statutes*, means a finding of guilt or a conviction of a public entity crime, with or without an adjudication of guilt, in any federal or state trial court of record relating to charges brought by indictment or information after July 1, 1989, as a result of a jury verdict, non-jury trial, or entry of a plea of guilty or nolo contendere.

5. I understand that an "affiliate" as defined in *Florida Statutes*, 287.133(1)(a), *Florida Statutes*, means:

- A. A predecessor or successor of a person convicted of a public entity crime; or
- B. An entity under the control of any natural person who is active in the management of the entity and who has been convicted of a public entity crime. The term "affiliate" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in the management of an affiliate. The ownership by one person of shares constituting a controlling interest in another person, or a pooling of equipment or income among persons when not for fair market value under an arm's length Contract, shall be a prima facie case that one person controls another person. A person who knowingly enters into a joint venture with a person who has been convicted of a public entity crime in Florida during the preceding 36 months shall be considered an affiliate.

6. I understand that a "person" as defined in Paragraph 287.133(1)(e), *Florida Statutes*, means any natural person or entity organized under the laws of any state or of the United States with the legal power to enter into a binding Contract and which bids or applies to bid on Contracts for the provision of goods or services let by a public entity, or which otherwise transacts or applies to transact business with a public entity. The term "person" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in management of an entity.

7. Based on information and belief: (check or initial A. or B. below)

A. Neither the Bidder, nor any of the Bidder's officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the Bidder, nor any affiliate of Bidder, has been charged with and convicted of a public entity crime subsequent to July 1, 1989.

B. The Bidder, or one or more of the Bidder's officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of Bidder entity, or an affiliate of Bidder, has been charged with and convicted of a public entity crime subsequent to July 1, 1989. There has been a subsequent proceeding before a Hearing Officer of the State of Florida, Division of Administrative Hearings and the Final Order entered by the Hearing; and

(if Paragraph 7.B. applies, check or initial one of the following)

There has been a subsequent proceeding before a Hearing Officer of the State of Florida, Division of Administrative Hearings and the Final Order entered by the Hearing, and the Final Order **did not place** the Bidder or any affiliate of Bidder on the convicted vendor list. (Attach a copy of the final order)

There has been a subsequent proceeding before a Hearing Officer of the State of Florida, Division of Administrative Hearings and the Final Order entered by the Hearing. The Final Order **placed** the Bidder or any affiliate of Bidder on the convicted vendor list, but the date of the Final Order is **more than 36 months** prior to the date of submission of the Bidder's bid. (Attach a copy of the final order)

There has been a subsequent proceeding before a Hearing Officer of the State of Florida, Division of Administrative Hearings and the Final Order entered by the Hearing. The Final Order **placed** the Bidder or any affiliate of Bidder on the convicted vendor list, but the Bidder (or as applicable the affiliate of Bidder) has since been **removed from the convicted vendor list** in accordance with Florida Statutes Section 287.133(3)(f). (Attach a copy of the final order, and a copy of the order/official agency document granting the petition to remove.)

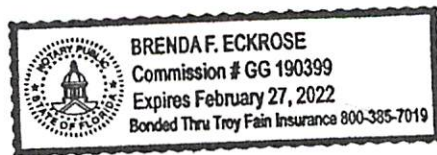
I UNDERSTAND THAT THE BIDDER IS REQUIRED TO INFORM THE CITY PRIOR TO ENTERING INTO A CONTRACT IN EXCESS OF THE THRESHOLD AMOUNT PROVIDED IN Section 287.017, FLORIDA STATUTES, OF ANY CHANGE IN THE INFORMATION CONTAINED IN THIS AFFIDAVIT.

Signed: Paul Thoma

Date signed: 1/28/2019

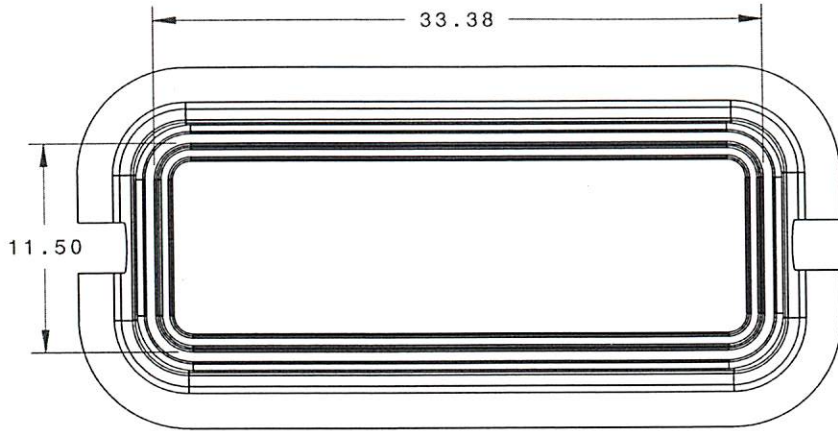
STATE OF Florida  
COUNTY OF Orange

Sworn to and subscribed before me in the state and county referenced above on this 28 day of January, 2019, by Paul Thoma, who (circle one) took an oath is personally known to me.

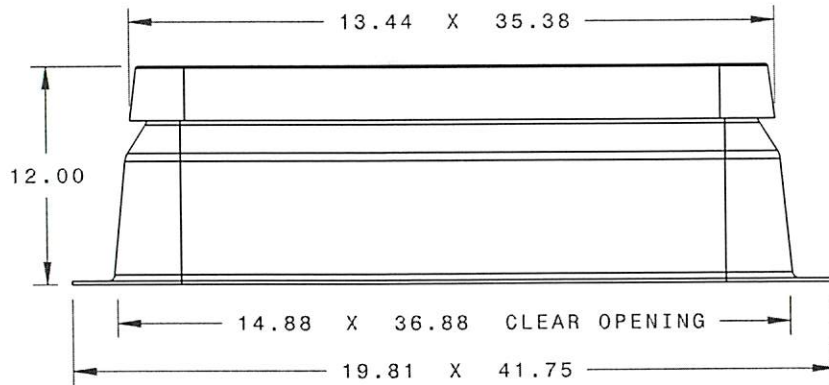


Brenda F. Eckrose  
Notary Public

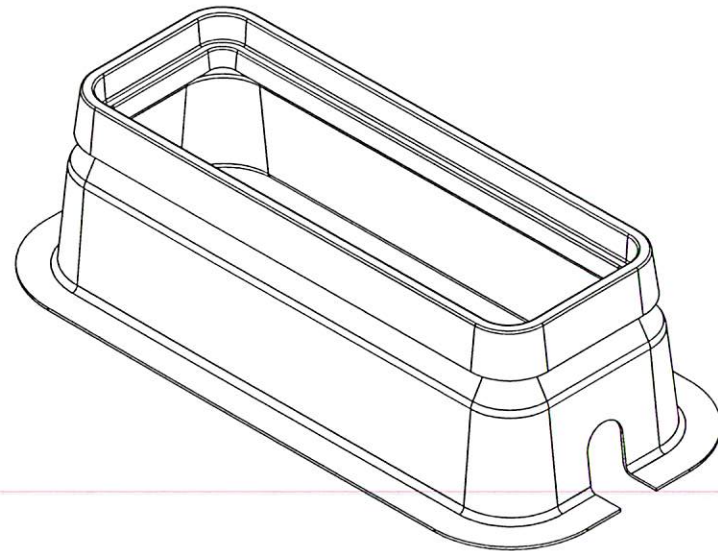
2/27/22  
My commission expires



TOP VIEW



SIDE VIEW



ISOMETRIC VIEW

OPTIONS KEY					
Height	Box Style	Trim Options	Collar Style	Load Rating	Color (*)
12	S-Straight F-Flared	B-Solid Bottom 0-Open Bottom 2-(2) Mouseholes 3-(3) Mouseholes	N-Not bolted B-Bolted G-Gasketed (bolted)	05-Tier 5 08-Tier 8 12-Tier 12	1-Gray 2-Purple 4-Blue

Note: Actual part may vary from image shown  
\* Other options available

PART NUMBER						
Model	Height	Box Style	Options	Collar	Load	Color
S1132	12	F	2	N	8	-1
Example: S113212F2N08-1						

GLASMASTERS - UNDERGROUND ENCLOSURES  
8873 WESTERN WAY, JAX., FL 32256  
(904) 400-7100 - (904) 358-1702 FAX  
WWW.GLASMASTERS.COM

DRAWN EGH	DATE 7/24/14	APPROVED
	FILE: S1132F	REV N/C
TITLE 11 X 32 FLARED WAL BOX	DWG NO S1132F	SHEET 1 OF 1

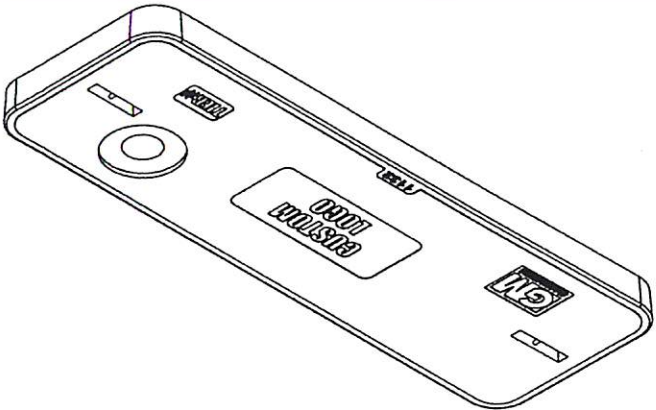
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ALL COPYRIGHT AND PATENT RIGHTS RESERVED. VIOLATORS WILL BE PROSECUTED.



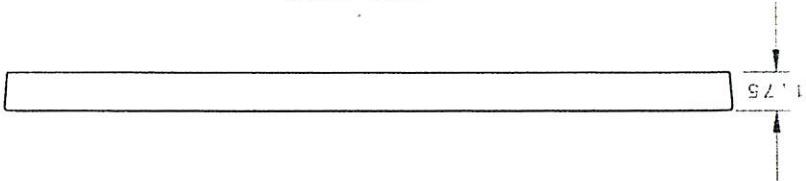
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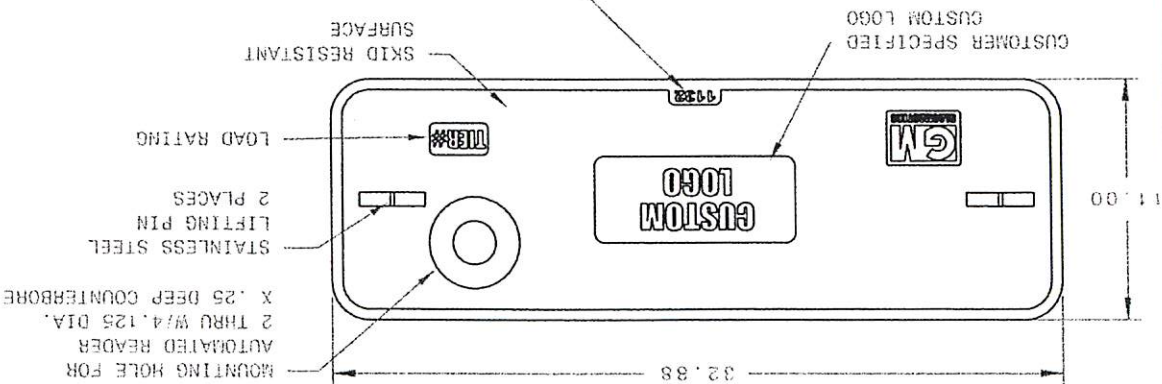
ISOMETRIC VIEW



SIDE VIEW



TOP VIEW



08-TIER 8  
 1-GRAY  
 WA-WATER

PART NUMBER		
MODEL NUMBER	LOAD RATING	COLOR LOGO
S1132SN	8	WA
EXAMPLE: S1132SN08-1-WA		

OPTIONS KEY		
Load Rating	Common Colors*	
08-Tier 8	1-Gray	
15-Tier 15	2-Purple	
22-Tier 22	4-Blue	
WA-Water		
RW-Reclaimed Water		

\*Other options available

GLASMASTERS - UNDERGROUND ENCLOSURES  
 8873 WESTERN WAY, JAX., FL 32256  
 (904) 400-7100 - (904) 358-1702 FAX  
 WWW.GLASMASTERS.COM

SHEET	TITLE	DRAWN	DATE	APPROVED
1	11 X 32 COVER W/SINGLE AMR	EGH	7/24/14	
OF 1	SCALE	REV	FILE:	
	NTS	N/C	S1132SN	
	DWG NO			
	S1132SN			

## STANDARD TERMS AND CONDITIONS

### 1. **Definitions.** Certain terms used herein will have the following meanings:

(a) The City means the City of Daytona Beach, and unless the context dictates otherwise, includes the City's officers, employees, and agents.

(b) Commodities means the supplies, materials, goods, merchandise, food, equipment, or other personal property that the Vendor will be obligated to provide the City under this Contract. These commodities are generally set forth in the Bid Schedule.

(c) Contract means the Bid Documents, including Instructions, Special Instructions, Addenda, Standard Terms and Conditions, and Supplemental Conditions if any; the Bid Package submitted by the Vendor; the Resolution or Ordinance awarding the Bid; the form Contract, if any, required by the City in order to integrate all terms and conditions herein, or in absence of such form Contract, the signed short form memorandum of Contract provided by the City for the Vendor's execution; any other documents specifically incorporated herein or by any of the documents referenced above; all purchase orders issued pursuant to the Bid Documents; and all amendments that may after the date of award be executed by the Vendor and the City.

(d) Vendor means the successful Bidder who was awarded this Contract by the City; and unless the context dictates otherwise, includes Vendor's officers, employees, and agents.

All other terms not defined above will have their ordinary meaning.

**2. Indemnification.** For value received, the Vendor will indemnify and hold harmless the City, including the City's officers, employees, and agents, from (i) all liabilities, damages, losses, and costs, including, but not limited to, reasonable attorneys' fees, to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of Vendor, or of Vendor's officers, employees, and agents, including subContractors and other persons employed or utilized by the Vendor in the performance of the Contract; and (ii) all liabilities, damages, injuries, losses, claims, suits, actions, judgments, charges, expenses, or costs of any nature and kind, including attorneys' fees and court costs, arising from or relating to actual or alleged violation of or infringement of any patent, trademark, copyright, service mark, trade secret or intellectual property right for or on account of the use of any product or services sold to the City or used in performance of the work.

**3. Warranty.** Except as provided in the Supplemental Terms and Conditions, if any, Vendor warrants that the commodities supplied pursuant to this Contract are new, of good quality, and conform to any specifications and requirements of this Contract; that such commodities are merchantable; and that they are fit for the ordinary purposes they are intended to serve.

**4. MSD.** Vendor will supply Material Safety Data (MSD) with each initial delivery of any materials defined by the State of Florida or the Federal Government as being toxic or harmful.

**5. Packaging and Shipping.** All invoices, packing lists and packages must bear the name of the Contract and the applicable City purchase order number as printed on the face of the purchase order.

**6. Discontinued.** Vendor will provide the City 30 days' advance written notice of a discontinued item, to allow the City to purchase additional quantities of such items. The City must give written approval of

any replacements provided for discontinued items if they exceed the unit price for the discontinued item or fail to strictly meet quality, fit, form, or function of the discontinued item.

**7. Payment.** Payment will be made 45 days after Vendor has provided an accurate and undisputed invoice, except where the City accepts a prompt payment discount from the Vendor and the commodities are not defective. All invoices must have a unique invoice number, date, and pricing by line item and unit price that are consistent with this Contract and purchase order. Improper invoices will be returned to the Vendor. Any additional terms and conditions set forth on an invoice not in compliance with this Contract or the purchase order are null and void. Nothing in this Contract will be deemed to create an obligation on the City's part to pay a subContractor or supplier of Vendor's for commodities provided under this Contract.

**8. Sovereign Immunity.** The City expressly retains all rights, benefits, and immunities of sovereign immunity under Florida law, including Section 768.28, Florida Statutes. Nothing in this Contract, or any purchase order, or notice provided under this Contract will be deemed to be a waiver of sovereign immunity or of the limitations on liability of the City beyond any statutory limited waiver of immunity or limits of liability which may have been or may be adopted by the Florida legislature, and the cap on the amount and liability of the City for damages regardless of the number or nature of claims in tort, equity, or Contract will not exceed the dollar amount set by the legislature for tort. Nothing in this Contract, or any purchase order, or notice provided pursuant to this Contract will inure to the benefit of any third party for the purpose of allowing a claim against the City, which would otherwise be barred under the doctrine of sovereign immunity or by operation of law.

**9. Books and Records.** The Vendor will maintain books, records, and documents pertinent to performance under this Contract and any purchase order issued hereunder in accordance with generally accepted accounting principles. The City will have inspection and audit rights to such records during the term of this Contract and for three years following the termination of obligations hereunder. Records which relate to nay litigation, appeals or settlements of claims arising from such performance will be made available until a final disposition has been made of such litigation, appeals or claims.

**10. UCC.** In addition to any rights or remedies contained in this Contract, each party will have the rights, duties, and remedies available through the Uniform Commercial Code.

**11. Notices.** All notices given by one party to the other under this Contract will be delivered to:

For the City:  
Attn: Shannon Ponitz, Utilities Director  
125 Basin Street, #204  
Daytona Beach, FL 32114

For the Vendor: **To the individual signing the Bid Proposal Form**

**12. Amendments and Modifications.** The City may unilaterally change, at no additional cost, the quantity and receiving point within the City for items not yet shipped. The City will not be required to pay for defective items, back-orders, late deliveries, deliveries of quantities of items exceeding the quantities specified, or items shipped at a higher price than stated in this Contract or the purchase order. Except as otherwise provided herein, no change or modification of the Contract will be valid unless the same is in writing and signed by both Parties.

**13. Assignments and SubContracting.** No assignment or subContracting will be permitted without the City's written approval.

**14. Compliance with Laws and Regulations.** In providing goods pursuant to this Contract, Vendor will abide by all statutes, ordinances, rules, and regulations pertaining to, or regulating the provisions of, such services including those now in effect and hereafter adopted.

**15. Principles in Construing Contract.** The Contract will be governed by and construed in accordance with the laws of the State of Florida. Captions and paragraph headings used herein are for convenience only, are not a part of this Contract and will not be deemed to limit or alter any provisions hereof or to be relevant in construing this Contract. The use of any gender herein will be deemed to be or include the other genders, and the use of the singular herein will be deemed to be or include the plural (and vice versa), wherever appropriate.

**16. Litigation/Venue.** In case of litigation, the laws of the State of Florida will govern Florida; the exclusive venue will be Volusia County, Florida if in state court, or the U.S. District Court, Middle District of Florida if in federal court; and each party will bear all of its litigation costs, including attorney's fees.

**17. Jury Trial Waived.** THE PARTIES HEREBY WAIVE THEIR RESPECTIVE RIGHTS TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF THIS CONTRACT, OR ANY DEALINGS BETWEEN THE PARTIES. THE SCOPE OF THIS WAIVER IS INTENDED TO BE ALL ENCOMPASSING OF ANY DISPUTES BETWEEN THE PARTIES THAT MAY BE FILED IN ANY COURT AND THAT RELATE TO THE SUBJECT MATTER, INCLUDING WITHOUT LIMITATION, CONTRACT CLAIMS, TORT CLAIMS, BREACH OF DUTY CLAIMS AND ALL OTHER COMMON LAW AND STATUTORY CLAIMS.

**18. Limitation on Waivers.** Failure by the City to enforce any provision of this Contract will not be deemed a waiver of such provision or modification of this Contract. A waiver of any breach of a provision of this Contract will not be deemed a waiver of any subsequent breach and will not be construed to be a modification of the terms of the Contract.

**19. Termination of Contract.**

(a) The City may terminate this Contract, in whole or in part, at any time, for the City's convenience, nonappropriation of funds, or upon Vendor's material breach, by providing written notice as follows:

(1) Before terminating for convenience, the City must provide Vendor 30 days' notice. Termination will be automatic upon the expiration of the 30-day period.

(2) Before terminating for non-appropriation of funds, the City will provide Vendor such notice as is reasonably practical under the circumstances.

(3) Before terminating due to Vendor's material breach of its Contractual obligations, City must provide Vendor written notice specifying the breach and demanding that Vendor remedy the breach within the Cure Period; except when the nature of the breach is that it is irrevocable and cannot be cured (an example of a breach that is irrevocable is the Vendor's submittal, as bidder, of an Affidavit on Public Entity Crimes which is false). The Cure Period will be 10 days; unless the nature of the material breach is such that it cannot be reasonably cured within this 10-day period despite Vendor's diligent efforts to do so,



in which instance the Cure Period will be extended by one day for each day beyond the 10-day Cure Period that Vendor has continued to diligently attempt to complete the remedy. This Contract will terminate automatically and without need for additional notice if Vendor fails to remedy the material breach within the Cure Period.

In any of the above instances, upon termination, Vendor will immediately discontinue all services affected, unless the notice directs otherwise, and deliver to the City all data, drawings, specifications, reports, estimates, summaries, and any and all such other information and services of whatever type or nature as may have been accumulated by Vendor in performing this Contract, whether completed or in process.

(b) If the termination is for the City's convenience, Vendor will be paid compensation for goods delivered prior to the date of termination.

(c) If termination is for nonappropriation, Vendor will be paid for goods delivered prior to the fiscal year for which the nonappropriation event has occurred.

(d) If the termination is due to the Vendor's material breach, the City reserves all rights and remedies it may have under law due to such breach.

(e) If after notice of termination for the Vendor's material breach it is determined by the City or by a court of law that the Vendor had not materially breached this Contract, or that the City's notice for termination upon such breach was insufficient, the termination will be conclusively deemed to have been effected for the City's convenience. In such event, adjustment in payment to Vendor will be made as provided in Subsection (b) of this Section.

(f) The rights and remedies of City provided for in this Section are in addition and supplemental to any and all other rights and remedies provided by law or under this Contract.

**20. Suspension of Services.** If the notice of default issued by the City pursuant to the preceding Section so directs, Vendor will suspend services immediately upon receipt thereof, other than the work required to remedy the material breach.

**21. Severability.** If one or more of the provisions contained in this Contract will for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability will not affect any other provisions of this Contract, and this Contract will then be construed as if such invalid, illegal or unenforceable provision had never been contained herein or therein.

**22. Public Records.**

(a) To the extent applicable, Vendor will comply with the requirements of Florida Statutes Section 119.07, which include the following:

(1) Keeping and maintaining public records that the City requires for performance of the service provided herein.

(2) Upon the request of the City Clerk of the City, (i) providing the City Clerk with a copy of requested public records or (ii) allowing inspection or copying of the records, within a reasonable time after receipt of the City Clerk's request, at a cost that does not exceed the cost provided in Ch. 119, Florida Statutes, or as otherwise provided by law.

(3) Ensuring that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law until completion of this Contract, or, if this is a Contract for a specified Term, through the expiration of the Term; and following such completion or expiration, as applicable, if Vendor fails to transfer such records to the City.

(4) Upon completion of the work, or, if this is a Contract for a specified Term, upon expiration of the Term, keep and maintain public records required by the City to perform the service. Vendor will meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City upon request from the City Clerk, in a format that is compatible with the City's information technology systems.

IF THE VENDOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE VENDOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, VENDOR MUST CONTACT THE CITY CLERK, WHOSE CONTACT INFORMATION IS AS FOLLOWS:

(Phone)	386 671-8023
(Email)	clerk@codb.us
(Address)	301 S. Ridgewood Avenue Daytona Beach, FL 32114

(b) Nothing herein will be deemed to waive Vendor's obligation to comply with Section 119.0701(3)(a), Florida Statutes, as amended by Chapter 2016-20, Laws of Florida (2016).

**23. Title/Risk of Loss.** Title and risk of loss will not be deemed to pass to the City unless and until the commodities ordered have been delivered; and, where inspection is required prior to City acceptance, until the City has inspected and accepted such commodities. In all instances shipment will be FOB destination.

**24. Failure to Enforce.** Failure by the City at any time to enforce the provisions of this Contract will not be construed as a waiver of any such provisions. Such failure to enforce will not affect the validity of the Contract or any part thereof or the right of the City to enforce any provision at any time in accordance with its terms.

**25. Purchase Orders.** All purchase orders issued pursuant to the Contract will be deemed to incorporate all terms and conditions of the Contract regardless of whether the Contract or Contract Documents are expressly referenced therein. In case of conflicts between a purchase order and any other with provisions of the Contract Documents, the other provisions of the Contract Documents will control.

**26. Additional Quantities.** For a period not exceeding 90 days from the date of award of the Contract by the City, the right is reserved to acquire additional quantities up to but not exceeding those shown on Bid at the prices Bid in this invitation.

**27. Delivery.** Delivery of all materials or products under this Bid will be quoted FOB Daytona Beach or other point of use as specified. No delivery charges will be added to invoices except when express delivery is substituted on order for less expensive method specified in Contract; in such cases, difference between freight or mail and express charges may be added to the invoice.

**28. Delivery Failures.** Failure of the Vendor to deliver within the time specified in the Contract, or within a reasonable time as interpreted by the Purchasing Agent, or failure to make replacements of rejected articles as directed by the Purchasing Agent, will permit the Purchasing Agent to purchase on the open market articles of comparable grade to take the place of those rejected or not delivered. On all such purchases the Vendor will reimburse The City within a reasonable time specified by the Purchasing Agent, for any expenses incurred in excess of the defaulted prices.

**29. Governmental Restrictions.** In the event any governmental restrictions are imposed which would necessitate alteration of the material, quality, workmanship or performance of the items awarded to the Vendor prior to delivery, it will be the responsibility of the Vendor to notify the City in writing at once, indicating the specific regulation which required an alteration. The City reserves the right to accept any such alteration, including any price adjustments occasioned thereby, or to cancel the Contract at no expense to the City.

**30. Patent Infringement, Etc.** By submission of this Bid, the Vendor certifies that the merchandise to be furnished will not infringe any valid patent, copyright, or trademark and the successful Vendor will, at his own expense, defend any and all sections or suites charging such infringement and hold The City harmless in case of any such infringements.

## SUPPLEMENTAL TERMS AND CONDITIONS

In case of conflicts between these Supplemental Terms and Conditions and the Standard Terms and Conditions, these Supplemental Terms and Conditions will govern.

**STC 1 AUTHORITY TO PIGGYBACK.** Submission of any Bid in response to this solicitation constitutes an offer made under the same terms and conditions and for the same price, to any other governmental entity.

**STC 2 ELIGIBLE USERS.** All departments of the City are eligible to use this term Contract. Such purchases will be exempt from competitive Bid requirements otherwise applying to their purchases.

**STC 3 NON-EXCLUSIVE CONTRACT.** Award of this Contract will impose no obligation on the part of the City to use the Vendor or this Contract for the purchase of the commodities included in the Bid Schedule during the Contract period. This is not an exclusive Contract. The City specifically reserves the right to concurrently Contract with other companies for purchase of these or similar commodities if the City deems such action to be in the City's best interests. In the case of multiple term Contracts, this provision will apply separately to each item.

**STC 4 WORK AUTHORIZATIONS.** This Contract, in and of itself, does not require the Vendor to provide any commodities or perform any services, or require the City to pay for such commodities or services. No commodities will be deemed ordered, and no obligation will arise to pay for such commodities, except when specifically authorized by a written Work Authorization issued in accordance with the City's procurement policies. The Work Authorization will generally consist of the Vendor's written, date quotation, listing the commodities offered, including quantities, with reference to the units and prices set forth in the Bid Schedule, consistent with the provisions of this Contract; and the City's purchase order accepting such offer. No Work Authorization may alter the terms and conditions of this Contract; and any provision of a Work Authorization. In case of a conflict with a Work Authorization, this Contract will govern.

**STC 5 NON-APPROPRIATIONS CLAUSE.** In the event sufficient funds are not budgeted for a new fiscal period, the City will notify the Vendor of such occurrence, and this Contract will terminate on the last day of the current fiscal year without penalty or expense to the City.

**STC 6 TERM/RENEWAL.** Any Contract that results from the solicitation will be for one year from the date that the City Commission approves it. The City reserves the option to renew the Contract for up to 2 additional terms of 1 year each at the same terms and conditions.

**STC 7 INSURANCE.** Vendor will provide and maintain at Vendor's own expense, insurance of the kinds of coverage and in the amounts set forth in this Section.

**(a) Coverage and Amounts.**

- (1) Workers Compensation Insurance as required by Florida Statutes, Chapter 440, Workers' Compensation Insurance, for all employees of Vendor, employed at the site of the service or in any way connected with the work, which is the subject of this service. The insurance required by this provision will comply fully with the Florida Workers' Compensation Law and include Employers' Liability Insurance with limits of not less than \$500,000 per occurrence. Any associated or subsidiary

company involved in the service must be named in the Workers' Compensation coverage.

(2) Liability Insurance, including (i) Commercial general liability coverage for operations, independent Vendors, products-completed operations, broad form property damage, and personal injury on an "occurrence" basis insuring Vendor and any other interests, including but not limited to any associated or subsidiary companies involved in the work; and (ii) Automobile Liability Insurance, which will insure claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance or use of any motor vehicle used by the Vendor in the performance of this Contract.

THE COMMERCIAL GENERAL LIABILITY INSURANCE POLICY SHALL NAME THE City OF DAYTONA BEACH AS ADDITIONAL INSURED. The limit of liability for each policy will be a combined single limit for bodily injury and property damage of no less than \$1,000,000 per occurrence. If insurance is provided with a general aggregate, then the aggregate will be in an amount of no less than \$2,000,000. The Risk Manager for the City may authorize lower liability limits for the automobile policy only, at the Risk Manager's sole discretion.

Unless specifically waived hereafter in writing by the Risk Manager, Vendor agrees that the insurer will waive its rights of subrogation, if any, against the City on each of the foregoing types of required insurance coverage.

The City will be exempt from, and in no way liable for, any sums of money that may represent a deductible in any insurance policy. The payment of such deductible will be the sole responsibility of Vendor.

**(b) Proof of Insurance.** Vendor will furnish proof of insurance acceptable to the City prior to or at the time of execution of this Contract. Vendor will not commence work until all proof of such insurance has been filed with and approved by the City. Vendor will furnish evidence of all required insurance in the form of certificates of insurance which will clearly outline all hazards covered as itemized above, the amounts of insurance applicable to each hazard, and the expiration dates.

The Vendor must notify the City of cancellation as soon as the Vendor is knowledgeable of cancellation of any of the required coverages by the insurer, the Vendor, or any other named insured.

If requested by the City, the Vendor will furnish copies of the insurance Contracts to support the certificates of insurance and the copies of said insurance must be acceptable to the City.

Anything to the contrary notwithstanding, the liabilities of the Vendor under this Contract will survive and not be terminated, reduced or otherwise limited by any expiration or termination of insurance coverage. Neither approval nor failure to disapprove insurance furnished by the Vendor will relieve the Vendor or its sub-Contractors from responsibility to provide insurance as required by this Contract.

## SCOPE

The City of Daytona Beach, hereby known as "City", is seeking to purchase meter boxes and lids for City use for all areas covered by the City's Utility customers. There will be an initial order of 1000 meter boxes and 1000 lids as specified in this scope. After the initial orders has been completed the successful vendor will furnish the same boxes and lids on an as needed basis, with no minimum orders permitted for the term of the Contract.

## SPECIFICATION

### **Meter Boxes:**

Polymer material; Flair wall; Tier 8; color gray; marked "WATER"

Boxes will be Glassmaters, no substitutions

Boxes are 11 x 32, Model S1132, height 12"

See attachment A for complete specification

### **Meter Lids:**

Tier 8; color gray; marked "WATER"

Lids will be Glassmaters, no substitutions.

Lids are Model S1132SM

See attachment A for complete specification.

### **Terms & Conditions:**

An initial order of 1000 boxes and 1000 lids will be placed upon approval by the Daytona Beach City Commission. This process will be at least 6 weeks after the bid due date.

Bidders will provide a unit price and extended price for the initial order of boxes and lids as provided on the bid schedule.

Bidders will be asked to provide discount off list price of all subsequent orders placed by the City. There is no minimum order quantity permitted for subsequent orders.

Any order placed by mail, fax, email, etc. by the City to the successful bidder on or before the expiration date of any resulting Contract shall constitute a valid order in which all of the terms and conditions herein will apply.

**DELIVERY:**

All goods ordered resulting from this solicitation will be F.O.B Destination:

City of Daytona Beach Water Stores  
220 Marion Street,  
Daytona Beach, FL 32114.

Delivery will include unloading, and placed in a designated area. Delivery will be made between 7:00 AM and 2:00 PM Monday – Thursday. The successful bidder shall give 24 hours notice of delivery to the Water Stores Storekeeper (386.671.8540).

Package label must include PO number and address in order to be accepted by receiving.

All items must be delivered on pallets. Meter lids can be palletized and securely wrapped in stretch wrap or in sealed crates of same quality in order to verify counts.

**QUANTITIES:**

The initial order of 1000 boxes and 1000 lids will be placed within 30 days of approval of any resulting Contract.

The City has the right to purchase “Indefinite Quantities” of the same product(s) for the term of any resulting Contract. The City makes no promise, real or implied, to order any quantity whatsoever. Product will be ordered from time to time in such quantities as will be needed. The successful bidder is obligated to deliver all products that may be ordered during the Contract term.

**WARRANTY:**

Successful bidder warrants that its products under this Contract shall be free of defects in materials and workmanship for a period of ninety (90) days. The bidder shall not be liable for indirect, special, or exemplary damages. The bidder shall be liable for direct damages

**PRICING:**

The City is seeking a unit price for an initial order of 1000 meter boxes and 1000 lids per specification provided herein.

After the initial order is received, the **discount off list price** will be used for any order placed during the remainder of the term of any resulting Contract. Orders will be based off list price, which the Bidder must give in writing to the City prior to order being placed

in order to issue a purchase order. Once the discounted price is calculated a purchase order can be generated and issued.

All prices indicated on the bid schedule will include delivery/freight, surcharges, fuel charges, and any other charge the Bidder may include. The City will not pay any additional fees beyond that which is stated on the bid schedule.

The successful bidder must submit the list price of each item in writing with their bid, and submit to the City Representative list prices for each item specified whenever there is a change in the list price (either upward or downward), so that a proper purchase order can be processed.

The bid schedule provided in this package must be submitted and all blanks completed in order for your bid to be considered responsive.

**PAYMENT:**

Any purchase which exceeds \$1000 will be made by City issued purchase order. A purchase is not considered to be valid without said PO number. Any order less than \$1000 may be done by City authorized purchasing card.

Invoices must include the purchase order number and be submitted to the department requesting the products:

City of Daytona Beach Water Stores  
P.O. Box 2451  
Daytona Beach, FL 32115  
Email: [gawrilukgary@codb.us](mailto:gawrilukgary@codb.us)

The City's terms co-inside with the Florida Prompt Payment Act (F.S. 218.70).



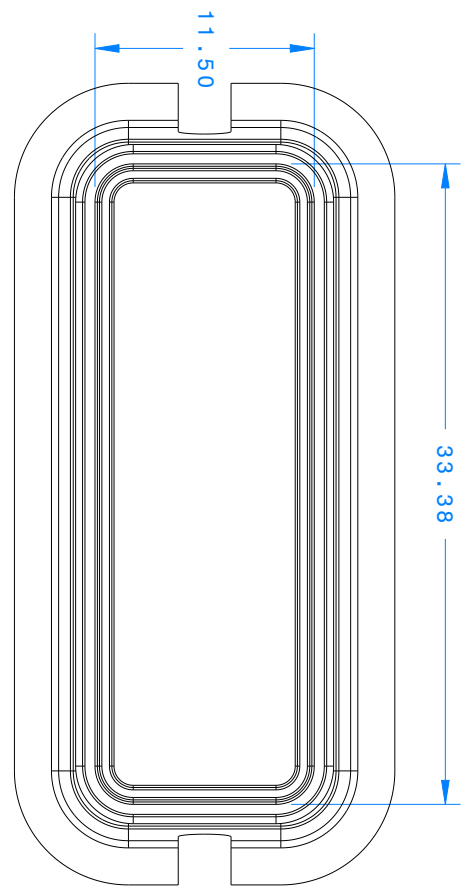
ATTACHMENT A:  
METER BOX & LID  
DRAWINGS/SPECIFICATIONS

OPTIONS KEY

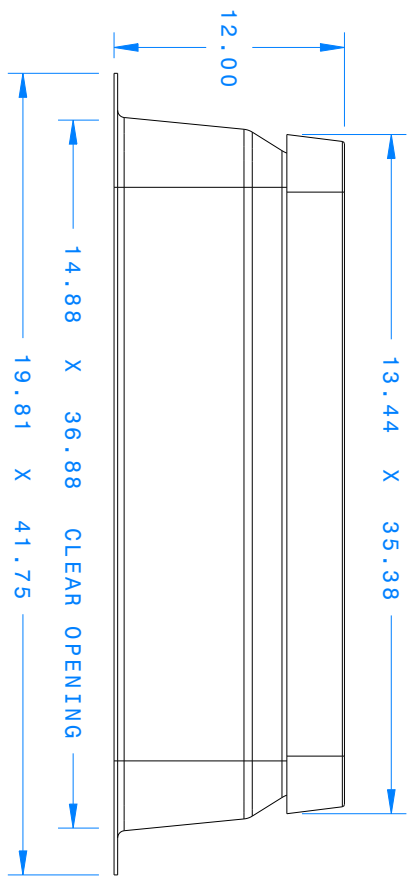
Height	Box Style	Trim Options	Collar Style	Load Rating	Color (*)
12	S-Straight F-Flared	B-Solid Bottom O-Open Bottom 2-(2) Mouseholes 3-(3) Mouseholes	N-Not bolted B-Bolted G-Gasketed (bolted)	05-Tier 5 08-Tier 8 12-Tier 12	1-Gray 2-Purple 4-Blue

Note: Actual part may vary from image shown  
\* Other options available

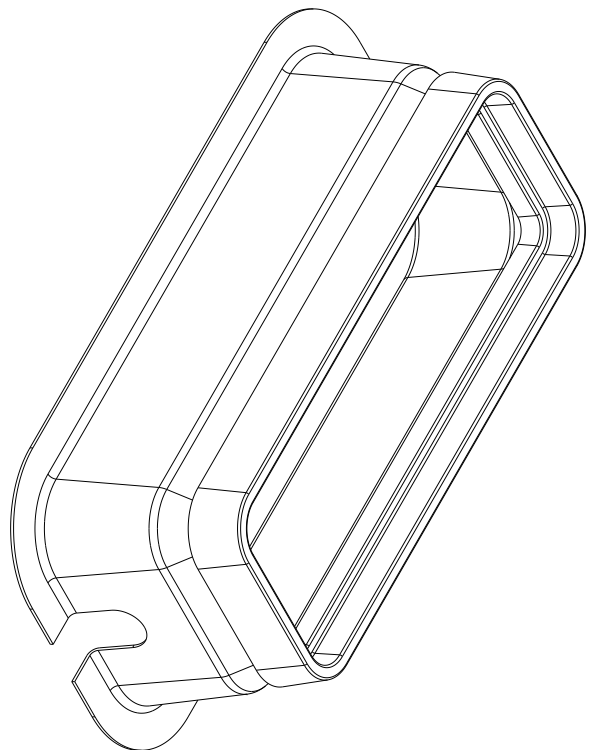
PART NUMBER					
Model	Height	Box Style	Options	Collar	Load Color
S1132	12	F			-
Example: S113212F2N08-1					



TOP VIEW



SIDE VIEW



ISOMETRIC VIEW

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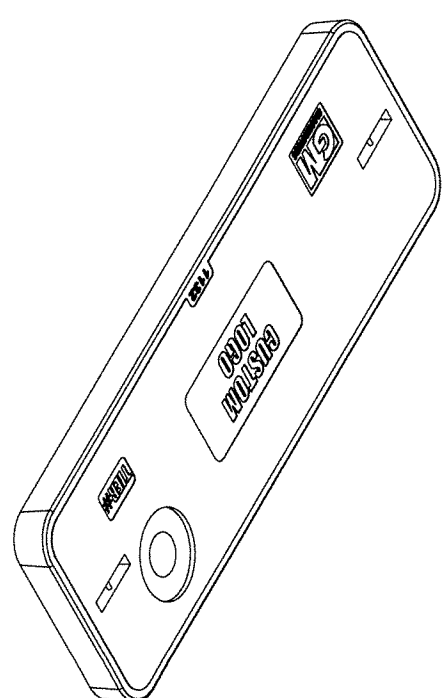
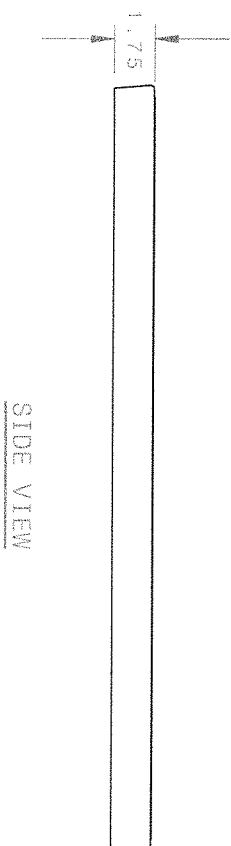
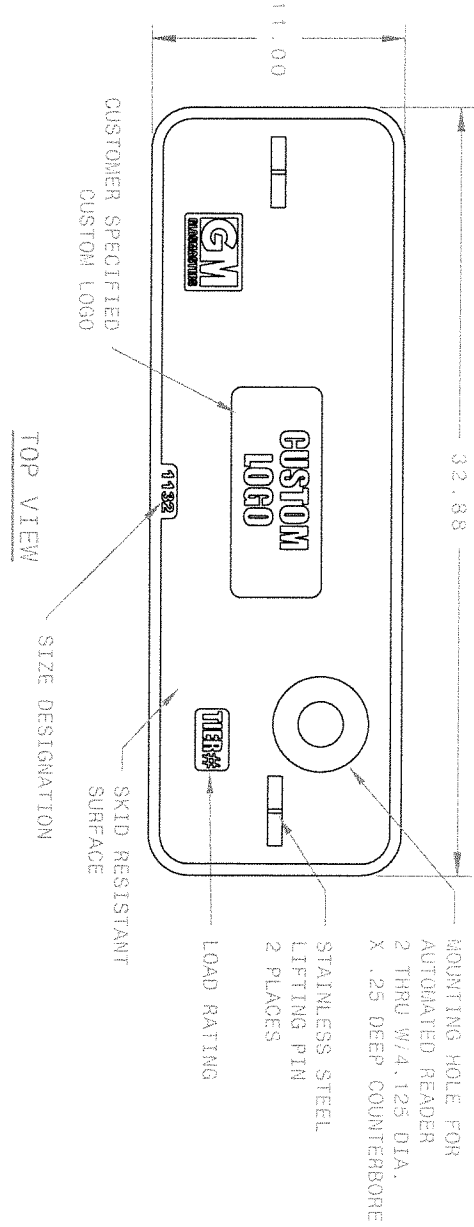


SHEET <b>1</b> OF 1	TITLE <b>11 X 32 FLARED WAL BOX</b>		DRAWN EGH	DATE 7/24/14	APPROVED	GLASMASTERS - UNDERGROUND ENCLOSURES 8873 WESTERN WAY, JAX., FL 32256 (904) 400-7100 - (904) 358-1702 FAX WWW.GLASMASTERS.COM
	SCALE NTS	DWG NO S1132F	REV N/C	FILE: S1132F		

OPTIONS KEY			
Load Rating	Common Colors*	Common Logos*	
08-Tier 8	1-Gray	WA-Water	
15-Tier 15	2-Purple	RW-Reclaimed Water	
22-Tier 22	4-Blue		
*Other options available			

PART NUMBER			
MODEL NUMBER	LOAD RATING	COLOR	LOGO
S1132SN			
EXAMPLE: S1132SN08-1-WA			

08-TIER 8  
1-GRAY  
WA-WATER



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SHEET <b>1</b> OF 1	TITLE <b>11 X 32 COVER W/SINGLE AMR</b>		DRAWN EGH	DATE 7/24/14	APPROVED	GLASMASTERS - UNDERGROUND ENCLOSURES 8873 WESTERN WAY, JAX., FL 32256 (904) 400-7100 - (904) 358-1702 FAX WWW.GLASMASTERS.COM
	SCALE NTS	DWG NO S1132SN	REV N/C	FILE: S1132SN		