

AUTHORIZING A ONE-YEAR PURCHASING AGREEMENT WITH WATER SOLUTIONS UNLIMITED, INC. FOR THE PURCHASE OF FLUORIDE FOR A PERIOD OF JANUARY 1, 2023, THROUGH DECEMBER 31, 2023, FOR TREATING THE CITY'S DRINKING WATER.

WHEREAS, the City of DeKalb (the "City") is a home rule unit of local government and may exercise any power and perform any function pertaining to its government and affairs pursuant to Article VII, Section 6, of the Illinois Constitution of 1970; and

WHEREAS, on October 2, 2022, the City publicly opened bids for the purchase of fluoride for the City's drinking water with the lowest responsible bidder being Water Solutions Unlimited, Inc. (the "Contractor") in the total amount of \$0.48 per pound pursuant to the bid attached hereto and incorporated herein as Exhibit A (the "Bid"); and

WHEREAS, the City's corporate authorities find that approving the Contractor's Bid is in the City's best interests for the protection of the public health, safety, and welfare; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DEKALB, ILLINOIS:

SECTION 1: The recitals to this resolution are adopted and incorporated herein as Section One to this Resolution.

SECTION 2: The City's corporate authorities approve the Bid and further approve, authorize, and direct the City Manager to enter into an agreement, in a form acceptable to the City Manager, with Contractor for the purchase of fluoride for the City's drinking water at a cost of \$0.48 per pound for the period commencing on January 1, 2023 and ending on December 31, 2023 (the "Term"); provided, however, that upon mutual consent, the City and the Contractor may extend the Term for two (2) additional one-year terms at the same cost plus an economic adjustment for each one-year extension not to exceed the published Chicago Area Consumer Price Index (CPI) for the previous 12-month period.

SECTION 3: This resolution and each of its terms shall be the effective legislative act of a home rule municipality without regard to whether such resolution should (a) contain terms contrary to the provisions of current or subsequent non-preemptive state law, or (b) legislate in a manner or regarding a matter not delegated to municipalities by state law. It is the intent of the City's corporate authorities that to the extent this resolution is inconsistent with any non-preemptive state law, this resolution shall supersede state law in that regard within its jurisdiction.

SECTION 4: This resolution shall be in full force and effect from and after its passage and approval as provided by law.

PASSED BY THE CITY COUNCIL of the City of DeKalb, Illinois at a Regular meeting thereof held on the 24th day of October 2022 and approved by me as Mayor on the same day. Passed by an 8-0 roll call vote. Aye: Morris, Larson, Smith, Perkins, McAdams, Verbic, Faivre, Barnes. Nay: None.




COHEN BARNES, Mayor

ATTEST:


Ruth A. Scott, Executive Assistant

Exhibit D: Form of Agreement

Hydrofluosilicic Acid

Independent Contractor Agreement for Services

THIS AGREEMENT, by and between the City of DeKalb, hereinafter referred to as the "City" and "Water Solutions" hereinafter referred to as the "Contractor", with the City and Contractor agreeing as follows

A. Services:

Contractor agrees to furnish to the City the following services:

See attached Exhibit F

Contractor represents that it possesses the skills and knowledge necessary to provide all such services and understands that the City is relying upon such representation. Contractor further acknowledges that Exhibit A is an integral part of this Agreement and may not be modified except in accordance with a modification to the terms of this Agreement.

B. Term:

Services will be provided as needed and directed by the City beginning on the date of execution of this agreement and continuing, until terminated by either party upon 7 days written notice to the non-terminating party. Upon termination the Contractor shall be compensated for all work performed for the City prior to termination and shall provide to the City all work completed through the date of termination. The City's issuance of a notice of termination shall function as a stop work order, beyond which the Contractor shall not incur any additional costs without the City's express, written permission.

C. Compensation:

Contractor shall receive as compensation for all work and services to be performed herein, an amount based on the fee schedule attached hereto as Exhibit A and B. All payments will be made according to the Illinois State Prompt Payment Act.

Any payment made to the Contractor shall be strictly on the basis of quantum merit. The Contractor shall submit to the City a detailed breakdown and invoice of all charges, including detail of past payments and amounts still remaining due, accurate to the date of the invoice, with each request for payment. Any additions to or deductions from the approved total amount of the contract, and any out of scope work shall require prior, written approval from the City. Any work performed without the City's express, written consent shall be solely at the expense of the Contractor.

Prior to tendering any payment to Contractor, Contractor shall provide the City with a completed W-9 form.

D. Changes in Rates of Compensation (and Prevailing Wages):

If the Contractor seeks to impose any change in the fee schedule (whether in terms of hourly fee or lump sum fees), then the Contractor shall provide not less than ninety days written notice of its intent to change its fee schedule, and any such change in fee schedule shall require the approval of the City. To the extent applicable, the contractor shall further comply the requirements of the Prevailing Wage Act in that all laborers, mechanics and other workers performing work under this Agreement which is subject to the Prevailing Wage Act shall be paid not less than the general prevailing rate of hourly wage as provided for in 820 ILCS 130/1 et seq.

E. Ownership of Records and Documents / Confidential Information:

Contractor agrees to keep and maintain all books and records and other recorded information required to comply with any applicable laws, including but not limited to the Prevailing Wage Act. Contractor agrees to keep such information confidential and not to disclose or disseminate the information to third parties without the consent of the City. Contractor further agrees to keep as confidential any information belonging or relating to the City which is of a confidential nature, including without limitation information which is proprietary, personal, required by law to be confidential, or relates to the business, operations or accounts of the City. This confidentiality shall not apply to material or information, which would otherwise be subject to public disclosure through the freedom of information act or if already previously disclosed by a third party. Contractor acknowledges that the Freedom of Information Act, 5 ILCS 140/1 et seq. (the "Act") places an obligation on the City to produce certain records that may be in the possession of Contractor. Contractor shall comply with the record retention and documentation requirements of the Local Records Act 50 ILCS 205/1 et seq. and the Act and shall maintain all records relating to this Agreement in compliance with the Local Records Retention Act and the Act (complying in all respects as if the Contractor was, in fact, the City). Contractor shall review its records promptly and produce to the City within two business days of contact from the City the required documents responsive to a request under the Act. If additional time is necessary to comply with the request, the Contractor may request the City to extend the time do so, and the City will, if time and a basis for extension under the Act permits, consider such extensions.

F. Governing Law:

This contract shall be governed and construed in accordance with the laws of the State of Illinois. Venue and jurisdiction for any legal action arising out of or related to this Agreement shall be exclusively fixed in the DeKalb County Circuit Court, DeKalb County, Illinois.

G. Independent Contractor:

Contractor shall have sole control over the manner and means of providing the work and services performed under this agreement. The City's relationship to the Contractor under this agreement shall be that of an independent contractor. Contractor will not be considered an employee to the City for any purpose. The parties agree that the Contractor is exclusively responsible for the determination of what work is required to complete the tasks outlined in Exhibit F, and for the means and methods of completing such work. The City's compensation to Contractor shall be limited to that described in Exhibits A and B, and the City shall not reimburse any expenses, provide any benefits, withhold any employment taxes or otherwise have a financial relationship with Contractor other than payment of the stated compensation. The Contractor shall be solely responsible for withholding of taxes, providing employee benefits, or otherwise complying with applicable laws relating to its employees or contractors.

In the event that the City determines, in its sole discretion, that it is economically advantageous for the City to provide certain supplies or tools for use by Contractor in lieu of paying Contractor to

provide the same, the City and Contractor agree that Contractor shall then utilize the City's equipment or supplies according to its own determination of their best and appropriate use. Contractor shall be responsible for its' own personnel, training, instruction and related matters. Contractor shall be responsible for determining its sequence of performance for required work. Contractor's work shall be evaluated by the City based upon the end result of such work. Contractor shall be responsible for any expenses incurred by Contractor in the performance of its work, and shall not be authorized, expressly or impliedly, to obligate the City on any debt, contract or other agreement whatsoever. In the event that Contractor is compensated on an hourly basis under the terms of this Agreement, the City and Contractor agree that Contractor's compensation is usual and customary, based on the terms that Contractor offers its services to the market in general.

The Contractor acknowledges that neither it nor its personnel shall be acting as an employee or official representative of the City for purposes of being offered any protection or coverage under City insurance policies for tort immunity or other legal purposes.

H. Certifications:

Executing this Agreement constitutes acknowledgment, acceptance, and certification of the accuracy of the following certifications, and any other certifications required under any applicable law relating to the performance of this Agreement. The Contractor is responsible for identifying all such applicable regulations and certifications, and for compliance with the same.

Sexual Harassment: The Contractor certifies that it is in compliance with the Illinois Human Rights Act 775 ILCS 5/1.101, et seq. including establishment and maintenance of sexual harassment policies and program.

Tax Delinquency: The Contractor certifies that it is not delinquent in payment of any taxes to the Illinois Department of Revenue in accordance with 65 ILCS 5/11-42.1, and is not delinquent in the payment of any tax, charge or obligation to the City of DeKalb.

Employment Status: The Contractor certifies that if any of its personnel are an employee of the State of Illinois, they have permission from their employer to perform the service.

Anti-Bribery: The Contractor certifies it is not barred under 30 Illinois Compiled Statutes 500/50-5(a) - (d) from contracting as a result of a conviction for or admission of bribery or attempted bribery of an officer or employee of the State of Illinois or any other state.

Loan Default: If the Contractor is an individual, the Contractor certifies that he/she is not in default for a period of six months or more in an amount of \$600 or more on the repayment of any educational loan guaranteed by the Illinois State Scholarship Commission made by an Illinois institution of higher education or any other loan made from public funds for the purpose of financing higher education (5 ILCS 385/3).

Felony Certification: The Contractor certifies that it is not barred pursuant to 30 ILCS 500/50-10 from conducting business with the State of Illinois or any agency as a result of being convicted of a felony.

Barred from Contracting: The Contractor certifies that it has not been barred from contracting as a result of a conviction for bid-rigging or bid rotating under 720 ILCS 5/33E-3 (Bid Rigging) or 720 ILCS 5/33-4 (Bid Rotating) or a similar law of another state or of the federal government.

Prevailing Wage: The Contractor certifies that it shall comply with all applicable provisions of the Prevailing Wage Act, and further certifies that it is not in violation of said Act and has not been barred from bidding on this proposal by virtue of a past violation of the Act. A copy of the most recent available list of prevailing wages is attached hereto or has been provided to the Contractor. The Contractor is responsible for regularly updating said list as new prevailing wage rates are made available by the City or by the Illinois Department of Labor. The Illinois Department of Labor posts regular updates to prevailing wage rates on its official website, which is currently www.illinois.gov/idol. This notice is given pursuant to 820 ILCS 130/4 and the balance of the Illinois Prevailing Wage Act, which is incorporated herein by reference as if fully restated. In the event that this is a public works project as defined under the Prevailing Wage Act, Proposer agrees

to comply with the Substance Abuse Prevention on Public Works Projects Acts, 820 ILCS 265/1 *et seq.*, and further agrees that all of its subcontractors shall comply with such Act. As required by the Act, Contractor agrees that it will file with the City, prior to commencing work, its written substance abuse prevention program and/or that of its subcontractor(s) which meet or exceed the requirements of the Act.

Drug Free Workplace: The Contractor certifies that it is in compliance with the Drug Free Workplace Act (30 Illinois Compiled Statutes 580) as of the effective date of this contract. The Drug Free Workplace Act requires, in part, that Contractors, with 25 or more employees certify and agree to take steps to ensure a drug free workplace by informing employees of the dangers of drug abuse, of the availability of any treatment or assistance program, of prohibited activities and of sanctions that will be imposed for violations; and that individuals with contracts certify that they will not engage in the manufacture, distribution, dispensation, possession, or use of a controlled substance in the performance of the contract. The Contractor further certifies that it maintains a substance-abuse program and provide drug testing in accordance with 820 ILCS 130/11G, Public Act 095-0635. The Contractor shall also comply with the Federal Highway Administrative Rules on Controlled Substances and Alcohol Use and Testing, 49 CFR Parts 40 and 382 and that all of Contractor's drivers are currently participating in a drug and alcohol testing program pursuant to the Rules.

Responsible Contractor Requirements: The Contractor certifies that it complies with the Illinois Procurement Code and the provisions of Section 30-22 thereof relating to apprenticeship and training, if applicable. The Contractor further certifies for work that will be performed by subcontract that each of its subcontractors submitted for approval either is in compliance or will begin participation in an approved apprenticeship and training program prior to commencing any Work. The Illinois Department of Labor, at any time before or after award, may require production of a copy of each applicable Certificate of Registration issued by the United States Department of Labor evidencing such participation by the Contractor and all of its Subcontractors. Applicable apprenticeship and training programs are those that have been approved or registered with the United States Department of Labor. The Contractor shall provide to the City, upon request, copies of all Certificates of Registration, and copies of all work or craft job category included in the Work, along with such other records as the City may require. Any records or logs required to be provided by law shall be provided by the Contractor, without requiring a request from the City.

Non-Discrimination, Certification, and Equal Employment Opportunity: The Contractor agrees to comply with applicable provisions of the Illinois Human Rights Act (775 Illinois Compiled Statutes 5), the U.S. Civil Rights Act, the Americans with Disabilities Act, Section 504 of the U.S. Rehabilitation Act and the rules applicable to each. The equal opportunity clause of Section 750.10 of the Illinois Department of Human Rights Rules is specifically incorporated herein. The Contractor shall comply with Executive Order 11246, entitled Equal Employment Opportunity, as amended by Executive Order 11375, and as supplemented by U.S. Department of Labor regulations (41 C.F.R. Chapter 60). The Contractor agrees to incorporate this clause into all subcontracts under this Contract. The Contractor acknowledges that neither it nor the City shall discriminate on the basis of any protected classification.

Record Retention and Audits: If 30 ILCS 500/20-65 requires the Contractor (and any subcontractors) to maintain, for a period of 3 years after the later of the date of completion of this Contract or the date of final payment under the Contract, all books and records relating to the performance of the Contract and necessary to support amounts charged to the City under the Contract. The Contract and all books and records related to the Contract shall be available for review and audit by the City and the Illinois Auditor General. If this Contract is funded from contract/grant funds provided by the U.S. Government, the Contract, books, and records shall be available for review and audit by the Comptroller General of the U.S. and/or the Inspector General of the federal sponsoring agency. The Contractor agrees to cooperate fully with any audit and to provide full access to all relevant materials.

United States Resident Certification: (This certification must be included in all contracts involving personal services by non-resident aliens and foreign entities in accordance with requirements imposed by the Internal Revenue Services for withholding and reporting federal income taxes.) The Contractor certifies that he/she/it is a: ☐ United States Citizen or Corporation

☐ Resident Alien ☐ Non-Resident Alien. The Internal Revenue Service requires that taxes be withheld on payments made to non-resident aliens for the performance of personal services at the rate of 30%.

Tax Payer Certification: Under penalties of perjury, the Contractor certifies that its Federal Tax Payer Identification Number or Social Security Number is _____ and is doing business as a (check one): ☐ Individual ☐ Real Estate Agent ☐ Sole Proprietorship ☐ Government Entity ☐ Partnership ☒ Tax Exempt Organization (IRC 501(a) only) ☐ Corporation ☐ Not for Profit Corporation ☐ Trust or Estate ☐ Medical and Health Care Services Provider Corp.

Authorized in Illinois: The Contractor certifies that it is authorized to lawfully transact business in the State of Illinois, under all applicable Illinois laws and regulations. The Contractor certifies that it shall comply with the Corporate Accountability for Tax Administration Act, 20 ILCS 715/1, *et. seq.* Where applicable, the Contractor certifies that it is not barred from bidding by virtue of having been adjudicated to have committed a willful or knowing violation of Section 42 of the Environmental Protection Act within the five years preceding this bid, pursuant to 415 ILCS 5/1, *et. seq.* The Contractor further certifies that it is in compliance with all applicable requirements of the Business Enterprise for Minorities, Females and Persons with Disabilities Act, 30 ILCS 575/1, *et. seq.*

Export Administration, Supplies, Labor: The Contractor certifies that neither it nor any substantially owned affiliate is participating, nor shall participate, in an international boycott which is in violation of the provisions of the US Export Administration Act of 1979 or the regulations of the US Department of Commerce promulgated under the Act, including but not limited to the requirements of 30 ILCS 582/5. The Contractor further certifies that no foreign made equipment, materials or supplies furnished under the proposal or agreement have been or will be produced in whole or in part by forced labor, convict labor, or indentured labor, nor made in whole or in part by the labor of any child under the age of 12, under penal sanction pursuant to 30 ILCS 583/1 and 30 ILCS 584/1. The Contractor certifies that steel products used or supplied in the performance of a contract for public works shall be manufactured or produced in the United States, unless the City Manager grants an exception to said requirement, pursuant to 30 ILCS 565/1, *et. seq.*

General Compliance and Certification: The Contractor certifies that it has and will comply with all other applicable laws, regulations, ordinances or restrictions applicable to any component of the bidding process, agreement, or any services or materials provided in connection therewith. The Contractor acknowledges that it is responsible for identifying and complying with all applicable laws, ordinances, rules and regulations, and that it shall indemnify and hold harmless the City of DeKalb from any claim, liability or damages arising out of the failure to identify or comply with any such applicable legal restriction. The City reserves the right to reject any bid, cancel any contract or pursue any other legal remedy deemed necessary should it become aware of any violation of any laws, ordinances, rules or regulations on the part of the Contractor or any subcontractor.

OSHA Standards: The Contractor certifies that it will identify and comply with all requirements and standards imposed by the Occupational Safety and Health Act. All guards and protectors, all appropriate markings, and all other protections shall be in place prior to delivery of any item, and at all times during performance of any Work.

CERCLA Indemnification: The Contractor certifies that it shall, to the maximum extent permitted by law, indemnify, defend and hold harmless the City, and City Indemnitees from and against any and all liability, including without limitation, costs of response, removal, remediation, investigation, property damage, personal injury, damage to natural resources, health assessments, health settlements, attorneys' fees, and other related transaction costs arising under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 USC 9601, *et. seq.*, as amended from time to time, and all other applicable statutes, regulations, ordinances, and under common law for any release or threatened release of the waste material collected by the Contractor both before and after its disposal.

Buy America: The Contractor certifies that, if required, it shall comply with 49 USC 5323(j), the Federal Transportation Administration's (FTA) Buy America regulations at 49 CFR Part 661, and any amendments thereto, and any implementing guidance issued by the FTA, with respect to this contract, when financed by Federal funds (through a grant agreement or cooperative

agreement), and to submit to the City an executed Buy America Certificate in a form acceptable to the City.

Collusion: The Contractor certifies that it is not colluding with any other party or person in the preparation or submittal of this Agreement.

I. Indemnification:

Contractor shall indemnify and hold harmless the City and City's agents, servants, and employees against all loss, damage, taxes, liabilities, charges or expense, including but not limited to attorneys' fees and court costs, which the City may sustain or for which it may become liable on account of injury to or death of persons, or on account of damage to or destruction of property resulting from the performance of work under this agreement by Contractor or its Subcontractors, due to or arising in any manner from the intentional or wrongful act or negligence of Contractor or its Subcontractors of any employee of any of them, or otherwise arising out of this Agreement or the Contractor's performance of services on behalf of the City.

The Contractor shall be responsible for any and all damages to property or persons arising out of an error, omission, and/or negligent act in the prosecution of the work or failure to prosecute the work and shall indemnify and hold harmless the City, its officers, agents, and employees from all suits, claims, actions or damages of any nature whatsoever resulting therefrom. The Company shall assume all restitution and repair costs arising out of an error, omission and/or negligence.

J. Insurance, Licensure and Intellectual Property:

The Contractor shall comply with all insurance requirements described on the attached Exhibit E. The Contractor agrees and warrants that it has procured all licenses, permits or other official permissions required by any applicable law to perform the services contemplated herein, that it will procure all additional licenses, permits or other official permissions hereafter required by law during the term of this Agreement, and that it will keep all such licenses in effect during the term of this Agreement. The Contractor shall provide a copy of any such licenses or permits upon request. All such insurance and licensure shall be provided at the Contractor's sole expense. Contractor also warrants that it has complete ownership or authorization/entitlement to any intellectual property, software, images or other such items used in the performance of its work under this Agreement, and that it shall transfer to the City, unrestricted, the ability to modify, amend, publicize or otherwise utilize any intellectual property provided to the City under this Agreement unless the City expressly preapproves in writing a limitation to these provisions.

The Contractor shall not commence work under this Contract until they have obtained all insurance required and such insurance has been submitted to and approved by the City, nor shall the Contractor permit any Subcontractor to commence work on any subcontract until the same insurance has been obtained by the Subcontractor. The Company and all Subcontractors shall maintain their insurance in place for not less than two (2) years following completion of all work required under this Contract.

All drawings, specifications, reports and any other project documents prepared by the Contractor in connection with any or all of the services to be furnished thereunder shall be delivered to the City for the expressed use of the City. The Contractor shall have the right to retain original documents, but shall cause to be delivered to the City such quality of documents so as to assure total reproducibility of the documents delivered. All information, worksheets, reports, design calculations, plans and specifications shall be the sole property of the City unless otherwise specified in the negotiated agreement. The Contractor agrees that basic survey notes and sketches, charts, computations and other data prepared or obtained by the Contractor pursuant to this Agreement shall be made available, upon request, to the City without cost and without restriction or limitation as to their use. All field notes, test records, and reports shall be available to the City upon request.

The prices included on this Agreement include all royalties and costs arising in the Work. Any items or services provided shall be provided to the City subject to the Contractor's legal right to provide the same. The Contractor shall indemnify and hold harmless the City and City Indemnitees from any and all claims for infringement by reason of the use of any such patent design, device, materials or process, to be performed or used under the Agreement, and shall indemnify and hold harmless the City for any costs, expenses, attorneys' fees and damages which it may be obligated to pay, by reason of any infringement at any time during the prosecution or after completion of the Work.

K. Additional Terms or Modification:

The terms of this agreement shall be further modified as provided on the attached Exhibits and the Contract Documents. Except for those Exhibits, no additional terms are included as a part of this agreement. All prior understandings and agreements between the parties are merged into this agreement, and this agreement may not be modified orally or in any manner other than by an agreement in writing signed by both parties. The City reserves the right by written amendment to make changes in requirements, amount of work, or time schedule adjustments. The Contractor shall negotiate appropriate adjustments acceptable to both parties to accommodate any changes. The City may, at any time by written order, require the Contractor to stop all or part of the services required by this Agreement. Upon receipt of such an order, the Contractor shall immediately comply with its terms.

L. Notices:

All notices required to be given under the terms of this License shall be given mail, addressed to the parties as follows:

For the City:

City Manager
City of DeKalb
164 E. Lincoln Hwy.
DeKalb, IL 60115

For the Contractor:

Water Solutions Unlimited
8824 Union Mills Dr
Cumby, TN 36113

Either of the parties may designate in writing from time to time substitute addresses or persons in connection with required notices.

M. Subcontractors and Third Parties:

Contractor shall not assign or subcontract for the performance of any obligation under this Agreement, except with the express, written preapproval of the City, which consent may be withheld in the City's sole and absolute discretion. Should Contractor assign any obligation arising under this Agreement with the consent of the City, the Contractor shall remain to be primarily liable to the City for the performance of the obligation in question, and further shall be liable for ensuring that the subcontractor(s) comply with all obligations arising under this Agreement as if the subcontractor(s) was/were the Contractor itself. Further, should Contractor request to assign the performance of any obligation arising hereunder to a subcontractor, Contractor expressly provides its consent to the City contracting directly with such proposed subcontractor (or another subcontractor acceptable to the City) for the performance of such work, and to the amendment of this Agreement to reduce the scope and cost accordingly.

Nothing contained in this Agreement, nor the performance of the parties hereunder, is intended to benefit, nor shall it inure to the benefit of any third party.

N. Progress Reports:

Contractor shall report to the City Manager or her designee, and shall submit written progress reports identifying, in detail, the extent of work completed, the percentage of project completion, and project status, accompanying any invoice submitted to the City. Contractor shall also provide additional written or verbal progress reports to the City upon request, at any time, without additional charge. The Contractor shall attend conferences and visit the site of the work as may be outlined in the Request for Proposal and at any reasonable time when requested to do so by the City, at no additional charge.

O. Document Correction / Supplements:

Contractor agrees and acknowledges that the terms of the Contract Documents shall be binding upon this Work, notwithstanding the failure of this Agreement or the actions of the City to the contrary. No act by the City (other than a written amendment to these Contract Documents), including but not limited to payment of Contractor's invoices, shall waive the City's ability to later insist on strict compliance with the terms of these Contract Documents. Contractor agrees and acknowledges that it shall execute corrected documents upon request by the City if any error or discrepancy is identified by the City, and shall provide certificates of insurance or other security required hereunder at any time, upon request of the City, notwithstanding the City's failure to previously demand the same.

Agreed to this 22 day of September, 2022. (Approved by City Council 10/24/22)

City of DeKalb


City Manager

Executive Assistant

Contractor



Mike Ricks
Caryn Morris

Exhibit A: Detailed Cost Sheet

Hydrofluosilicic Acid

Note: The total extended cost must be transferred to the *Bid Sheet*. Failure of the Bidder to complete the *Detailed Cost Sheet* OR transfer the extended total cost to the *Bid Sheet* may be cause for rejection of the bid submittal.

City of DeKalb
1216 Market St.
DeKalb, IL 60115

Bid Opening: Monday, October 3, 2:00 p.m.

Company Name: Water Solutions Unlimited, Inc. Telephone: 317-736-6868
Address: 8824 Union Mills Dr. Fax: 317-736-4322
City, State, Zip: Camby IN 46133 Email: orders@getwsu.com
Contact Person: Mike Ricks

BID PRICE:

Contract Period:

January 1, 2023 and will expire on December 31, 2023 (12 months)

(Upon mutual agreement, this contract may be extended for two additional one-year terms upon a ninety (90) day written notice from the City of its intention to exercise this option)

Hydrofluosilicic Acid – 55 gallon drums (approx. 650 pounds) \$ 0.48 /per pound

***Price per pound must include all charges including: delivery and fuel surcharges and any other charges which may affect the bid price as stated above.

List any and all deviations from minimum specifications:

I certify that I am acting as an agent for the firm designated below and that the firm will sell to the City of DeKalb the product (s) described herein for the amount specified above. Further, I certify that all exceptions or deviations from the attached detailed specifications are clearly stated in writing and the price quoted shall include all terms specified unless otherwise noted.

Mike Ricks
Signature of Authorized Representative

Mike Ricks, President
Name and Title of Authorized Representative

Exhibit B: Bid Sheet

Hydrofluosilicic Acid

Note: the Bidder must complete all portions of the Bid Sheet.

The undersigned, having examined the specifications and all conditions affecting the specified project, offer to furnish all services, labor, and incidentals specified for the price below.

The undersigned Bidder certifies that they are not barred from bidding on this contract as a result of a conviction for the violation of state laws prohibiting bid rigging or bid rotating, (720ILCS 5/33E-1, et seq.) and is not delinquent in any taxes to the Illinois Department of Revenue. (65ILCS 5/11-42.1-1)

It is understood that the City reserves the right to reject any and all bids and to waive any irregularities and that the prices contained herein will remain valid for a period of not less than sixty (60) days.

I (We) propose to complete the following project as more fully described in the specifications for the following:

Bidding Company Name: Water Solutions Unlimited, Inc

Total, Not-To-Exceed Price: \$ 60 /pound

☒ Our firm has not altered any of the written text within this document. Only those areas requiring input by the respondent have been changed or completed.

If it is the Contractor's intention to utilize a subcontractor(s) to fulfill the requirements of this contract, the City must be advised of the subcontractor's company name, address, telephone and fax numbers, and a contact person's name at the time of bid submittal.			
Will you be utilizing a subcontractor?	YES		<input checked="" type="radio"/> NO
If yes, have you included all required information with your bid submittal?	<input checked="" type="radio"/> YES		NO
Are your subcontractors registered to do business with the City?	YES	<u>N/A</u>	NO

- OR -

INDEMNIFICATION: The Bidder hereby agrees to protect, defend, indemnify, and save harmless the City against loss, damage, or expense from any suit, claim, demand, judgment, cause of action, or shortage initiated by any person whatsoever, arising or alleged to have arisen out of work described herein, except that in no instance shall the Bidder be held responsible for any liability, claim, demand, or cause of action attributable solely to the intentional misconduct of the City. The Bidder agrees to indemnify, defend, insure and hold harmless the City in compliance with the most stringent language in this bid package.

I hereby certify that the item(s) proposed is/are in accordance with the specifications as noted and that the prices quoted are not subject to change; and that the Company submitting this bid complies with the Bidder Certifications included in the Form of Agreement attached as Exhibit D.

TOTAL PRICE: The Bidder hereby affirms and states that the prices quoted herein constitute the total hourly cost to the City for all work involved in the respective items and that this cost also includes all insurance, royalties, transportation charges, use of all tools and equipment, superintendence, overhead expenses, all profits and all other work, services and conditions, necessarily involved in the work to be

done and materials to be furnished in accordance with the requirements of the Contract Documents considered severally and collectively.

Water Solutions Unlimited

Bidder's Firm Name

8824 Unam Mills Dr

Street Address

Camby IN

City

State

46113

Zip Code

317 736 6868

Phone Number

9-22-2022

Date

Mike Ricks President

Signed Name and Title

Mike Ricks, President

Print Name and Title

orders@getwsu.com

E-mail Address

317 736-4322

Fax Number

Exhibit E: Insurance Requirements:

1. All Contractors and All Contracts.

Contractor shall provide any and all insurance required under any applicable law, regulation, statute or ordinance, including but not limited to workers' compensation insurance, unemployment insurance, automobile liability insurance and other legally required insurance. Contractor shall produce a certificate evidencing current coverage, upon request from the City. Contractor shall indemnify and hold harmless the City from any and all liability, damage, cost or expense which the City may incur or be liable to pay as a result of any and all accidental injuries or damages suffered by the Consultant or its employees (in addition to any other required indemnification or insurance from Consultant).

2. Certificates and General Conditions:

Unless otherwise indicated herein, any certificate of insurance shall further indicate that the City is additional *primary* insured on such policy of insurance, shall indicate that such policies shall not have any right of subrogation against the City or the City's insurers, and shall indicate that said policy shall not be cancelled or revoked except after the provision of not less than thirty (30) day notice to the City. Contractor shall maintain said policy in full force and effect for the duration of this Agreement, and shall periodically provide updated certificates of insurance to evidence continuing coverage in compliance herewith. For purposes of this Agreement and insurance provided hereunder, the "City" shall include the City of DeKalb, its employees, appointed and elected officers, its committees, its attorneys, and all corporate bodies that exist as a subsidiary to the City.

3. Comprehensive General Liability Coverage Requirements.

Unless this Section 3 of Exhibit E is clearly marked out as being inapplicable, Contractor shall also be required to provide the City with a Certificate of Insurance, in a form and from an issuer acceptable to the City, indicating that the Contractor has obtained and maintains comprehensive general liability insurance with policy limits of not less than One Million Dollars (\$1,000,000.00) per person / Two Million Dollars (\$2,000,000.00) per occurrence. This insurance shall include independent contractors' protective liability, products and completed operations broad form property damage coverage. The completed operations and products liability coverage shall be maintained for at least two years after final payment. The coverage shall also include contractual liability insurance coverage for the Contractor's obligations to indemnify and hold harmless the City and the City Indemnitees.

4. Automobile Insurance Coverage:

Unless this Section 4 of Exhibit E is clearly marked out as being inapplicable, Contractor shall also be required to provide the City with a Certificate of Insurance, in a form and from an issuer acceptable to the City, indicating that the Contractor has obtained and maintains comprehensive automobile liability insurance with policy limits of not less than One Million Dollars (\$1,000,000.00) per person / Two Million Dollars (\$2,000,000.00) per occurrence. This policy shall include coverage for all owned, hired and non-owned automobiles used in furtherance of this Agreement.

5. Professional Liability Insurance Coverage / Errors & Omissions Insurance Coverage:

Unless one or more subsections of this Section 5 of Exhibit E is clearly marked out as being in applicable:

A. Professional Liability / Malpractice: Contractor shall also be required to provide the City with a Certificate of Insurance, in a form and from an issuer acceptable to the City, indicating

that the Contractor has obtained and maintains professional liability or malpractice insurance with policy limits of not less than One Million Dollars (\$1,000,000.00) per person / per occurrence. Said policy need not identify the City as additional primary insured.

B. Errors & Omissions Insurance Coverage: Contractor shall also be required to provide the City with a Certificate of Insurance, in a form and from an issuer acceptable to the City, indicating that the Contractor has obtained and maintains errors & omissions insurance with policy limits of not less than One Million Dollars (\$1,000,000.00) per person / per occurrence. Said policy need not identify the City as additional primary insured.

6. Indemnification.

The policy limits, availability or unavailability of insurance coverage or the applicability of claims, defenses or limitations based upon applicable law (including but not limited to the Illinois Worker's Compensation Act or similar laws or statutes) shall in no way limit the Contractor's obligation to indemnify and hold harmless the City from any claims for damage, liabilities or other costs arising out of or relating to the Contractor's work or this Agreement.

7. Additional Insurance Requirements.

Contractor shall also be required to provide the following insurance:

EACH CERTIFICATE OF LIABILITY INSURANCE SHALL REFERENCE THE SPECIFIC BID NUMBER AND PROJECT DESCRIPTION IN THE ADDITIONAL INSURED FIELD, AND MUST BE PROVIDED DIRECTLY TO THE CITY REPRESENTATIVE.

Exhibit F: Bid Scope

Hydrofluosilicic Acid

Scope: Provide for the purchase and delivery of a total of approximately 6,200 pounds of Hydrofluosilicic Acid in fifty-five (55) gallon drums annually for a contract period of (1) one year with two optional yearly extensions. Deliveries will be made to the City of DeKalb – Water Division located at 1216 Market St., DeKalb IL. Hydrofluosilicic acid is used at the City of DeKalb's five (5) potable water treatment plants to treat drinking water. The quantity shown is an estimated amount only and is not to be construed as a firm quantity. The City reserves the right to increase or decrease any quantities during the term of the contract without penalty or additional costs. All bids must be on a per pound basis and inclusive of **all** costs associated with the purchase and delivery of Hydrofluosilicic acid including any delivery charges, fuel surcharges and any other charges that may affect the contract price as specified in the original bid document.

Deliveries will be made on an as-needed basis as determined by the City of DeKalb – Water Division located at 1216 Market St. and will be placed by phone to a customer service representative provided by the contractor and whose availability at a minimum is Monday through Friday between the hours of 9:00 a.m. and 3:00 p.m. Delivery of the product must occur within ten (10) business days of placement of the order, between the hours of 7:00 a.m. – 11:45 a.m. and 1:00 p.m. – 3:00 p.m., Monday through Friday. No deliveries will be made on Saturdays, Sundays, or holidays unless otherwise directed by the Assistant Director of Public Works - Water Division.

HYDROFLUOSILICIC SPECIFICATIONS

Quantity: Shipments of Hydrofluosilicic Acid will typically be truckload lots of fifteen (15), fifty-five (55) gallon drums of hydrofluosilicic acid. Quantities will be delivered to a lift platform at the City of DeKalb – Water Division located at 1216 Market St. Water Division personnel will be responsible for dispersing the shipment to the City's five (5) water treatment plants. The City of DeKalb – Water Division reserves the right to increase or decrease shipment quantities at their discretion. The City of DeKalb – Water Division has the ability to unload drums onto a platform lift. In the event that the platform lift is inoperable, the City reserves the right to require the provider to make deliveries using a truck capable of unloading fifty-five gallon drums.

Quality: The hydrofluosilicic acid is used to treat the City of DeKalb's public water supply and must conform to ANSI/NSF Standard 60. Hydrofluosilicic Acid must be at least 23% hydrofluosilicic acid by weight.

Containers: The containers shall be fifty-five (55) gallon drums and meet the requirements of heavy handling and service. The containers remain the property of the seller.

Any shipment may be examined by the City or tested to insure product is of suitable grade prior to acceptance. If the shipment is unacceptable, the Contractor must remove the shipment from the institution and replace the shipment within twenty-four (24) hours at no additional cost to the City.



164 East Lincoln Highway
DeKalb, Illinois 60115
815.748.2000 • cityofdekalb.com

Bid/Proposal Cover Sheet

Name of Products: **Chlorine 2.3 (150-pound Cylinders)**
 Hydrofluosilicic Acid
 Ortho/Poly Blended Phosphate

General Description of Project: **Purchase and delivery of three types of potable water treatment chemicals for a period of one year (12 months) with two optional yearly extensions. Bidders are not required to bid on all requested chemicals.**

Chlorine 2.3 (150-pound cylinders):

150-pound chlorine 2.3 gas cylinders to the City of DeKalb – Water Division located at 1216 Market St., DeKalb, IL. Chlorine 2.3 is used at the City of DeKalb – Water Division's five (5) potable water treatment plants to treat water for disinfection purposes. The City expects to use a total of approximately 35,000 pounds of chlorine annually during the term of this contract.

Hydrofluosilicic Acid:

Purchase and delivery of fifty-five (55) gallon drums (approximately 650 pounds/drum) of hydrofluosilicic acid to the City of DeKalb – Water Division located at 1216 Market St., DeKalb, IL. Hydrofluosilicic acid is used at the City of DeKalb – Water Division's five (5) potable water treatment plants to treat drinking water. The City expects to use a total of approximately 6,200 pounds of hydrofluosilicic acid annually during the term of this contract.

Ortho/Poly Blended Phosphate:

Purchase and delivery of fifty-five (55) gallon drums (approximately 650 pounds/drum) of Ortho/Poly blended phosphate to the City of DeKalb – Water Division located at 1216 Market St., DeKalb, IL. Ortho/Poly blended phosphate is used at the City of DeKalb – Water Division's five (5) potable water treatment plants to treat drinking water for corrosion control and for iron sequestration. The City expects to use a total of approximately 70,000 pounds of ortho/poly blended phosphate annually during the term of this contract.

Website Link: <http://www.cityofdekalb.com/bids>

Type of Bid:

- ☒ Bid for Goods
- ☐ Bid for Services
- ☐ Request for Qualifications
- ☐ Request for Proposals
- ☐ _____

City Representative:

Name: Bryan Faivre, Director of Utilities and Transportation
E-Mail: bfaivre@cityofdekalb.com
Phone: 815-748-2050

Bid Release Date: September 14, 2022

Last Day for Questions: September 26, 2022

Pre-Bid Meeting: Not Applicable

Attendance Mandatory: ☐ Yes ☒ No

Question Response Date: September 29, 2022

Bid Due Date: October 3, 2022

Deadline: 2:00 P.M.

All Bids must be sealed and clearly marked "Water Treatment Chemicals Bid" and received at the City of DeKalb-Water Department, Attn: April Beeman, 1216 Market St., DeKalb, IL 60115 no later than 2:00 p.m. on the Bid Due Date outlined above.

Required Security: See Section 2.13 of the Proposal.

Required Insurance: See applicable terms of Exhibit E, Independent Contractor Agreement, and Section 2.09 of the Contract Documents (and subsections).

All persons desiring to submit a bid under these Contract Documents must contact the City of DeKalb and provide an email address at which notices can be sent and received by the proposed Bidder or Contractor. This address will be used for official communications from the City, including pre-bid communications.

City of DeKalb

Legal Notice

Invitation for Bid

The City of DeKalb, IL will accept sealed bids for the purchase and delivery of three types of potable water treatment chemicals for a (1) one-year period with two optional yearly extensions. Bidders are not required to bid on all requested chemicals.

Name of Products: **Chlorine 2.3 (150-pound Cylinders)**
 Hydrofluosilicic Acid
 Ortho/Poly Blended Phosphate

Specifications and all Contract Documents are available on-line on the City of DeKalb's web page at www.cityofdekalb.com/bids . They may also be obtained from the City of DeKalb Water Department, 1216 Market St., DeKalb, IL 60115. **All Bids must be sealed and clearly marked "Water Chemical Treatment Bid" and received at the City of DeKalb-Water Department Attn: April Beeman, 1216 Market St., DeKalb, IL 60115 no later than 2:00 p.m. on the Bid Due Date outlined above.** All bids will be publicly opened immediately thereafter.

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EQUAL EMPLOYMENT OPPORTUNITY CLAUSE

EQUAL EMPLOYMENT OPPORTUNITY CLAUSE required by the Illinois Fair Employment Practices Commission as a material term of all public contracts.

During the performance of this Contract, the Contractor agrees as follows:

- 1. That** it will not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, or ancestry; and further, that it will examine all job classifications to determine if minority persons or women are underutilized and will take appropriate affirmative action to rectify any such underutilization.
- 2. That**, if it hires additional employees in order to perform this Contract, or any portion hereof, it will determine the availability (in accordance with the Commission's Rules and Regulations for Public Contracts) of minorities and women in the area(s) from which it may reasonably recruit and it will hire for each job classification for which employees are hired in such a way that minorities and women are not underutilized.
- 3. That**, in all solicitations or advertisements for employees placed by it or on its behalf, it will state that all applicants will be afforded equal opportunity without discrimination because of race, color, religion, sex, national origin, or ancestry.
- 4. That** it will send to each labor organization or representative of workers with which it has or is bound by a collective bargaining or other agreement or understanding, a notice advising such labor organization or representative of the Contractor's obligations under the Illinois Fair Employment Practices Act and the Commission's Rules and Regulations for Public Contracts. If any such labor organization or representative fails or refuses to cooperate with the Contractor in its efforts to comply with such Act and Rules and Regulations the Contractor will promptly so notify the Illinois Fair Employment Practices Commission and the contracting agency and will recruit employees from other sources when necessary to fulfill its obligations there under.
- 5. That** it will submit reports as required by the Illinois Fair Employment Practices Commission's Rules and Regulations for Public Contracts, furnish all relevant information as may from time to time be requested by the Commission or the contracting agency, and in all respects comply with the Illinois Fair Employment Practices Act and the Commission's Rules and Regulations for Public Contracts.
- 6. That** it will permit access to all relevant books, records, accounts, and work sites by personnel of the contracting agency and the Illinois Fair Employment Practices Commission for purposes of investigation to ascertain compliance with the Illinois Fair Employment Practices Act and the Commission's Rules and Regulations for Public Contracts.
- 7. That** it will include verbatim or by reference the provisions of paragraphs 1 through 7 of this clause in every performance subcontract as defined in Section 2.10 (b) of the Commission's Rules and Regulations for Public Contracts so that such provision will be binding upon every such subcontractor; and that it will also include the provisions of paragraphs 1, 5, 6, and 7 in every supply subcontract as defined in Section 2.10(a) of the Commission's Rules and Regulations for Public Contracts so that such provisions will be binding upon every such subcontractor. In the same manner as with other provisions of this Contract, the Contractor will be liable for compliance with applicable provisions of this clause by all its subcontractors; and further it will promptly notify the contracting agency and the Illinois Fair Employment Practices Commission in the event any subcontractor fails or refuses to comply therewith. In addition, no Contractor will utilize any subcontractor declared by the Commission to be non-responsible and therefore ineligible for Contracts or subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations.

The City of DeKalb does not discriminate on the basis of handicapped status in admission or access to, or treatment or employment in, its programs and activities.

Section 1: STANDARD CONDITIONS

1.00 General Bid Notes:

The City Council of the City of DeKalb reserves the right to accept or reject any and all bids, to waive any technicalities, discrepancies, or information in the bids, or to waive competitive bidding and negotiate directly with one or more Contractors. The City also reserves the right to divide the Contract into multiple agreements and to have multiple parties' complete separate components of the required work. The City of DeKalb does not discriminate in admission, access to, treatment, or employment in its programs and activities.

General questions regarding the Legal Notice or the Bid Specifications shall be directed to the City's Representative at the contact information provided on the Bid Cover Sheet. **All detailed questions concerning the actual bid specification are to be forwarded in writing.**

Following bid opening, review, and the City's receipt of an award recommendation, pending Contract awards will be posted on the City of DeKalb's web site.

Individuals with disabilities who plan to attend this meeting and who require certain accommodations to allow them to observe and/or participate in this meeting are requested to contact the Water Department at 815-748-2050 at least one (1) week prior to this public meeting if possible.

All costs incurred in the preparation, submission and/or presentation of any proposal including any Bidder's travel or personal expenses shall be the sole responsibility of the Bidder and will not be reimbursed by the City.

ALL RESPONDING BIDDERS ARE REQUIRED TO SUBMIT ALL PAGES OF THIS BID PACKAGE, INCLUDING ALL ATTACHMENTS (AND ANY CONTRACTOR-GENERATED SUPPLEMENTS THERETO), IN ORDER TO SUBMIT A VALID BID.

All persons desiring to submit a bid under these Contract Documents must contact the City of DeKalb and provide an email address to which notices can be sent and received by the proposed Bidder or Contractor. This address will be used for official communications from the City, including pre-bid communications.

1.01 Contract Documents:

Any drawings, plans, standard conditions, special conditions, supplemental additional conditions, specifications, bid notice, bid sheet, and addendum, if any, as specified herein shall form the "Contract Documents." For the purpose of this bid, the word "City" shall refer to the City of DeKalb, and the word "Bidder" or "Contractor" shall refer to any person, company, or entity submitting a bid. Any work shown or described in one of the documents shall be construed as if described in all the documents. For purposes of any provision in here requiring the defense, indemnity or insuring of the City, such reference shall include the City, its employees, officers, elected and appointed officials, attorneys, Contractors, and subcontractors. The "City Representative" shall be the person so indicated on the Bid/Proposal Cover Sheet.

1.02 Interpretation of Contract Documents:

Each request for interpretation of the Contract Documents shall be made in writing addressed to the City Representative and shall be received at least five (5) business days prior to the pre-bid meeting. Interpretations and supplemental instructions will be in the form of written addenda to the Contract Documents. In the event that there is no pre-bid meeting, requests for information must be received by the City Representative at least ten days prior to bid opening. The City reserves the right to determine

what constitutes a material variation from the terms of these Contract Documents, and to waive variations deemed immaterial, in its sole discretion.

1.03 Electronic Bid Documents:

Bidders that download PDF documents from the City of DeKalb's internet web page must immediately notify the City Representative via e-mail as outlined on the Cover Sheet and attend the pre-bid meeting (if marked as mandatory) if they intend to submit a response to the bid documents. This step is necessary to establish a communication link between the City and the Bidder so that any addenda or other relevant information may be transmitted properly. The Bidder, not the City, is responsible for obtaining any addenda to the original specification when the Bidder chooses the option of downloading bid or proposal files. Addenda and other relevant information will be posted on the City of DeKalb web page. Bidders must provide an email address which can be used by the City to send bid addenda or other official communications. All Bidders must sign off and acknowledge receipt of all bid addenda. The form of Bid Addenda is attached hereto as Exhibit J.

1.04 Submittal of Bid:

All Bids must be received at the City of DeKalb-Water Department, Attn: April Beeman, 1216 Market St., DeKalb, IL 60115 no later than **2:00 p.m. on the Bid Due Date outlined above.** Bids arriving after the specified time will not be accepted, even in cases of delay by train. Bids will not be accepted at any other location or by any other City personnel. Any bids erroneously accepted at any other location or by other City personnel shall be returned unopened. Mailed bids which are delivered after the specified hour will not be accepted regardless of postmarked time on the envelope. Bidders should carefully consider all bid delivery options (US Postal Service, UPS, Federal Express, Emery Express, private delivery service, etc.) and select a method that will successfully deliver their bid by the required time and date. Bids shall be submitted in sealed envelopes carrying the following information: Bidder's name, address, subject matter and document number of bids as indicated in the specification, and designated date and time of the bid opening. **All bids must be clearly marked at the top of each side of the envelope: "Official Bid: Do Not Open."** Bids will only be accepted by delivery or US mail; bids will not be accepted by facsimile, e-mail, internet, telephone or telegraphic means. All times are based upon the official time in the City of DeKalb, Central Standard Time or Central Standard Daylight Time (whichever applies at the time of bid).

1.04.01 Pre-bid Meeting:

A pre-bid meeting will be held at the DeKalb City Hall, 200 S. Fourth Street, DeKalb, IL, at the date and time indicated on the Bid Cover Sheet for the purpose of familiarizing Bidders with the project and answering questions. **Bidders shall be completely familiar with the entire bid specification and all Contract Documents prior to attending this meeting and shall come prepared to ask questions.**

Attendance at the pre-bid meeting is not mandatory *unless indicated as Attendance Required* on the Bid Cover Sheet. Strong consideration will be given to the Contractor's clear understanding and familiarity with the City's needs in determining an award of Contract.

1.05 Withdrawal of Bid:

Bidders may withdraw or cancel their bid, in written form, at any time prior to the advertised bid opening time. Bidders must submit a written request to withdraw their bid, which must be received by the City, at the stated location for bid submission, *prior to bid opening.*

1.06 Bidder's Qualifications:

No award will be made to any Bidder who cannot satisfy to the City that they have sufficient ability and experience in this class of work, as well as sufficient capital and equipment to do the job and complete the work successfully within the time named (i.e. responsible). The City's decision or judgment on these matters shall be final, conclusive, and binding. The City may make such investigations as it deems

necessary. The Bidder shall furnish to the City, under oath if so required, all information and data the City may request for the purpose of investigation.

1.07 Preparation of Bid:

The Bidder's submittal shall include the completed *Bid Sheet* and *Detailed Bid Sheet* found in the Contract Documents. The City will strictly hold the Bidder to the terms of the bid. The bid must be executed by a person having the legal right and authority to bind the Bidder.

1.08 Compliance with Laws:

The Bidder shall at all times observe and conform to all laws, ordinances, and regulations of the Federal, State, and local governments, which may in any manner affect the preparation of bids or the performance of the Contract.

1.09 Alternate to Bids:

Any reference in these specifications to manufacturer's name, trade name, or catalog number (unless otherwise specified) is intended as a standard only. The City's written decision of approval or disapproval of a proposed substitution shall be final.

Alternate bids will be considered only if received at the time stated for receipt of the bids. Submit alternate bids in a sealed envelope and identify the envelope as required for all bids, except that the phrase **Alternate Bid** shall be used. Bidders are cautioned that, if an alternate bid(s) involves an increase in the *Bid Sum*, the *Bid Deposit*, **if required**, shall be ample or be increased to cover the alternate *Bid Sum* or the entire bid may be rejected. Alternate bids should only be submitted if the proposal is believed in good faith to be equal in quality to the requirements specified by the City. The City reserves the right to rule upon a specification deviation or alternate bid in the manner as best befits the City, and to accept an alternate bid deemed adequate without rebidding or waiver of bid.

1.10 Form of Contract:

The form of Contract between the City and the successful Bidder will be in the form attached hereto as Exhibit D.

1.11 Freedom of Information Act (FOIA):

The City is required by Public Act 96-542 to comply with freedom of information requests (FOIA) within five (5) business days of a record request. All Contractors used by the City may be in possession of records covered by this act and therefore will be required to provide the City with those records upon request and within the time frame of the Act.

1.12 Bid Review:

The City reserves the right to reject any or all bids, to waive any irregularities or disregard any informality in the bids and bidding, and/or to waive competitive bidding and negotiate with one or more bidders or non-bidders directly when, in its opinion, the best interest of the City will be served by such action. Furthermore, the City reserves the right to award each item to a different Bidder, or all items to a single Bidder unless otherwise noted on the *Bid Sheet*. The City may determine as follows: 1) an equal or alternative is a satisfactory substitute; 2) an early delivery date is entitled to more consideration than price; 3) an early delivery date is to be disregarded because of the reputation of the Bidder for not meeting delivery dates; 4) a Bidder is not a responsible Bidder; and 5) what exceptions or deviations from written specifications will be accepted.

No bid will be accepted from or Contract awarded to any person, firm, or corporation that is in arrears or is in default to the City upon any debt or Contract, or that is a defaulter, as surety or otherwise, upon any obligation to the City, or had failed to perform faithfully any previous Contract with the City.

Bidders are required, if requested to do so, to affect a demonstration of the item/service being bid if the City feels it has insufficient knowledge of the item/service operations or performance capability. Such demonstration shall be at a site which is most convenient and agreeable to the affected City personnel. If the bid specifications require the submission of samples, such samples shall be submitted to the City at no cost, at or prior to the deadline for submitting bids. All samples become the property of the City upon submission.

1.13 Bid Results:

Following the bid opening and review period, pending contract awards will be posted on the City's Internet website under the <http://www.cityofdekalb.com> web page. Bid tabulations posted on-line represent "as read" submittals at time of the bid opening. They do not represent contract award.

1.13.01 Bid Protest:

Firms wishing to protest bids or awards should notify the City Representative in writing within three (3) days after the bid opening. This notification should include the bid number, the name of the firm protesting, and a detailed description as to why the firm is protesting the bid. The City Representative shall respond to said protest within seven (7) calendar days. A successful protest may result in the reversal of a previously awarded bid. If the firm wishes to appeal the determination of the City Representative, it may provide a written notice to the City Manager within two (2) business days of the date of release of the City Representative's decision; the City Manager shall thereafter review and decide the protest, and the decision of the City Manager shall be final.

1.14 Delivery:

Where the bid involves the sale or delivery of materials or goods, all materials shipped to the City must be shipped F.O.B. delivered, to the designated location specified in the description of Work, DeKalb, Illinois. If special delivery terms are required (e.g. forklift, ramp, etc.), the Bidder is responsible for providing the same unless otherwise noted. The City accepts no responsibility for the condition of any merchandise purchased prior to acceptance by City personnel. The City reserves the right to refuse acceptance of delivered merchandise that differs from the specifications in the invitation to bid or as otherwise permitted by Illinois law.

1.15 Inspections:

The City shall have the right to inspect any materials, components, equipment, supplies, services, or completed work specified herein. Any of said items not complying with these specifications are subject to rejection at the option of the City. Any items rejected shall be removed from the premises of the City and/or replaced at the entire expense of the successful Bidder.

1.16 Pricing:

For bids involving the sale of materials or supplies, unit prices shall be shown for each unit on which there is a bid and shall be inclusive of all charges necessary to comply with the terms and conditions of this bid (i.e. FOB DeKalb at the specified location). All prices shall be stated in U.S. dollars. Unit prices shall not include any local, state or federal taxes. In the case of a mistake in the extension of price, unit prices shall govern. All prices must be typewritten or written in ink; no erasures are permitted. Mistakes must be crossed out and corrections typewritten or written in ink adjacent thereto and initialed in ink by the party signing the bid.

Section 2: GENERAL SUPPLEMENTAL ADDITIONAL CONDITIONS

2.01 Scope of Work:

The Bidder shall supply all required supervision, skilled labor, transportation, new materials, apparatus, and tools necessary for the entire and proper completion of the Work. The Work is as described on the

attached Exhibit F, and may consist of the provision of services, professional services, materials, supplies, equipment, or some combination thereof ("the Work"). The Bidder shall supply, maintain, and remove all equipment for the performance of the work and be responsible for the safe, proper, and lawful construction, maintenance, and use of the same. This work shall be completed to the satisfaction of the City. The Bidder shall provide adequate protection of the job site to protect the general public from any injury as a result of the job. The Bidder shall provide all safeguards and suitable barricades to protect public and adjacent property. **The City is not responsible for site safety. The Bidder is solely and exclusively responsible for construction means, methods, technologies, and site safety.** The Bidder is responsible for identifying whether the bid proposal involves the provision of labor, materials, professional services, or a combination thereof, and for complying with the appropriate components of these Contract Documents. Where the Work requires the provision of supplies or goods, all such goods shall be *new, unused materials*, unless the Work expressly indicates that recycled or used materials may be utilized.

2.02 Licensing and Permits:

The successful Bidder and their subcontractor(s) must be licensed with the City and shall obtain all required permits prior to the start of any component of the Work. The City will waive applicable City permit fees for the specific Contract.

2.03 Period of Unemployment:

For any project involving labor or services which is governed by 30 ILCS 570 Employment of Illinois Workers on Public Works Act, such Act must be adhered to in entirety by the awarded Contractor. This act requires the use of Illinois workers on Public Works projects during periods of excess unemployment, which means any month immediately following 2 consecutive calendar months during which the level of unemployment in the State of Illinois has exceeded 5% as measured by the United States Bureau of Labor Statistics in its monthly publication of employment and unemployment figures.

2.04 Prevailing Wage:

For any work subject to the requirements of the Prevailing Wage Act, 820 ILCS 130/0.01, *et. seq.*, the successful Bidder is required to fully comply with the Act and to provide certified payroll records in compliance with the Act to the City at or before the time of requesting any payment for this project. The failure to comply with Prevailing Wage where required shall subject a bidder to the forfeit of any proceeds otherwise earned; the City will not process payment requests that are not in compliance with the Prevailing Wage Act. Additionally, separate from any other indemnification or insurance obligation in this Agreement, the successful Bidder shall indemnify, defend (with the City having exclusive choice of legal counsel) and hold harmless the City from any and all claims, demands, liabilities or other expenses in any way relating to the compliance or non-compliance with the Prevailing Wage Act.

2.04.01 Certified Payroll Records:

Certified payroll records shall consist of a complete copy of the following records: a list of all laborers, mechanics and other workers employed to perform work hereunder. The records shall include the following information for each worker: name, address, telephone number, classification or classifications, the hourly wages paid in each pay period, the number of hours worked each day, and the starting and ending times of work each day, along with such other information which may be required by law. The certified payroll shall be accompanied by a statement signed and sworn to by the Contractor which avers that: 1) the certified payroll record is true and accurate; 2) the hourly rate paid to each worker is not less than the general rate of prevailing wage as required by the Act; and, 3) the Contractor is aware that filing a certified payroll known to be false is a Class B Misdemeanor.

2.05 Toxic Substance:

Prior to delivery of any material which is caustic, corrosive, flammable, or dangerous to handle, the supplier will provide written directions as to methods of handling such products, as well as the antidote or

neutralizing material required for its first aid. (Material Safety Data Sheet). The successful Bidder is responsible for complying with all applicable legal regulations or recommended handling procedures.

2.06 Guarantees, Warranties, Manuals:

All guarantees and warranties required shall be furnished by the Bidder and shall be delivered to the City before final payment on the Contract is issued. All products provided shall be provided with any available manuals, brochures or other instructions. The Contractor shall be responsible for providing the City with training in accordance with the requirements of the description of the Work. Any required training shall be provided at no additional cost. For any Work involving the sale of goods or materials, the Contractor shall be required to provide product manuals. Manuals shall be as detailed as possible outlining all necessary operating and servicing instructions for any equipment delivered, including components. In addition, for any Work involving the sale of vehicles, equipment, mechanical devices, tools or computerized devices, technical shop manuals containing illustrated parts lists and a complete set of technician repair manuals for the entire unit including wiring diagrams and hydraulic schematics supplied with the equipment shall be provided. These materials can be provided in paper manuals or in electronic format (on DVD in PDF format). Any electronic documents required or submitted (e.g. as-builts, GPS information, or other data) shall be submitted in a format acceptable to the City Representative in his or her sole discretion.

All products supplied under this Contract shall carry the manufacturers' standard warranty. The Contractor shall guarantee the Work to be free from defects of any nature for a period of one year from and after the final acceptance and payment for the Work by the City. The Bidder shall maintain said Work and shall make all needed repairs and/or replacements during this one year period which, in the judgment of the City Representative, may be necessary to ensure the delivery of the Work to the City in first-class condition and in full conformity with the plans and specifications therefore, at the expiration of the guaranty period. The City shall identify the date of completion of the project, which shall serve as the start-date for the warranty. The following provisions only apply if checked:

- ☐ The Contractor is required to post a maintenance bond equal to ten percent of the project cost, for the term of the one-year warranty.
- ☐ The Contractor shall be subject to ten percent (10%) retention upon successful conclusion of the project, for the term of the one-year warranty.

2.07 Termination of Contract:

The City reserves the right to terminate in whole or any part of this Contract, upon written notice to the Bidder, in the event of any default by the Bidder. Default is defined as failure of the Bidder to perform any of the provisions of this Contract in strict accordance with its terms or failure to make sufficient progress so as to endanger performance of this Contract in accordance with the City's expectations for completion or any expressed timeline for the same. In the event of default and termination, the City may procure, upon such terms and in such a manner as the City may deem appropriate, supplies, or services similar to those terminated.

The Bidder shall be liable for any excess costs or replacement costs for such similar supplies or service unless evidence is submitted to the City that, in the sole opinion of the City, clearly proves that failure to perform the Contract was due to causes beyond the control and without the fault or negligence of the Bidder.

2.08 Indemnification and Hold Harmless Agreement (Contractual or Other Liability):

The Bidder agrees to indemnify and save harmless the City, including its elected or appointed officials, employees, attorneys and agents (collectively, the "City Indemnitees") against any and all claims, loss damage, injury, liability, and court costs and attorney's fees incident thereto, including any claims made

by employees of the Bidder or any of their subcontractors, as well as all other persons, resulting directly or indirectly from the work covered by this Contract or the equipment used in connection therewith. It is understood that this agreement shall apply to any and all such claims whether resulting from the negligence or the intentional acts of the Bidder, the Bidder's employees, Contractors or subcontractors, the City or City Indemnitees or otherwise, with the single exception of any claim, damage, loss, or expense arising solely out of the intentional misconduct of the City or City Indemnitees. The Bidder is solely responsible for determining the accuracy and validity of any information provided to the Bidder by the City or its representatives. This indemnification shall apply to the fullest extent of the law, and in the event that any provision hereof is determined to be unenforceable, the indemnification obligations shall be severable and the fullest extent of indemnification that may lawfully apply shall remain in full force and effect.

This indemnification shall include any claims arising out of the erection, construction, placement or operation of any scaffold, hoist, crane, stay, ladders, support or other mechanical contrivance in connection with such work including but not limited to losses, claims, damages and expenses arising pursuant to claims asserted against the City pursuant to theories premised upon Section 414 or Section 343 of the Restatement (Second) of Torts. This indemnification shall not be limited in any way by limitations on the amount or type of damages, compensation, or benefits payable by or for the Contractor under Workers' Compensation Acts, disability benefit acts, or other employee benefit acts, and serves as an express agreement to waive the protection of *Kotecki v. Cyclops Welding Corp.*, 146 Ill.2d 155 (1991) in Illinois.

2.09 Insurance:

The insurance requirements outlined in these Contract Documents are applicable to any Work involving the performance of any services; these insurance provisions do not apply to any Work that consists solely of the sale of materials to the City without any corresponding labor or service. The Bidder will provide certificates of insurance evidencing the types and limits of insurance contemplated by the Agreement attached hereto as Exhibit E. The certificates of insurance will specifically address each of the requirements noted below. Each insurance company shall be in a form and from an issuer acceptable to the City. The General Liability coverage shall name the City of DeKalb as additional primary insured, without right of subrogation. All insurance noted below is primary and in no event will be considered contributory to any insurance purchased by the City. All insurance noted below will not be canceled, reduced, or materially changed without providing the City thirty (30) days advance notice, via certified mail. A certificate of insurance shall be provided to the City prior to the time at which any invoice or request for payment is submitted to the City.

EACH CERTIFICATE OF LIABILITY INSURANCE SHALL REFERENCE THE SPECIFIC BID NUMBER AND PROJECT DESCRIPTION IN THE ADDITIONAL INSURED FIELD, AND MUST BE PROVIDED DIRECTLY TO THE CITY REPRESENTATIVE.

Any and all deductibles or other forms of retention are the responsibility of the Contractor. All deductibles or other forms of retention are subject to the approval of the City. Contractor will disclose to the City in writing the amounts of any deductible or self-insured retentions on the insurance required under this Contract. All deductibles or self-insured retention shall be the sole responsibility of the Contractor. At the option of the City and at no additional cost to the City, the Contractor shall either: a) eliminate or reduce the deductibles/retention amounts as it relates to the City or City Indemnitees; or, b) procure a bond or letter of credit guaranteeing the payment of such amounts.

Contractor waives any right of subrogation it may have or later acquire against the City. Additionally, with regard to the Contractor's obligations to defend, indemnify, insure and hold harmless the City, to the extent of any claim, offset or special defense afforded to the Contractor by virtue of the Illinois Worker's Compensation Act or any other applicable law or statute, the Contractor acknowledges that its obligation to defend, indemnify, insure and hold harmless the City shall not be limited or abrogated by said claim, offset or defense. Any provision of these specifications requiring the Contractor to de

fend the City shall be read to include the City having choice of legal counsel, at Contractor's expense, for purposes of fulfilling the defense obligation. Any language in these Contract Documents regarding the Contractor's obligation to indemnify the City or to ensure the City shall be read jointly, such that a waiver of subrogation or waiver of defense appearing in the Indemnification provisions shall also apply to the Insurance provisions. All such insurance or indemnification provisions shall also be read to require indemnification and insurance to be provided for the benefit of the City and City Indemnitees (as indemnified parties and as additional insureds).

Prior to receipt of a purchase order and start of work, the City Finance Department must receive and approve Certificates of Insurance and endorsements for all Contractors' employees who will be using their personal vehicle for transportation for work-related purposes during the workday. It will be the responsibility of the Contractor to provide renewal certificates for the same, and any new employees added to the City Contract, throughout the course of the Contract.

2.09.01 Insurance Rating:

All insurance policies required by this Contract shall be underwritten by insurance companies with a minimum A. M. Best rating of B++ or better. In the event that the Contractor or any Subcontractor fails to procure or maintain any insurance required by the Contract Documents, the City may, at its option, purchase such coverage and deduct the cost thereof from any monies due to the Contractor or Subcontractor, or withhold funds in an amount sufficient to protect the City, or terminate this Agreement pursuant to its terms.

2.09.02 Special Requirement:

If the Bidder is an architectural firm or engineering firm, or if the Work under the Contract Documents includes design, consultation or any other professional services, said Bidder shall file a certificate of insurance for professional liability, errors and omissions coverage subject to final acceptance by the City of said coverage. Professional liability insurance is not required to name the City as additional primary insured. Such insurance shall be provided on an occurrence basis, or, if provided on a claims-made basis, shall have a retrospective date prior to the start of Work.

2.09.03 Provision of Insurance:

The Bidder shall not commence Work under this Contract until the Bidder has obtained all insurance required under this section and such insurance has been approved by the City, nor shall Bidder allow any subcontractor to commence work on their subcontract until the same insurance has been obtained by the subcontractor. The Bidder and their subcontractor(s) shall maintain all insurance required under these Contract Documents for not less than two (2) years after completion of this Contract. The City shall not be obligated to review such certificates or other evidence of insurance, or to advise Contractor or subcontractor of any deficiencies in such documents, and receipt thereof shall not relieve the Contractor or subcontractor from, nor be deemed a waiver of the right to enforce the terms of the obligations hereunder. The City shall have the right to examine any policy required and evidenced on the Certificate of Insurance.

Additionally, and supplemental to the indemnification outlined above, the successful Bidder shall indemnify, defend and hold harmless the City from any and all claims arising out of the payment or real or alleged failure to pay any subcontractor or materialman.

2.10 Subcontractors:

Use of any subcontractors for performance of any component of this Agreement requires the City's express, written pre-approval prior to undertaking any services, as contemplated in the terms of these specifications. Additionally, without regard to such pre-approval, any Contractor, subcontractor or material-man providing services or materials relating to these specifications shall expressly be required to comply with all of the terms of these specifications. The prime Contractor or successful Bidder holding the agreement resulting from these specifications shall be responsible for so confirming, and shall indemnify, defend and hold the City harmless from any failure to comply with these specifications by any

subcontractor. Moreover, the failure to perform or default of any subcontractor shall be held and applied against the prime Contractor under which the subcontractor is working, as if the prime Contractor itself had failed to perform or had defaulted.

2.11 Change Orders:

After the Contract award, changes in or additions to the work and/or a change in the amount of money to be paid to the Bidder must be the result of an approved change order first ordered by the City Representative.

For any Contract which is subject to the Public Works Contract Change Order Act, 50 ILCS 525/1, *et. seq.*, the City requires the successful Contractor verify any change order request received from a subcontractor will not exceed 49% of the original subcontract amount. Any needed change order that will increase the subcontract by 50% or more will require opening up that portion of the work to competitive bidding.

The Contract price is and must include a "not to exceed" price. Any time the Contractor believes additional work is necessary or requested and the not to exceed price would increase, any change or addition shall require the pre-approval of the City. Unless a change order is approved, in writing, by the City Representative and/or City Manager and/or City Council, the Contract price shall not be exceeded.

2.11.01 Legal Authority to Bind:

The City shall not be bound by the unauthorized action of any of its agents or representatives. Any bidder and the Contractor are responsible for determining whether any person purporting to act on behalf of or to bind the City has the actual authority to do so, prior to relying upon any such statement or claimed authorization.

2.12 Failure to Execute:

Failure to execute the Contract shall, at the option of the City, constitute a breach of the agreement made by acceptance of the bid, and the City shall be entitled to forfeiture of the certified check, bank draft, or Bid Bond accompanying the bid that is required, not as a penalty, but as liquidated damages. In the event of failure of a Bidder to whom an award of Contract has been made, to execute the Contract and furnish a Performance Bond within five (5) days after notification of award, such award may be nullified and an award may be made to the next lowest responsive and responsible Bidder approved by the City. Any bidder who seeks any modification of the Contract Documents or of the Agreement is required to notify the City of the same by submitting an alternate bid. Any bidder who submits a bid without identifying any changes in the Contract Documents or the Agreement may be bound to the Contract Documents and the Agreement, without revision, at the City's discretion.

2.13 Bid Security:

~~Unless this section is completely crossed out, each bid shall be accompanied by a bid security in the amount of 10% of the total amount bid. Bid security shall be in the form of a certified check or cashier's check, drawn on a responsible bank doing business in the United States and made payable to the City of DeKalb, or an original Bid Bond (*may NOT be a copy or facsimile*) by a surety company which is satisfactory to the City and is qualified to do business in Illinois. Bids not accompanied by a bid security will be rejected. The bid security of the unsuccessful Bidders (if in the form of a certified check or cashier's check) will be returned after the Contract is awarded, signed and the performance security has been provided, or earlier, if the City does not deem it necessary to retain the Bid Security. The bid security of the accepted Bidder, (if in the form of a certified check or cashier's check) will be returned either upon execution of a Contract and submittal of a performance bond, if required by the specifications or, where no performance bond is required, when, in the City's estimation, the Contract has been satisfactorily completed and a final inspection has been satisfactorily completed. The final inspection shall occur within thirty (30) days of the date of completion/delivery. When the bid security is submitted in the form of a bid bond, the bond will become null and void following the award of Contract and the City's receipt of the Performance Bond and Labor and Material Payment Bond, if required by the~~

~~specifications. Should the Bidder fail to fulfill the Contract as set forth, the bid security shall become payable to the City as liquidated damages. - All Bid Security shall be held by the City's Finance Department. If deemed necessary by the City, the City may at any time deposit a certified or cashier's check submitted as bid security, and in the event of a refund of such security, the City shall issue a refund check drawn on its accounts.~~

2.14 Performance Security:

~~Unless this section is completely crossed out, the successful Bidder shall furnish as performance security a Performance Bond and a Labor and Material Payment Bond acceptable to the City prior to the start of any work. Each of the bonds shall be in the sum of 100% of the Contract amount. The performance bond shall: 1) serve as security for faithful performance of the work; and 2) guarantee the work against defective workmanship and material for a period of not less than one (1) year following acceptance of the work. The Labor and Material Bond shall serve as security that all wages are paid and materials provided for the work are paid by the successful Bidder. For Contract awards that are less than \$100,000.00, a Letter of Credit, in a form suitable to the City, may be submitted as performance security, instead of a Performance Bond and a Labor and Material Payment Bond. Any bond shall include a provision that will guarantee faithful performance in accordance with the Prevailing Wage Act, 820 ILCS 130/1, et. seq., and in accordance with all of the terms of the Contract Documents (which shall be specifically referenced).~~

2.14.01 Letter of Credit – required content:

Any letter of credit (herein after LOC) submitted as performance security, as provided for in the Performance Security section of these Construction Supplemental Additional Conditions, must be established with the following required content.

The LOC must be irrevocable, made in favor of the City of DeKalb (Beneficiary), and for the account of the Bidder (Applicant). The aggregate amount of the LOC must be at least 100% of the awarded contract amount. The bank issuing the LOC must be acceptable to the City of DeKalb; written preapproval is required. The expiration date of the LOC must extend at least one (1) year beyond the anticipated completion date of the project and will be extended at the expense of the Bidder if need be. The LOC must provide for partial drawings. Drawing(s) are to be made when the City of DeKalb presents a letter to the issuing bank, signed by the City Manager or the acting City Manager, referencing the LOC number and stating the amount of funds to be drawn against the LOC and also containing the following declaration: "I hereby certify that the applicant has not performed as required by the contract established between the applicant and the City of DeKalb". Payment(s) against the LOC will be made by the issuing bank upon presentation of this letter. The issuing bank must have a branch or office whereupon presentation and demand may be made by the City within thirty (30) miles of City Hall.

2.15 Waiver of Lien:

Where applicable, a Waiver of Lien and Contractor's Affidavit must be submitted by the Bidder, verifying that all Contractors, subcontractors, material-men, and material invoices have been paid prior to the City approving payment. Waivers must be in a format acceptable to the City.

CITY OF DEKALB

INVITATION FOR BID

3.01 Intent:

The intent of these specifications is to solicit sealed bids from reputable Contractors who are capable of providing the specified products and services. The use of the words "Contractor" and "Contract" in this document refer to the firm whose services would be engaged upon successful acceptance of a bid and the agreement that would be executed between the City of DeKalb (hereafter City) and the successful firm.

3.02 Scope:

The Scope of this bid shall include completion of the Work as described in the attached Exhibit F.

The bid shall include all aspects associated with the Contractor furnishing products, services, materials, supervision, labor, tools, and equipment necessary to complete the Work as defined herein in a workmanlike and acceptable manner, meeting or exceeding the quality standards as indicated in the specifications. Services performed or products provided shall be performed/provided with that level of care and skill ordinarily exercised by members of the profession currently practicing in the same locality under similar conditions. In the event that the Contractor fails to meet the foregoing standard, Contractor shall perform at its own cost, and without reimbursement from the City, the professional services necessary to correct errors and omissions caused by the Contractor's failure to comply with the above standard and reported to Contractor within one (1) year from the completion of the Contractor's services for this project and shall indemnify the City from any damages caused as a result thereof.

In the execution of the Work herein provided, for there may be interference with and/or damage to trees, shrubbery, crops, fences, railroad tracks, overhead structures, underground structures, water mains, drains, service connections, wires, pipes, conduits or other structures or items located along, adjacent to and/or crossing the locations of the Work, and that it may be necessary to relocate or reconstruct certain of such structures, improvements and installations and/or to make repairs to the same by reasons of doing the Work herein provided for, and it is particularly and specifically agreed that the Contractor shall do the Work necessary for such relocation, reconstruction and repair and shall bear and pay all of the cost and expense of such relocation, reconstruction and/or repair of and all damage done to all such items or adjacent properties existing at the date of execution of the Contract or at the time of the Work which may be interfered with, damaged, and/or relocated, reconstructed, replaced or repaired in the performance of the Work, including the restoration and resurfacing of public streets and alleys, rights of way, easements and private property damaged or disturbed by the work, the same to be restored to as good condition as existed at the time of commencement of the Work. In the case of any City or publicly owned property damaged by the Contractor, the Contractor shall restore or replace the same subject to any conditions that the City may impose; the Contractor should inquire regarding restoration standards prior to bidding on the project unless it is willing to accept any directives from the City in this regard. The Contractor shall indemnify and hold harmless the City and City Indemnites from any claims of third parties arising out of damage caused by the Contractor in the performance of the Work.

The successful Contractor shall execute a Contract in the form attached hereto as Exhibit D within five days of the date of notification that it is the successful Contractor. Failure to execute the Agreement shall constitute grounds for the City to retain the bid security of the Contractor as liquidated damages, and to annul the award of the bid to the Contractor (and to either rebid the Work or contract with another bidder).

3.03 Qualifications:

The Contractor shall be fully licensed to work in the City, and in the State of Illinois. The Contractor shall submit sufficient evidence of the Contractor's and the Contractor's subcontractors, if any, qualifications and abilities to complete the Contract, including references from similar relationships that are ongoing or recently completed. Subcontractors must also be licensed with the City.

Although price is a major consideration, product quality, references, service, delivery time and past experience, if applicable, will also be considered. No bid will be considered unless the Contractor shall furnish evidence satisfactory to the City that it has the necessary facilities, abilities, experience, equipment and financial and physical resources available to fulfill the conditions of the contract and execute the Work should the contract be awarded to it. Bid documents which are not responsive to the requirements herein may not be considered by the City for an award of the contract. The contract will be awarded to the lowest responsible bidder. In determining the responsibility of the bidder, the City may take into account other factors in addition to financial responsibility, such as past records of its or other entities transactions with the Contractor, experience, ability to work cooperatively with the City and its staff, adequacy of equipment, ability to complete performance within necessary time limits, and other

pertinent considerations such as, but not limited to, reliability, reputation, competency, skill, experience, efficiency, facilities and resources. The contract will be awarded in the City's best interests based on these and other legally-allowable considerations. The City and its representatives and agents may make any investigations deemed necessary to determine the ability of the bidder to perform the Work. The Contractor shall furnish any information and data requested by the City for this purpose.

3.03.01 Professional Services Selection Act:

The City of DeKalb complies with the Professional Services Selection Act, 50 ILCS 510/5 with regard to the selection of parties to perform covered professional services. Any reference in these terms and conditions to supplying pricing or price as a determining factor in selection does not apply to services covered by said act.

3.04 Contract Management:

This Contract will be under the administration of the City Representative. Detailed daily supervision of the Contract shall be provided by the City Representative or by his or her authorized delegate(s). Any alterations or modifications of the work performed under the Contract shall be made only by written agreement between the Contractor and the City Manager or City Council and shall be made prior to commencement of the altered or modified work. No claims for any extra work or materials shall be allowed unless preceded by written agreement.

3.05 Protection of Public and Private Property:

The Contractor shall exercise all necessary caution to protect pedestrian traffic from injury and to protect all public and private property from damage caused by the Contractor's operations. Any practice obviously hazardous in the opinion of the City Representative or site representatives shall be immediately discontinued by the Contractor upon receipt of either written or oral notice to discontinue such practice. The City has the right to immediately stop any operation deemed unsafe. The Contractor shall comply with all OSHA and other federal, state, and municipal safety standards and policies. The Contractor shall provide copies of OSHA logs upon request.

3.06 Concurrent Operations:

The proposed Contract is a nonexclusive agreement with the City. The City reserves the right to use other Contractors or its own employees to perform work similar to that being performed under the terms of the Contract. Performance of work by others shall be construed as being consistent with the terms of the Contract and shall not be cause for the Contractor to cease performance of work as directed.

3.07 Licenses and Permits:

The Contractor shall, at their expense, procure all necessary licenses and permits needed to conduct the work required under the terms of this Contract. The City shall waive the cost of all required City licenses, fees, and permits, with the exception of those licenses and fees associated with securing a business license to conduct business within the City.

3.08 Severability:

If any portion of this Contract is found to be unenforceable by a competent court of law having jurisdiction, the remaining portions of the Contract shall remain in full force and effect.

3.09 Accidents:

In the event of accidents of any kind, the Contractor shall immediately notify the City Supervisor and Police Department to secure a police report for insurance purposes and shall provide a full accounting of all details of the accident. The Contractor shall furnish the City's Legal Department with copies of all reports of such accidents at the same time that the reports are forwarded to any other interested parties.

The Contractor shall cooperate fully with any investigation of an accident which occurs on City property or within City buildings.

3.10 Sexual Harassment:

The City will not tolerate any act of sexual harassment by Contractors and their employees. Violation of this policy will be considered grounds for terminating either the Contract or the Contractor's employee from work on this Contract.

3.11 Blood borne Pathogens Exposure Control Plan:

The Occupational Safety and Health Administration (OSHA) in 29 CFR Part 1910.1030 requires the City and its contractors to develop a written exposure control plan for blood borne pathogens for their employees. Prior to execution of this agreement, the successful Contractor shall supply the City with a copy of their Blood Borne Pathogens Exposure Control Plan, which shall be subject to the review of and approval by the City as a condition of the contract. The successful Contractor shall also identify any other applicable regulations relating to the performance of its obligations and shall comply with such obligations (and submit a written plan to the City if required under the applicable regulations). This plan shall include engineering controls, work practices, personal protective equipment, employee training, and recordkeeping procedures for all employees who could be exposed to blood borne pathogens. Each Contractor shall be responsible for identifying covered employees, developing an exposure control plan, training employees, identifying and providing Personal Protective Equipment, and developing recordkeeping measures. Education and training records must be kept by the Contractor, to include name of employee, date(s) of training, and employee job title. The plan(s) shall be available to the City upon request. Contractor's employees shall assume that all human blood and body fluids containing human blood are infected with blood borne pathogens and shall follow the guidelines established by the Contractor.

3.12 Term of Contract:

The initial term of this Contract shall run for (1) year subject, however, to the right of the City to cancel and terminate the same at any time by giving a thirty (30) day notice in writing to the Contractor. In the event of such cancellation, the Contractor shall be entitled to receive payment for services and work performed, and materials, supplies and equipment furnished under the terms of the Contract prior to the effective date of such cancellation, but will not be entitled to receive any damages on account of such or any further payment whatsoever.

The following provisions apply only if checked:

- ☐ One time contract, no term after delivery.
- ☐ Upon normal expiration of the Contract, the Contractor shall continue, at the sole option of the City, to provide services on a month by month basis, under the same terms and conditions, for a period not to exceed four (4) months.
- ☒ One year contract. Upon mutual agreement, this contract may be extended for two additional one-year terms upon a ninety (90) day written notice from the City of its intention to exercise this option. A one (1) time economic adjustment for labor, material, supplies, and equipment costs shall be allowed for each one (1) year extension to the Contract after the initial one (1) year Contract period. This economic adjustment may not exceed the published Chicago Area Consumer Price Index (CPI) for the previous twelve (12) month period.
- ☐ Other: _____

The initial Contract places no obligation on the City to appropriate funds, and continuation of this Agreement beyond the initial term of the Contract and Contract extensions are dependent upon sufficient

funds being appropriated each fiscal year by the City for this work.

3.13 References:

Bidders shall provide a list of not less than five (5) current customers with their bid submittal, said information to include name and address of the firm, and contact names with their daytime phone number, that can speak to the quality of services provided by the Contractor, and the addresses of facilities maintained by the prospective firm. In the event Contractor proposes to utilize Subcontractors, five (5) references shall be provided for each Subcontractor as well.

3.14 Special and Unforeseen Work:

Due to the generalized nature of the work under this Contract, instances may occur where the City desires to have additional materials or services provided outside the original intent of this Contract. Payment for these services shall be made based on a bid price per man-hour for the performance of the additional work as bid on the *Bid Sheet*. Requests for additional work shall be authorized in writing only through the Director or designee.

Contractor shall make no claim against the City and no claim shall be allowed for any damages which may arise out of any delay caused by the City or City Indemnitees. Contractor's sole remedy for a City-caused delay shall be a day-for-day extension of time to complete the Contract.

3.15 Exceptions:

Any exceptions to the specifications are to be noted on the *Detail Exceptions Sheet* and included with the bid at the time of submittal.

3.16 Communications:

The Contractor shall set up a communication process that will enable City representatives to contact appropriate representatives from the Contractor twenty-four (24) hour a day, seven (7) days a week. The Contractor shall provide each Supervisor with a cellular phone, at the Contractor's expense, for communicating with the City officials. The Contractor and the City shall jointly establish a written message system whereby notice may be given by the City to the Contractor indicating problems, complaints, and other Contract discrepancies. The system shall include a method by which the Contractor shall formally respond to these requests and notices.

3.17 Security and Access:

The Contractor may be working in several areas which are under secured access and other areas which will be generally open to the public during reasonable hours for meetings and other uses. All secured areas shall be maintained in a secured condition and these areas shall be locked immediately upon completing the required work. All areas shall be secured when the Contractor has completed their daily operations.

Access cards or keys will be furnished to the Contractor for designated staff to use while in performance of the awarded contract. The access cards or keys will be issued from and shall be returned to a designated City employee at the completion of the contract. The Contractor's representative shall sign for each access card or key set received and a log shall be maintained by the City. The City Representative may establish additional restrictions relative to any access cards or key sets.

3.18 Hours of Work:

The Contractor shall schedule normal work hours for crews that consider the hours of operations for its services. The Contractor shall provide to the City Representative, for his or her approval, a schedule of proposed regular working hours for all buildings prior to the startup of the Contract. Any changes in these regularly scheduled hours shall require prior written notice to and approval by the City

Representative. All proposed hours of work shall comply with the then-current City of DeKalb noise ordinances as may be in effect, for work performed in the City of DeKalb.

3.19 Handling of Waste:

The Contractor shall ensure that their personnel properly dispose of waste and recyclables. This shall include recyclable goods and bio-hazards, in accordance with the plans and procedures approved by the City. Under no circumstances shall the contractor dispose of recyclable materials in the trash.

3.20 Work Crew Supervision:

The Contractor shall provide qualified Supervisors to supervise each crew engaged in work under the Contract. The Supervisor shall be authorized by the Contractor to accept and act upon all directives issued by the City Representative. Failure of a Supervisor to act on said directives shall be sufficient cause for the City to give notice that the Contractor is in default of the Contract unless such directives would create potential personal injury or safety hazards, or such directives are contrary to the intent of these specifications.

The Supervisors shall be responsible for the instruction and training of personnel in the proper work methods and procedures. The Supervisors will schedule and coordinate all services and functions as required by the Contract and as specified in the task schedules.

Each Supervisor is required to check and verify Contract compliance before work crews leave each day. The Supervisor shall inform the City Representative of any item(s) which require additional follow-up to fully meet the Contract requirements. Written reports shall be submitted to the City Representative on such basis as the City Representative shall require, but not more frequently than daily.

The Supervisors shall be physically fit, fluent in both written and spoken conversational English, self-motivated, and capable of working without direct supervision.

3.21 Contractor's Personnel:

The Contractor shall be expected to supply a sufficient number of personnel to be able to complete all workmanship standards as set forth in these specifications. All of the Contractor's personnel shall be fluent in both written English, where essential to the performance of responsibilities, and spoken conversational English, self-motivated, capable of working without direct supervision, and have received appropriate training in order to deal with sexual harassment and bio-hazard handling situations.

☒ The following bracketed paragraph applies only if this section is checked.

All Contractor employees shall display City approved photo identification badges while working on City premises. No employees shall be allowed access to any area without displaying the required identification badge. Employees shall wear uniforms, which shall consist of a shirt/blouse and pants, consistent in color and appearance, featuring a company identification patch at all times while working on City premises. The City shall be informed of any changes in the uniform articles that the Contractor plans to introduce; uniforms shall be subject to pre-approval by the City.

3.21.01 Background Investigation:

Where the Contractor is engaging in work of a sensitive nature or working in an environment with exposure to confidential information, or under such other circumstance as the City shall deem appropriate, the City may require the Contractor to comply with the terms of this section 3.21.01. In such case, prior to commencing work, the Contractor shall submit to the Chief of Police, or designee, the names, home addresses, date of birth, social security numbers, immigration documents (if applicable), and driver's license numbers of all employees to be engaged in work specified herein, or having access to the

buildings in an inspecting or supervisory capacity, and the Contractor shall cause to be completed fingerprint charts and personal history statements of all employees. ***No employees shall commence work at any time during the Contract period until the above listed information has been submitted to and written clearance received from the Chief of Police.*** The Contractor shall provide written authorization from prospective employees for the City to perform the security clearances required in this Contract. Employees of the Contractor shall be subject to the same standards of pre-employment examinations as regular full-time employees of the City and shall be held to the same standards of conduct. The Contractor will provide and maintain a current list of employees working on the City account to include locations and times at locations. Copies for the listing shall be issued to the Chief of Police, Director, and Foreman.

The City shall have and shall exercise full and complete control over granting, denying, withholding, or terminating clearance for Contractor's employees. Employees whom the City deems careless, discourteous, or otherwise objectionable or who cannot meet standards required for security or other reasons shall be prohibited from performing work.

MATERIALS AND EQUIPMENT

4.01 City to Furnish:

In support of this Contract, the City will supply the Contractor with any items listed on the description of Work. No other items shall be supplied by the City, without the City's express, written consent.

4.02 Contractor to Furnish:

The Contractor shall provide, at his/her expense and at no additional cost to the City, all other equipment and supplies required to support the work activities as specified, with the exception of those items being provided by the City as itemized herein.

4.03 Standards and Workmanship:

It is the intent of these specifications for the Contractor to provide a high level of service. The following statements indicate the general standards and workmanship to be furnished under this Contract. More detailed standards and specifications are provided later in these specifications.

4.03.01 Restrictive or Ambiguous Specifications:

It is the responsibility of the bidding firm to review the invitation to bid specifications and to notify the City Representative if the specifications are formulated in a manner that would unnecessarily restrict competition. Any such protest or question regarding the specifications or invitation to bid procedures must be received by the City before the end of the question period as stated on the bid coversheet. In the event a contract term is not defined within the contract document, the term will be given its ordinary dictionary meaning.

PERFORMANCE AND PAYMENT

5.01 Disputes:

The Contractor will be expected to faithfully perform all work as set forth in these specifications. If the Contractor fails to faithfully perform in accordance with the specifications or if a dispute arises as to the quality and/or quantity of work completed, the City Representative reserves the right to withhold authorization for payment of completed work until such time that performance has been improved or the

dispute resolved. In those instances, when a dispute cannot be resolved between the Contractor and the City Representative, the dispute shall be resolved by the City Manager whose decision shall be final.

5.02 Payment:

Payment for all work completed and accepted will be made on a monthly basis (where possible, based upon the schedule for submittal of items to regularly scheduled City Council meetings) per the Contract prices including other agreements authorized in writing as per *Special and Unforeseen Work*. The Contractor shall submit an itemized monthly invoice, by facility, to the City for all work completed during the month, on or before the first Monday of the following month.

The Contractor shall also submit with the monthly invoice their current price list, and a copy of the Contractor's invoice for the applicable supplies provided to the City, all of which is for informational purposes only. The City will make payment within thirty (30) days of receipt of invoice and acceptance by the City.

5.02.01 Taxes:

No charge will be allowed for taxes which the City is exempt from paying. The City of DeKalb is not liable for the Illinois Retailers' Occupation Tax, the Service Occupation Tax or the Service Use Tax. The City is also exempt from Federal Excise and Transportation Tax.

6.01 Penalties:

Any deficiency communicated in writing to the Contractor, and not corrected within the time limits allotted by the City Representative, shall become subject to a financial penalty for nonperformance or substandard performance (including inappropriate materials and equipment). Penalties, if any, shall be withheld from the monthly payment by the City. Penalties, if applied, do not limit the right of the City to seek other redress for nonperformance or substandard performance. Penalties shall be assessed per occurrence. The purpose of penalties is to ensure quality of service to the City. For the purpose of penalties, the monthly fee shall be the yearly price divided by twelve (12). Assessment of any penalty shall in no way absolve the Contractor from the responsibility to complete or correct the unsatisfactory or uncompleted work. The City reserves the right to set aside additional retention if deemed necessary by the City to protect against any deficient performance or to otherwise protect the City's interests.

Exhibit A: Detailed Cost Sheet

Chlorine 2.3 (150 pound Cylinders)

Note: The total extended cost must be transferred to the *Bid Sheet*. Failure of the Bidder to complete the *Detailed Cost Sheet* OR transfer the extended total cost to the *Bid Sheet* may be cause for rejection of the bid submittal.

City of DeKalb
1216 Market St.
DeKalb, IL 60115

Bid Opening: Monday, October 3, 2:00 p.m.

Company Name: Water Solutions

Telephone: 317-736-6868

Address: 8824 Union Mills Dr.

Fax: 317-736-4322

City, State, Zip: Camby, In 46113

Email: mricksegetwsu.com

Contact Person: Mike Ricks

BID PRICE:

Contract Period:

January 1, 2023 and will expire on December 31, 2023 (12 months)

(Upon mutual agreement, this contract may be extended for two additional one-year terms upon a ninety (90) day written notice from the City of its intention to exercise this option)

Chlorine 2.3 (150 pound cylinders) \$ 20 /per pound

***Price per pound must include all charges including: delivery and fuel surcharges and any other charges which may affect the bid price as stated above.

List any and all deviations from minimum specifications:

I certify that I am acting as an agent for the firm designated below and that the firm will sell to the City of DeKalb the product (s) described herein for the amount specified above. Further, I certify that all exceptions or deviations from the attached detailed specifications are clearly stated in writing and the price quoted shall include all terms specified unless otherwise noted.

Mike Ricks
Signature of Authorized Representative

Mike Ricks, president
Name and Title of Authorized Representative

Exhibit B: Bid Sheet

Chlorine 2.3 (150 pound Cylinders)

Note: the Bidder must complete all portions of the Bid Sheet.

The undersigned, having examined the specifications and all conditions affecting the specified project, offer to furnish all services, labor, and incidentals specified for the price below.

The undersigned Bidder certifies that they are not barred from bidding on this contract as a result of a conviction for the violation of state laws prohibiting bid rigging or bid rotating, (720ILCS 5/33E-1, et seq.) and is not delinquent in any taxes to the Illinois Department of Revenue. (65ILCS 5/11-42.1-1)

It is understood that the City reserves the right to reject any and all bids and to waive any irregularities and that the prices contained herein will remain valid for a period of not less than sixty (60) days.

I (We) propose to complete the following project as more fully described in the specifications for the following:

Bidding Company Name: Water Solutions Unlimited

Total, Not-To-Exceed Price: \$ no bid /pound

☐ **Our firm has not altered any of the written text within this document. Only those areas requiring input by the respondent have been changed or completed.**

If it is the Contractor's intention to utilize a subcontractor(s) to fulfill the requirements of this contract, the City must be advised of the subcontractor's company name, address, telephone and fax numbers, and a contact person's name at the time of bid submittal.		
Will you be utilizing a subcontractor?	YES	NO
If yes, have you included all required information with your bid submittal?	YES	NO
Are your subcontractors registered to do business with the City?	YES	NO

- OR -

INDEMNIFICATION: The Bidder hereby agrees to protect, defend, indemnify, and save harmless the City against loss, damage, or expense from any suit, claim, demand, judgment, cause of action, or shortage initiated by any person whatsoever, arising or alleged to have arisen out of work described herein, except that in no instance shall the Bidder be held responsible for any liability, claim, demand, or cause of action attributable solely to the intentional misconduct of the City. The Bidder agrees to indemnify, defend, insure and hold harmless the City in compliance with the most stringent language in this bid package.

I hereby certify that the item(s) proposed is/are in accordance with the specifications as noted and that the prices quoted are not subject to change; and that the Company submitting this bid complies with the Bidder Certifications included in the Form of Agreement attached as Exhibit D.

TOTAL PRICE: The Bidder hereby affirms and states that the prices quoted herein constitute the total hourly cost to the City for all work involved in the respective items and that this cost also includes all insurance, royalties, transportation charges, use of all tools and equipment, superintendence, overhead expenses, all profits and all other work, services and conditions, necessarily involved in the work to be done and materials to be furnished in accordance with the requirements of the Contract Documents considered severally and collectively.

<u>Water Solutions Unlimited</u>	<u>Mike Ricks President</u>
Bidder's Firm Name	Signed Name and Title
<u>8824 Union Mills Dr.</u>	<u>Mike Ricks, president</u>
Street Address	Print Name and Title
<u>Camby In</u> <u>46113</u>	<u>mricks@getwsu.com</u>
City State Zip Code	E-mail Address
<u>317-736-6868</u>	<u>317-736-4322</u>
Phone Number	Fax Number
<u>9-22-2022</u>	
Date	

Exhibit C: Detailed Exceptions Sheet

Chlorine 2.3 (150 pound Cylinders)

EXCEPTIONS: Any exception to any term of this document or to the Agreement must be clearly noted on the *Detail Exceptions Sheet(s)*. Failure to do so may be reason for rejection of the bid. It is not our intention to prohibit any potential Bidder from bidding by virtue of the specifications, but to describe the material(s) and service(s) actually required. The City reserves the right to accept or reject any or all exceptions.

DETAIL EXCEPTIONS SHEET MUST BE ENCLOSED WITH BID SHEET. ATTACH ADDITIONAL PAGES IF NECESSARY.

Bidder's exceptions are:

SECTION NUMBER	EXCEPTION TITLE	EXCEPTION DETAIL

Exhibit D: Form of Agreement

Chlorine 2.3 (150 pound Cylinders)

Independent Contractor Agreement for Services

THIS AGREEMENT, by and between the City of DeKalb, hereinafter referred to as the "City" and "Water Solutions" hereinafter referred to as the "Contractor", with the City and Contractor agreeing as follows

A. Services:

Contractor agrees to furnish to the City the following services:

See attached Exhibit F

Contractor represents that it possesses the skills and knowledge necessary to provide all such services and understands that the City is relying upon such representation. Contractor further acknowledges that Exhibit A is an integral part of this Agreement and may not be modified except in accordance with a modification to the terms of this Agreement.

B. Term:

Services will be provided as needed and directed by the City beginning on the date of execution of this agreement and continuing, until terminated by either party upon 7 days written notice to the non-terminating party. Upon termination the Contractor shall be compensated for all work performed for the City prior to termination and shall provide to the City all work completed through the date of termination. The City's issuance of a notice of termination shall function as a stop work order, beyond which the Contractor shall not incur any additional costs without the City's express, written permission.

C. Compensation:

Contractor shall receive as compensation for all work and services to be performed herein, an amount based on the fee schedule attached hereto as Exhibit A and B. All payments will be made according to the Illinois State Prompt Payment Act.

Any payment made to the Contractor shall be strictly on the basis of quantum merit. The Contractor shall submit to the City a detailed breakdown and invoice of all charges, including detail of past payments and amounts still remaining due, accurate to the date of the invoice, with each request for payment. Any additions to or deductions from the approved total amount of the contract, and any out of scope work shall require prior, written approval from the City. Any work performed without the City's express, written consent shall be solely at the expense of the Contractor.

Prior to tendering any payment to Contractor, Contractor shall provide the City with a completed W-9 form.

D. Changes in Rates of Compensation (and Prevailing Wages):

If the Contractor seeks to impose any change in the fee schedule (whether in terms of hourly fee or lump sum fees), then the Contractor shall provide not less than ninety days written notice of its intent to change its fee schedule, and any such change in fee schedule shall require the approval of the City. To the extent applicable, the contractor shall further comply the requirements of the Prevailing Wage Act in that all laborers, mechanics and other workers performing work under this Agreement which is subject to the Prevailing Wage Act shall be paid not less than the general prevailing rate of hourly wage as provided for in 820 ILCS 130/1 et seq.

E. Ownership of Records and Documents / Confidential Information:

Contractor agrees to keep and maintain all books and records and other recorded information required to comply with any applicable laws, including but not limited to the Prevailing Wage Act. Contractor agrees to keep such information confidential and not to disclose or disseminate the information to third parties without the consent of the City. Contractor further agrees to keep as confidential any information belonging or relating to the City which is of a confidential nature, including without limitation information which is proprietary, personal, required by law to be confidential, or relates to the business, operations or accounts of the City. This confidentiality shall not apply to material or information, which would otherwise be subject to public disclosure through the freedom of information act or if already previously disclosed by a third party. Contractor acknowledges that the Freedom of Information Act, 5 ILCS 140/1 et seq. (the "Act") places an obligation on the City to produce certain records that may be in the possession of Contractor. Contractor shall comply with the record retention and documentation requirements of the Local Records Act 50 ILCS 205/1 et seq. and the Act and shall maintain all records relating to this Agreement in compliance with the Local Records Retention Act and the Act (complying in all respects as if the Contractor was, in fact, the City). Contractor shall review its records promptly and produce to the City within two business days of contact from the City the required documents responsive to a request under the Act. If additional time is necessary to comply with the request, the Contractor may request the City to extend the time do so, and the City will, if time and a basis for extension under the Act permits, consider such extensions.

F. Governing Law:

This contract shall be governed and construed in accordance with the laws of the State of Illinois. Venue and jurisdiction for any legal action arising out of or related to this Agreement shall be exclusively fixed in the DeKalb County Circuit Court, DeKalb County, Illinois.

G. Independent Contractor:

Contractor shall have sole control over the manner and means of providing the work and services performed under this agreement. The City's relationship to the Contractor under this agreement shall be that of an independent contractor. Contractor will not be considered an employee to the City for any purpose. The parties agree that the Contractor is exclusively responsible for the determination of what work is required to complete the tasks outlined in Exhibit F, and for the means and methods of completing such work. The City's compensation to Contractor shall be limited to that described in Exhibits A and B, and the City shall not reimburse any expenses, provide any benefits, withhold any employment taxes or otherwise have a financial relationship with Contractor other than payment of the stated compensation. The Contractor shall be solely responsible for withholding of taxes, providing employee benefits, or otherwise complying with applicable laws relating to its employees or contractors.

In the event that the City determines, in its sole discretion, that it is economically advantageous for the City to provide certain supplies or tools for use by Contractor in lieu of paying Contractor to

provide the same, the City and Contractor agree that Contractor shall then utilize the City's equipment or supplies according to its own determination of their best and appropriate use. Contractor shall be responsible for its' own personnel, training, instruction and related matters. Contractor shall be responsible for determining its sequence of performance for required work. Contractor's work shall be evaluated by the City based upon the end result of such work. Contractor shall be responsible for any expenses incurred by Contractor in the performance of its work, and shall not be authorized, expressly or impliedly, to obligate the City on any debt, contract or other agreement whatsoever. In the event that Contractor is compensated on an hourly basis under the terms of this Agreement, the City and Contractor agree that Contractor's compensation is usual and customary, based on the terms that Contractor offers its services to the market in general.

The Contractor acknowledges that neither it nor its personnel shall be acting as an employee or official representative of the City for purposes of being offered any protection or coverage under City insurance policies for tort immunity or other legal purposes.

H. Certifications:

Executing this Agreement constitutes acknowledgment, acceptance, and certification of the accuracy of the following certifications, and any other certifications required under any applicable law relating to the performance of this Agreement. The Contractor is responsible for identifying all such applicable regulations and certifications, and for compliance with the same.

Sexual Harassment: The Contractor certifies that it is in compliance with the Illinois Human Rights Act 775 ILCS 5/1.101, et seq. including establishment and maintenance of sexual harassment policies and program.

Tax Delinquency: The Contractor certifies that it is not delinquent in payment of any taxes to the Illinois Department of Revenue in accordance with 65 ILCS 5/11-42.1, and is not delinquent in the payment of any tax, charge or obligation to the City of DeKalb.

Employment Status: The Contractor certifies that if any of its personnel are an employee of the State of Illinois, they have permission from their employer to perform the service.

Anti-Bribery: The Contractor certifies it is not barred under 30 Illinois Compiled Statutes 500/50-5(a) - (d) from contracting as a result of a conviction for or admission of bribery or attempted bribery of an officer or employee of the State of Illinois or any other state.

Loan Default: If the Contractor is an individual, the Contractor certifies that he/she is not in default for a period of six months or more in an amount of \$600 or more on the repayment of any educational loan guaranteed by the Illinois State Scholarship Commission made by an Illinois institution of higher education or any other loan made from public funds for the purpose of financing higher education (5 ILCS 385/3).

Felony Certification: The Contractor certifies that it is not barred pursuant to 30 ILCS 500/50-10 from conducting business with the State of Illinois or any agency as a result of being convicted of a felony.

Barred from Contracting: The Contractor certifies that it has not been barred from contracting as a result of a conviction for bid-rigging or bid rotating under 720 ILCS 5/33E-3 (Bid Rigging) or 720 ILCS 5/33-4 (Bid Rotating) or a similar law of another state or of the federal government.

Prevailing Wage: The Contractor certifies that it shall comply with all applicable provisions of the Prevailing Wage Act, and further certifies that it is not in violation of said Act and has not been barred from bidding on this proposal by virtue of a past violation of the Act. A copy of the most recent available list of prevailing wages is attached hereto or has been provided to the Contractor. The Contractor is responsible for regularly updating said list as new prevailing wage rates are made available by the City or by the Illinois Department of Labor. The Illinois Department of Labor posts regular updates to prevailing wage rates on its official website, which is currently www.illinois.gov/idol. This notice is given pursuant to 820 ILCS 130/4 and the balance of the Illinois Prevailing Wage Act, which is incorporated herein by reference as if fully restated. In the event that this is a public works project as defined under the Prevailing Wage Act, Proposer agrees

to comply with the Substance Abuse Prevention on Public Works Projects Acts, 820 ILCS 265/1 *et seq.*, and further agrees that all of its subcontractors shall comply with such Act. As required by the Act, Contractor agrees that it will file with the City, prior to commencing work, its written substance abuse prevention program and/or that of its subcontractor(s) which meet or exceed the requirements of the Act.

Drug Free Workplace: The Contractor certifies that it is in compliance with the Drug Free Workplace Act (30 Illinois Compiled Statutes 580) as of the effective date of this contract. The Drug Free Workplace Act requires, in part, that Contractors, with 25 or more employees certify and agree to take steps to ensure a drug free workplace by informing employees of the dangers of drug abuse, of the availability of any treatment or assistance program, of prohibited activities and of sanctions that will be imposed for violations; and that individuals with contracts certify that they will not engage in the manufacture, distribution, dispensation, possession, or use of a controlled substance in the performance of the contract. The Contractor further certifies that it maintains a substance-abuse program and provide drug testing in accordance with 820 ILCS 130/11G, Public Act 095-0635. The Contractor shall also comply with the Federal Highway Administrative Rules on Controlled Substances and Alcohol Use and Testing, 49 CFR Parts 40 and 382 and that all of Contractor's drivers are currently participating in a drug and alcohol testing program pursuant to the Rules.

Responsible Contractor Requirements: The Contractor certifies that it complies with the Illinois Procurement Code and the provisions of Section 30-22 thereof relating to apprenticeship and training, if applicable. The Contractor further certifies for work that will be performed by subcontract that each of its subcontractors submitted for approval either is in compliance or will begin participation in an approved apprenticeship and training program prior to commencing any Work. The Illinois Department of Labor, at any time before or after award, may require production of a copy of each applicable Certificate of Registration issued by the United States Department of Labor evidencing such participation by the Contractor and all of its Subcontractors. Applicable apprenticeship and training programs are those that have been approved or registered with the United States Department of Labor. The Contractor shall provide to the City, upon request, copies of all Certificates of Registration, and copies of all work or craft job category included in the Work, along with such other records as the City may require. Any records or logs required to be provided by law shall be provided by the Contractor, without requiring a request from the City.

Non-Discrimination, Certification, and Equal Employment Opportunity: The Contractor agrees to comply with applicable provisions of the Illinois Human Rights Act (775 Illinois Compiled Statutes 5), the U.S. Civil Rights Act, the Americans with Disabilities Act, Section 504 of the U.S. Rehabilitation Act and the rules applicable to each. The equal opportunity clause of Section 750.10 of the Illinois Department of Human Rights Rules is specifically incorporated herein. The Contractor shall comply with Executive Order 11246, entitled Equal Employment Opportunity, as amended by Executive Order 11375, and as supplemented by U.S. Department of Labor regulations (41 C.F.R. Chapter 60). The Contractor agrees to incorporate this clause into all subcontracts under this Contract. The Contractor acknowledges that neither it nor the City shall discriminate on the basis of any protected classification.

Record Retention and Audits: If 30 ILCS 500/20-65 requires the Contractor (and any subcontractors) to maintain, for a period of 3 years after the later of the date of completion of this Contract or the date of final payment under the Contract, all books and records relating to the performance of the Contract and necessary to support amounts charged to the City under the Contract. The Contract and all books and records related to the Contract shall be available for review and audit by the City and the Illinois Auditor General. If this Contract is funded from contract/grant funds provided by the U.S. Government, the Contract, books, and records shall be available for review and audit by the Comptroller General of the U.S. and/or the Inspector General of the federal sponsoring agency. The Contractor agrees to cooperate fully with any audit and to provide full access to all relevant materials.

United States Resident Certification: (This certification must be included in all contracts involving personal services by non-resident aliens and foreign entities in accordance with requirements imposed by the Internal Revenue Services for withholding and reporting federal income taxes.) The Contractor certifies that he/she/it is a: ☐ United States Citizen or Corporation

☐ Resident Alien ☐ Non-Resident Alien. The Internal Revenue Service requires that taxes be withheld on payments made to non-resident aliens for the performance of personal services at the rate of 30%.

Tax Payer Certification: Under penalties of perjury, the Contractor certifies that its Federal Tax Payer Identification Number or Social Security Number is _____ and is doing business as a (check one): ☐ Individual ☐ Real Estate Agent ☐ Sole Proprietorship ☐ Government Entity ☐ Partnership ☐ Tax Exempt Organization (IRC 501(a) only) ☐ Corporation ☐ Not for Profit Corporation ☐ Trust or Estate ☐ Medical and Health Care Services Provider Corp.

Authorized in Illinois: The Contractor certifies that it is authorized to lawfully transact business in the State of Illinois, under all applicable Illinois laws and regulations. The Contractor certifies that it shall comply with the Corporate Accountability for Tax Administration Act, 20 ILCS 715/1, *et. seq.* Where applicable, the Contractor certifies that it is not barred from bidding by virtue of having been adjudicated to have committed a willing or knowing violation of Section 42 of the Environmental Protection Act within the five years preceding this bid, pursuant to 415 ILCS 5/1, *et. seq.* The Contractor further certifies that it is in compliance with all applicable requirements of the Business Enterprise for Minorities, Females and Persons with Disabilities Act, 30 ILCS 575/1, *et. seq.*

Export Administration, Supplies, Labor: The Contractor certifies that neither it nor any substantially owned affiliate is participating, nor shall participate, in an international boycott which is in violation of the provisions of the US Export Administration Act of 1979 or the regulations of the US Department of Commerce promulgated under the Act, including but not limited to the requirements of 30 ILCS 582/5. The Contractor further certifies that no foreign made equipment, materials or supplies furnished under the proposal or agreement have been or will be produced in whole or in part by forced labor, convict labor, or indentured labor, nor made in whole or in part by the labor of any child under the age of 12, under penal sanction pursuant to 30 ILCS 583/1 and 30 ILCS 584/1. The Contractor certifies that steel products used or supplied in the performance of a contract for public works shall be manufactured or produced in the United States, unless the City Manager grants an exception to said requirement, pursuant to 30 ILCS 565/1, *et. seq.*

General Compliance and Certification: The Contractor certifies that it has and will comply with all other applicable laws, regulations, ordinances or restrictions applicable to any component of the bidding process, agreement, or any services or materials provided in connection therewith. The Contractor acknowledges that it is responsible for identifying and complying with all applicable laws, ordinances, rules and regulations, and that it shall indemnify and hold harmless the City of DeKalb from any claim, liability or damages arising out of the failure to identify or comply with any such applicable legal restriction. The City reserves the right to reject any bid, cancel any contract or pursue any other legal remedy deemed necessary should it become aware of any violation of any laws, ordinances, rules or regulations on the part of the Contractor or any subcontractor.

OSHA Standards: The Contractor certifies that it will identify and comply with all requirements and standards imposed by the Occupational Safety and Health Act. All guards and protectors, all appropriate markings, and all other protections shall be in place prior to delivery of any item, and at all times during performance of any Work.

CERCLA Indemnification: The Contractor certifies that it shall, to the maximum extent permitted by law, indemnify, defend and hold harmless the City, and City Indemnitees from and against any and all liability, including without limitation, costs of response, removal, remediation, investigation, property damage, personal injury, damage to natural resources, health assessments, health settlements, attorneys' fees, and other related transaction costs arising under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 USC 9601, *et. seq.*, as amended from time to time, and all other applicable statutes, regulations, ordinances, and under common law for any release or threatened release of the waste material collected by the Contractor both before and after its disposal.

Buy America: The Contractor certifies that, if required, it shall comply with 49 USC 5323(j), the Federal Transportation Administration's (FTA) Buy America regulations at 49 CFR Part 661, and any amendments thereto, and any implementing guidance issued by the FTA, with respect to this contract, when financed by Federal funds (through a grant agreement or cooperative

agreement), and to submit to the City an executed Buy America Certificate in a form acceptable to the City.

Collusion: The Contractor certifies that it is not colluding with any other party or person in the preparation or submittal of this Agreement.

I. Indemnification:

Contractor shall indemnify and hold harmless the City and City's agents, servants, and employees against all loss, damage, taxes, liabilities, charges or expense, including but not limited to attorneys' fees and court costs, which the City may sustain or for which it may become liable on account of injury to or death of persons, or on account of damage to or destruction of property resulting from the performance of work under this agreement by Contractor or its Subcontractors, due to or arising in any manner from the intentional or wrongful act or negligence of Contractor or its Subcontractors of any employee of any of them, or otherwise arising out of this Agreement or the Contractor's performance of services on behalf of the City.

The Contractor shall be responsible for any and all damages to property or persons arising out of an error, omission, and/or negligent act in the prosecution of the work or failure to prosecute the work and shall indemnify and hold harmless the City, its officers, agents, and employees from all suits, claims, actions or damages of any nature whatsoever resulting therefrom. The Company shall assume all restitution and repair costs arising out of an error, omission and/or negligence.

J. Insurance, Licensure and Intellectual Property:

The Contractor shall comply with all insurance requirements described on the attached Exhibit E. The Contractor agrees and warrants that it has procured all licenses, permits or other official permissions required by any applicable law to perform the services contemplated herein, that it will procure all additional licenses, permits or other official permissions hereafter required by law during the term of this Agreement, and that it will keep all such licenses in effect during the term of this Agreement. The Contractor shall provide a copy of any such licenses or permits upon request. All such insurance and licensure shall be provided at the Contractor's sole expense. Contractor also warrants that it has complete ownership or authorization/entitlement to any intellectual property, software, images or other such items used in the performance of its work under this Agreement, and that it shall transfer to the City, unrestricted, the ability to modify, amend, publicize or otherwise utilize any intellectual property provided to the City under this Agreement unless the City expressly preapproves in writing a limitation to these provisions.

The Contractor shall not commence work under this Contract until they have obtained all insurance required and such insurance has been submitted to and approved by the City, nor shall the Contractor permit any Subcontractor to commence work on any subcontract until the same insurance has been obtained by the Subcontractor. The Company and all Subcontractors shall maintain their insurance in place for not less than two (2) years following completion of all work required under this Contract.

All drawings, specifications, reports and any other project documents prepared by the Contractor in connection with any or all of the services to be furnished thereunder shall be delivered to the City for the expressed use of the City. The Contractor shall have the right to retain original documents, but shall cause to be delivered to the City such quality of documents so as to assure total reproducibility of the documents delivered. All information, worksheets, reports, design calculations, plans and specifications shall be the sole property of the City unless otherwise specified in the negotiated agreement. The Contractor agrees that basic survey notes and sketches, charts, computations and other data prepared or obtained by the Contractor pursuant to this Agreement shall be made available, upon request, to the City without cost and without restriction or limitation as to their use. All field notes, test records, and reports shall be available to the City upon request.

The prices included on this Agreement include all royalties and costs arising in the Work. Any items or services provided shall be provided to the City subject to the Contractor's legal right to provide the same. The Contractor shall indemnify and hold harmless the City and City Indemnitees from any and all claims for infringement by reason of the use of any such patent design, device, materials or process, to be performed or used under the Agreement, and shall indemnify and hold harmless the City for any costs, expenses, attorneys' fees and damages which it may be obligated to pay, by reason of any infringement at any time during the prosecution or after completion of the Work.

K. Additional Terms or Modification:

The terms of this agreement shall be further modified as provided on the attached Exhibits and the Contract Documents. Except for those Exhibits, no additional terms are included as a part of this agreement. All prior understandings and agreements between the parties are merged into this agreement, and this agreement may not be modified orally or in any manner other than by an agreement in writing signed by both parties. The City reserves the right by written amendment to make changes in requirements, amount of work, or time schedule adjustments. The Contractor shall negotiate appropriate adjustments acceptable to both parties to accommodate any changes. The City may, at any time by written order, require the Contractor to stop all or part of the services required by this Agreement. Upon receipt of such an order, the Contractor shall immediately comply with its terms.

L. Notices:

All notices required to be given under the terms of this License shall be given mail, addressed to the parties as follows:

For the City:

City Manager
City of DeKalb
164 E. Lincoln Hwy.
DeKalb, IL 60115

For the Contractor:

Mike Ricks
Water Solutions
8824 Union Mills Dr
Camby, IN 46113

Either of the parties may designate in writing from time to time substitute addresses or persons in connection with required notices.

M. Subcontractors and Third Parties:

Contractor shall not assign or subcontract for the performance of any obligation under this Agreement, except with the express, written preapproval of the City, which consent may be withheld in the City's sole and absolute discretion. Should Contractor assign any obligation arising under this Agreement with the consent of the City, the Contractor shall remain to be primarily liable to the City for the performance of the obligation in question, and further shall be liable for ensuring that the subcontractor(s) comply with all obligations arising under this Agreement as if the subcontractor(s) was/were the Contractor itself. Further, should Contractor request to assign the performance of any obligation arising hereunder to a subcontractor, Contractor expressly provides its consent to the City contracting directly with such proposed subcontractor (or another subcontractor acceptable to the City) for the performance of such work, and to the amendment of this Agreement to reduce the scope and cost accordingly.

Nothing contained in this Agreement, nor the performance of the parties hereunder, is intended to benefit, nor shall it inure to the benefit of any third party.

N. Progress Reports:

Contractor shall report to the City Manager or her designee, and shall submit written progress reports identifying, in detail, the extent of work completed, the percentage of project completion, and project status, accompanying any invoice submitted to the City. Contractor shall also provide additional written or verbal progress reports to the City upon request, at any time, without additional charge. The Contractor shall attend conferences and visit the site of the work as may be outlined in the Request for Proposal and at any reasonable time when requested to do so by the City, at no additional charge.

O. Document Correction / Supplements:

Contractor agrees and acknowledges that the terms of the Contract Documents shall be binding upon this Work, notwithstanding the failure of this Agreement or the actions of the City to the contrary. No act by the City (other than a written amendment to these Contract Documents), including but not limited to payment of Contractor's invoices, shall waive the City's ability to later insist on strict compliance with the terms of these Contract Documents. Contractor agrees and acknowledges that it shall execute corrected documents upon request by the City if any error or discrepancy is identified by the City, and shall provide certificates of insurance or other security required hereunder at any time, upon request of the City, notwithstanding the City's failure to previously demand the same.

Agreed to this 22 day of September, 2022

City of DeKalb

Contractor

City Manager

Executive Assistant

Caryn Morris
Mike Ricks

Exhibit E: Insurance Requirements:

1. All Contractors and All Contracts.

Contractor shall provide any and all insurance required under any applicable law, regulation, statute or ordinance, including but not limited to workers' compensation insurance, unemployment insurance, automobile liability insurance and other legally required insurance. Contractor shall produce a certificate evidencing current coverage, upon request from the City. Contractor shall indemnify and hold harmless the City from any and all liability, damage, cost or expense which the City may incur or be liable to pay as a result of any and all accidental injuries or damages suffered by the Consultant or its employees (in addition to any other required indemnification or insurance from Consultant).

2. Certificates and General Conditions:

Unless otherwise indicated herein, any certificate of insurance shall further indicate that the City is additional *primary* insured on such policy of insurance, shall indicate that such policies shall not have any right of subrogation against the City or the City's insurers, and shall indicate that said policy shall not be cancelled or revoked except after the provision of not less than thirty (30) days notice to the City. Contractor shall maintain said policy in full force and effect for the duration of this Agreement, and shall periodically provide updated certificates of insurance to evidence continuing coverage in compliance herewith. For purposes of this Agreement and insurance provided hereunder, the "City" shall include the City of DeKalb, its employees, appointed and elected officers, its committees, its attorneys, and all corporate bodies that exist as a subsidiary to the City.

3. Comprehensive General Liability Coverage Requirements.

Unless this Section 3 of Exhibit E is clearly marked out as being inapplicable, Contractor shall also be required to provide the City with a Certificate of Insurance, in a form and from an issuer acceptable to the City, indicating that the Contractor has obtained and maintains comprehensive general liability insurance with policy limits of not less than One Million Dollars (\$1,000,000.00) per person / Two Million Dollars (\$2,000,000.00) per occurrence. This insurance shall include independent contractors' protective liability, products and completed operations broad form property damage coverage. The completed operations and products liability coverage shall be maintained for at least two years after final payment. The coverage shall also include contractual liability insurance coverage for the Contractor's obligations to indemnify and hold harmless the City and the City Indemnitees.

4. Automobile Insurance Coverage:

Unless this Section 4 of Exhibit E is clearly marked out as being inapplicable, Contractor shall also be required to provide the City with a Certificate of Insurance, in a form and from an issuer acceptable to the City, indicating that the Contractor has obtained and maintains comprehensive automobile liability insurance with policy limits of not less than One Million Dollars (\$1,000,000.00) per person / Two Million Dollars (\$2,000,000.00) per occurrence. This policy shall include coverage for all owned, hired and non-owned automobiles used in furtherance of this Agreement.

5. Professional Liability Insurance Coverage / Errors & Omissions Insurance Coverage:

Unless one or more subsections of this Section 5 of Exhibit E is clearly marked out as being in applicable:

A. Professional Liability / Malpractice: Contractor shall also be required to provide the City with a Certificate of Insurance, in a form and from an issuer acceptable to the City, indicating

that the Contractor has obtained and maintains professional liability or malpractice insurance with policy limits of not less than One Million Dollars (\$1,000,000.00) per person / per occurrence. Said policy need not identify the City as additional primary insured.

B. Errors & Omissions Insurance Coverage: Contractor shall also be required to provide the City with a Certificate of Insurance, in a form and from an issuer acceptable to the City, indicating that the Contractor has obtained and maintains errors & omissions insurance with policy limits of not less than One Million Dollars (\$1,000,000.00) per person / per occurrence. Said policy need not identify the City as additional primary insured.

6. Indemnification.

The policy limits, availability or unavailability of insurance coverage or the applicability of claims, defenses or limitations based upon applicable law (including but not limited to the Illinois Worker's Compensation Act or similar laws or statutes) shall in no way limit the Contractor's obligation to indemnify and hold harmless the City from any claims for damage, liabilities or other costs arising out of or relating to the Contractor's work or this Agreement.

7. Additional Insurance Requirements.

Contractor shall also be required to provide the following insurance:

EACH CERTIFICATE OF LIABILITY INSURANCE SHALL REFERENCE THE SPECIFIC BID NUMBER AND PROJECT DESCRIPTION IN THE ADDITIONAL INSURED FIELD, AND MUST BE PROVIDED DIRECTLY TO THE CITY REPRESENTATIVE.

Exhibit F: Bid Scope

Chlorine 2.3 (150 pound Cylinders)

Scope: Provide for the purchase and delivery of a total of approximately 35,000 pounds of Chlorine 2.3 in 150-pound cylinders annually for a contract period of one (1) year with two optional yearly extensions. Deliveries will be made to the City of DeKalb – Water Division located at 1216 Market St., DeKalb IL. Chlorine 2.3 is used at the City of DeKalb's five (5) potable water treatment plants to treat potable water for disinfection purposes. The quantity shown is an estimated amount only and is not to be construed as a firm quantity. The City reserves the right to increase or decrease any quantities during the term of the contract without penalty or additional costs. All bids must be on a per pound basis and inclusive of **all** costs associated with the purchase and delivery of Chlorine 2.3 including any delivery charges, fuel surcharges and any other charges that may affect the contract price as specified in the original bid document.

Deliveries will be made on an as-needed basis as determined by the City of DeKalb – Water Division located at 1216 Market St. and will be placed by phone to a customer service representative provided by the contractor and whose availability at a minimum is Monday through Friday between the hours of 9:00 a.m. and 3:00 p.m. Delivery of the product must occur within ten (10) business days of placement of the order, between the hours of 7:15 a.m. – 11:45 a.m. and 1:00 p.m. – 3:00 p.m., Monday through Friday. No deliveries will be made on Saturdays, Sundays, or holidays unless otherwise directed by the Director of Utilities and Transportation - Water Division.

CHLORINE SPECIFICATIONS

Quantity: Shipments of Chlorine 2.3 will typically be truckload lots of thirty (30) – 150-pound gas chlorine cylinders. Quantities will be delivered to a lift platform at the City of DeKalb – Water Division located at 1216 Market St. Water Division personnel will be responsible for dispersing the shipment to the City's five (5) water treatment plants. The City of DeKalb – Water Division reserves the right to increase or decrease shipment quantities at their discretion. The City of DeKalb – Water Division has the ability to unload cylinders onto a platform lift. In the event that the platform lift is inoperable, the City reserves the right to require the provider to make deliveries using a truck capable of unloading 150-pound cylinders

Quality: The chlorine is used to treat the City of DeKalb's public water supply and must conform to ANSI/NSF Standard 60. Chlorine delivered in 150-pound net capacity containers shall meet the purity requirements as specified by the American Water Works Association and as published in "Standards for Liquid Chlorine". It shall be 99.7% chemically pure and such impurities as do exist shall consist of carbon dioxide, air, and oxygen. The liquid shall be anhydrous.

Containers: The containers shall be I.C.C. 3 aa 480 type and shall have ample strength to meet the requirements of heavy handling and service. Containers shall be clean and the exterior repainted before shipping. The containers remain the property of the seller.

Valves: Cylinder valves shall have clean sharp threads to permit a tight connection with the chlorine leads. New lead washers shall be provided with each cylinder. All valve stems shall have new stem packing and shall operate freely.

Any shipment may be examined by the City or tested to insure product is of suitable grade prior to acceptance. If the shipment is unacceptable, the Contractor must remove the shipment from the institution and replace the shipment within twenty-four (24) hours at no additional cost to the City.

Exhibit G: Project Checklist

	Yes	No
Attended Pre-Bid Meeting		✓
Timely Submitted Bid	✓	
Bid Sealed and Properly Labeled	✓	
All Pages Submitted	✓	
Bid Bond Required?		
Bid Bond Submitted		
Date of Bid Opening:		
Date of Bid Award:		
Selected Bidder:		
Date of Bidder Notification:		
Selected Bidder Acknowledged Bid Award (Date: _____)		
Subcontractors identified and authorized		
Contract Signature:		
Bidder Provided Signed Contract within 5 days		
Pre-Performance Items:		
Performance Security Required?		
Performance Security Provided (prior to start of work)		
Certificates of Insurance Provided (prior to start of work)		
Pre-Performance/Pre-Delivery Meeting Conducted		
Pre-Payment Items:		
Lien Waivers Received		
Prevailing Wage Records Received		
City Punch list Approval Received		
Warranty, Retention or Maintenance Bond Required?		
Warranty, Retention or Maintenance Bond Received		
Warranty, Retention or Maintenance Bond Period Close Reminder Docketed? ¹		

Warranty/Retention/Maintenance Bond Instructions:

¹ It is recommended to docket a reminder for this deadline at least 60 days prior to the deadline.

Exhibit H: Subcontractor Listing

Any subcontractors that are proposed to be utilized in the performance of this Agreement, either as subcontractors or materialmen, shall be expressly identified below. Attach additional pages if necessary.

#1:

Subcontractor or Materialman Name:

Address:

Telephone Number:

Email Address:

Primary Contact Person:

Primary Contact Cellular Telephone:

Attach a List of Five References for Subcontractor (See Section 3.13):

Detailed description of services to be offered by this Subcontractor or Materialman:

#2:

Subcontractor or Materialman Name:

Address:

Telephone Number:

Email Address:

Primary Contact Person:

Primary Contact Cellular Telephone:

Attach a List of Five References for Subcontractor (See Section 3.13):

Detailed description of services to be offered by this Subcontractor or Materialman:

Exhibit I: City Punch list and Acceptance Notice

Prior to final payment for project, this document shall be completed to identify: 1) any punchlist or corrective items identified that must be completed prior to final payment; and, 2) completion of all such items and approval, by the City Representative, of this project for final payment.

Punchlist items for correction:

Item Description	Date Corrected and Approved by City Representative

Date of Punchlist Item Completion and Project Completion: _____
(Note: the following day shall serve as the first day of the warranty period for this project).

City Representative Certification:

I, _____ (City Representative) have reviewed this project and determined that the Work, as defined therein, has been completed in accordance with the requirements of the Contract Documents, that as of the date of this Certification, all identified punchlist items have been satisfied and corrected to my satisfaction, and that this project is otherwise ready for final payout.

Signature

Date

Contractor Certification:

I, Mike Ricks (Contractor's Representative) have reviewed this project and determined that the Work, as defined therein, has been completed in accordance with the requirements of the Contract Documents, that as of the date of this Certification, all identified punchlist items have been satisfied and corrected to the City's satisfaction, and that this project is otherwise ready for final payout.

[Signature]
Signature

9/22/22
Date

Exhibit J: Form of Bid Addendum

Chlorine 2.3 (150 pound Cylinders)



164 East Lincoln Highway
DeKalb, Illinois 60115
815.748.2000 • cityofdekalb.com

Bid Addendum:

Name of Product: **Chlorine 2.3 (150-pound Cylinders)**

General Description of Project: **Purchase and delivery of 150-pound chlorine 2.3 gas cylinders to the City of DeKalb – Water Division located at 1216 Market St., DeKalb, IL. Chlorine 2.3 is used at the City of DeKalb – Water Division’s five (5) potable water treatment plants to treat water for disinfection purposes. The City expects to use a total of approximately 35,000 pounds of chlorine annually during the term of this contract.**

Website Link: <http://www.cityofdekalb.com>

Date of Addendum: _____

Description:

Exhibit A: Detailed Cost Sheet

Hydrofluosilicic Acid

Note: The total extended cost must be transferred to the *Bid Sheet*. Failure of the Bidder to complete the *Detailed Cost Sheet* OR transfer the extended total cost to the *Bid Sheet* may be cause for rejection of the bid submittal.

City of DeKalb
1216 Market St.
DeKalb, IL 60115

Bid Opening: Monday, October 3, 2:00 p.m.

Company Name: Water Solutions Unlimited, Inc. Telephone: 317-736-6868
Address: 8824 Union Mills Dr. Fax: 317-736-4322
City, State, Zip: Camby IN 46133 Email: orders@getwsu.com
Contact Person: Mike Ricks

BID PRICE:

Contract Period:

January 1, 2023 and will expire on December 31, 2023 (12 months)

(Upon mutual agreement, this contract may be extended for two additional one-year terms upon a ninety (90) day written notice from the City of its intention to exercise this option)

Hydrofluosilicic Acid – 55 gallon drums (approx. 650 pounds) \$ 0.48 /per pound

***Price per pound must include all charges including: delivery and fuel surcharges and any other charges which may affect the bid price as stated above.

List any and all deviations from minimum specifications:

I certify that I am acting as an agent for the firm designated below and that the firm will sell to the City of DeKalb the product (s) described herein for the amount specified above. Further, I certify that all exceptions or deviations from the attached detailed specifications are clearly stated in writing and the price quoted shall include all terms specified unless otherwise noted.

Mike Ricks
Signature of Authorized Representative

Mike Ricks, President
Name and Title of Authorized Representative

Exhibit B: Bid Sheet

Hydrofluosilicic Acid

Note: the Bidder must complete all portions of the Bid Sheet.

The undersigned, having examined the specifications and all conditions affecting the specified project, offer to furnish all services, labor, and incidentals specified for the price below.

The undersigned Bidder certifies that they are not barred from bidding on this contract as a result of a conviction for the violation of state laws prohibiting bid rigging or bid rotating, (720ILCS 5/33E-1, et seq.) and is not delinquent in any taxes to the Illinois Department of Revenue. (65ILCS 5/11-42.1-1)

It is understood that the City reserves the right to reject any and all bids and to waive any irregularities and that the prices contained herein will remain valid for a period of not less than sixty (60) days.

I (We) propose to complete the following project as more fully described in the specifications for the following:

Bidding Company Name: Water Solutions Unlimited, Inc

Total, Not-To-Exceed Price: \$ 60 /pound

☒ **Our firm has not altered any of the written text within this document. Only those areas requiring input by the respondent have been changed or completed.**

If it is the Contractor's intention to utilize a subcontractor(s) to fulfill the requirements of this contract, the City must be advised of the subcontractor's company name, address, telephone and fax numbers, and a contact person's name at the time of bid submittal.			
Will you be utilizing a subcontractor?	YES		<input checked="" type="radio"/> NO
If yes, have you included all required information with your bid submittal?	<input checked="" type="radio"/> YES		NO
Are your subcontractors registered to do business with the City?	YES	<u>N/A</u>	NO

- OR -

INDEMNIFICATION: The Bidder hereby agrees to protect, defend, indemnify, and save harmless the City against loss, damage, or expense from any suit, claim, demand, judgment, cause of action, or shortage initiated by any person whatsoever, arising or alleged to have arisen out of work described herein, except that in no instance shall the Bidder be held responsible for any liability, claim, demand, or cause of action attributable solely to the intentional misconduct of the City. The Bidder agrees to indemnify, defend, insure and hold harmless the City in compliance with the most stringent language in this bid package.

I hereby certify that the item(s) proposed is/are in accordance with the specifications as noted and that the prices quoted are not subject to change; and that the Company submitting this bid complies with the Bidder Certifications included in the Form of Agreement attached as Exhibit D.

TOTAL PRICE: The Bidder hereby affirms and states that the prices quoted herein constitute the total hourly cost to the City for all work involved in the respective items and that this cost also includes all insurance, royalties, transportation charges, use of all tools and equipment, superintendence, overhead expenses, all profits and all other work, services and conditions, necessarily involved in the work to be

done and materials to be furnished in accordance with the requirements of the Contract Documents considered severally and collectively.

Water Solutions Unlimited

Bidder's Firm Name

Mike Ricks President

Signed Name and Title

8824 Unm Mills Dr

Street Address

Mike Ricks, President

Print Name and Title

Cumby IN 46113

City

State

Zip Code

orders@getwsu.com

E-mail Address

317 736 6868

Phone Number

317 736-4322

Fax Number

9-22-2022

Date

Exhibit C: Detailed Exceptions Sheet

Hydrofluosilicic Acid

EXCEPTIONS: Any exception to any term of this document or to the Agreement must be clearly noted on the *Detail Exceptions Sheet(s)*. Failure to do so may be reason for rejection of the bid. It is not our intention to prohibit any potential Bidder from bidding by virtue of the specifications, but to describe the material(s) and service(s) actually required. The City reserves the right to accept or reject any or all exceptions.

DETAIL EXCEPTIONS SHEET MUST BE ENCLOSED WITH BID SHEET. ATTACH ADDITIONAL PAGES IF NECESSARY.

Bidder's exceptions are:

SECTION NUMBER	EXCEPTION TITLE	EXCEPTION DETAIL

Exhibit D: Form of Agreement

Hydrofluosilicic Acid

Independent Contractor Agreement for Services

THIS AGREEMENT, by and between the City of DeKalb, hereinafter referred to as the "City" and "Water Solutions" hereinafter referred to as the "Contractor", with the City and Contractor agreeing as follows

A. Services:

Contractor agrees to furnish to the City the following services:

See attached Exhibit F

Contractor represents that it possesses the skills and knowledge necessary to provide all such services and understands that the City is relying upon such representation. Contractor further acknowledges that Exhibit A is an integral part of this Agreement and may not be modified except in accordance with a modification to the terms of this Agreement.

B. Term:

Services will be provided as needed and directed by the City beginning on the date of execution of this agreement and continuing, until terminated by either party upon 7 days written notice to the non-terminating party. Upon termination the Contractor shall be compensated for all work performed for the City prior to termination and shall provide to the City all work completed through the date of termination. The City's issuance of a notice of termination shall function as a stop work order, beyond which the Contractor shall not incur any additional costs without the City's express, written permission.

C. Compensation:

Contractor shall receive as compensation for all work and services to be performed herein, an amount based on the fee schedule attached hereto as Exhibit A and B. All payments will be made according to the Illinois State Prompt Payment Act.

Any payment made to the Contractor shall be strictly on the basis of quantum merit. The Contractor shall submit to the City a detailed breakdown and invoice of all charges, including detail of past payments and amounts still remaining due, accurate to the date of the invoice, with each request for payment. Any additions to or deductions from the approved total amount of the contract, and any out of scope work shall require prior, written approval from the City. Any work performed without the City's express, written consent shall be solely at the expense of the Contractor.

Prior to tendering any payment to Contractor, Contractor shall provide the City with a completed W-9 form.

D. Changes in Rates of Compensation (and Prevailing Wages):

If the Contractor seeks to impose any change in the fee schedule (whether in terms of hourly fee or lump sum fees), then the Contractor shall provide not less than ninety days written notice of its intent to change its fee schedule, and any such change in fee schedule shall require the approval of the City. To the extent applicable, the contractor shall further comply the requirements of the Prevailing Wage Act in that all laborers, mechanics and other workers performing work under this Agreement which is subject to the Prevailing Wage Act shall be paid not less than the general prevailing rate of hourly wage as provided for in 820 ILCS 130/1 et seq.

E. Ownership of Records and Documents / Confidential Information:

Contractor agrees to keep and maintain all books and records and other recorded information required to comply with any applicable laws, including but not limited to the Prevailing Wage Act. Contractor agrees to keep such information confidential and not to disclose or disseminate the information to third parties without the consent of the City. Contractor further agrees to keep as confidential any information belonging or relating to the City which is of a confidential nature, including without limitation information which is proprietary, personal, required by law to be confidential, or relates to the business, operations or accounts of the City. This confidentiality shall not apply to material or information, which would otherwise be subject to public disclosure through the freedom of information act or if already previously disclosed by a third party. Contractor acknowledges that the Freedom of Information Act, 5 ILCS 140/1 et seq. (the "Act") places an obligation on the City to produce certain records that may be in the possession of Contractor. Contractor shall comply with the record retention and documentation requirements of the Local Records Act 50 ILCS 205/1 et seq. and the Act and shall maintain all records relating to this Agreement in compliance with the Local Records Retention Act and the Act (complying in all respects as if the Contractor was, in fact, the City). Contractor shall review its records promptly and produce to the City within two business days of contact from the City the required documents responsive to a request under the Act. If additional time is necessary to comply with the request, the Contractor may request the City to extend the time do so, and the City will, if time and a basis for extension under the Act permits, consider such extensions.

F. Governing Law:

This contract shall be governed and construed in accordance with the laws of the State of Illinois. Venue and jurisdiction for any legal action arising out of or related to this Agreement shall be exclusively fixed in the DeKalb County Circuit Court, DeKalb County, Illinois.

G. Independent Contractor:

Contractor shall have sole control over the manner and means of providing the work and services performed under this agreement. The City's relationship to the Contractor under this agreement shall be that of an independent contractor. Contractor will not be considered an employee to the City for any purpose. The parties agree that the Contractor is exclusively responsible for the determination of what work is required to complete the tasks outlined in Exhibit F, and for the means and methods of completing such work. The City's compensation to Contractor shall be limited to that described in Exhibits A and B, and the City shall not reimburse any expenses, provide any benefits, withhold any employment taxes or otherwise have a financial relationship with Contractor other than payment of the stated compensation. The Contractor shall be solely responsible for withholding of taxes, providing employee benefits, or otherwise complying with applicable laws relating to its employees or contractors.

In the event that the City determines, in its sole discretion, that it is economically advantageous for the City to provide certain supplies or tools for use by Contractor in lieu of paying Contractor to

provide the same, the City and Contractor agree that Contractor shall then utilize the City's equipment or supplies according to its own determination of their best and appropriate use. Contractor shall be responsible for its' own personnel, training, instruction and related matters. Contractor shall be responsible for determining its sequence of performance for required work. Contractor's work shall be evaluated by the City based upon the end result of such work. Contractor shall be responsible for any expenses incurred by Contractor in the performance of its work, and shall not be authorized, expressly or impliedly, to obligate the City on any debt, contract or other agreement whatsoever. In the event that Contractor is compensated on an hourly basis under the terms of this Agreement, the City and Contractor agree that Contractor's compensation is usual and customary, based on the terms that Contractor offers its services to the market in general.

The Contractor acknowledges that neither it nor its personnel shall be acting as an employee or official representative of the City for purposes of being offered any protection or coverage under City insurance policies for tort immunity or other legal purposes.

H. **Certifications:**

Executing this Agreement constitutes acknowledgment, acceptance, and certification of the accuracy of the following certifications, and any other certifications required under any applicable law relating to the performance of this Agreement. The Contractor is responsible for identifying all such applicable regulations and certifications, and for compliance with the same.

Sexual Harassment: The Contractor certifies that it is in compliance with the Illinois Human Rights Act 775 ILCS 5/1.101, et seq. including establishment and maintenance of sexual harassment policies and program.

Tax Delinquency: The Contractor certifies that it is not delinquent in payment of any taxes to the Illinois Department of Revenue in accordance with 65 ILCS 5/11-42.1, and is not delinquent in the payment of any tax, charge or obligation to the City of DeKalb.

Employment Status: The Contractor certifies that if any of its personnel are an employee of the State of Illinois, they have permission from their employer to perform the service.

Anti-Bribery: The Contractor certifies it is not barred under 30 Illinois Compiled Statutes 500/50-5(a) - (d) from contracting as a result of a conviction for or admission of bribery or attempted bribery of an officer or employee of the State of Illinois or any other state.

Loan Default: If the Contractor is an individual, the Contractor certifies that he/she is not in default for a period of six months or more in an amount of \$600 or more on the repayment of any educational loan guaranteed by the Illinois State Scholarship Commission made by an Illinois institution of higher education or any other loan made from public funds for the purpose of financing higher education (5 ILCS 385/3).

Felony Certification: The Contractor certifies that it is not barred pursuant to 30 ILCS 500/50-10 from conducting business with the State of Illinois or any agency as a result of being convicted of a felony.

Barred from Contracting: The Contractor certifies that it has not been barred from contracting as a result of a conviction for bid-rigging or bid rotating under 720 ILCS 5/33E-3 (Bid Rigging) or 720 ILCS 5/33-4 (Bid Rotating) or a similar law of another state or of the federal government.

Prevailing Wage: The Contractor certifies that it shall comply with all applicable provisions of the Prevailing Wage Act, and further certifies that it is not in violation of said Act and has not been barred from bidding on this proposal by virtue of a past violation of the Act. A copy of the most recent available list of prevailing wages is attached hereto or has been provided to the Contractor. The Contractor is responsible for regularly updating said list as new prevailing wage rates are made available by the City or by the Illinois Department of Labor. The Illinois Department of Labor posts regular updates to prevailing wage rates on its official website, which is currently www.illinois.gov/idol. This notice is given pursuant to 820 ILCS 130/4 and the balance of the Illinois Prevailing Wage Act, which is incorporated herein by reference as if fully restated. In the event that this is a public works project as defined under the Prevailing Wage Act, Proposer agrees

to comply with the Substance Abuse Prevention on Public Works Projects Acts, 820 ILCS 265/1 *et seq.*, and further agrees that all of its subcontractors shall comply with such Act. As required by the Act, Contractor agrees that it will file with the City, prior to commencing work, its written substance abuse prevention program and/or that of its subcontractor(s) which meet or exceed the requirements of the Act.

Drug Free Workplace: The Contractor certifies that it is in compliance with the Drug Free Workplace Act (30 Illinois Compiled Statutes 580) as of the effective date of this contract. The Drug Free Workplace Act requires, in part, that Contractors, with 25 or more employees certify and agree to take steps to ensure a drug free workplace by informing employees of the dangers of drug abuse, of the availability of any treatment or assistance program, of prohibited activities and of sanctions that will be imposed for violations; and that individuals with contracts certify that they will not engage in the manufacture, distribution, dispensation, possession, or use of a controlled substance in the performance of the contract. The Contractor further certifies that it maintains a substance-abuse program and provide drug testing in accordance with 820 ILCS 130/11G, Public Act 095-0635. The Contractor shall also comply with the Federal Highway Administrative Rules on Controlled Substances and Alcohol Use and Testing, 49 CFR Parts 40 and 382 and that all of Contractor's drivers are currently participating in a drug and alcohol testing program pursuant to the Rules.

Responsible Contractor Requirements: The Contractor certifies that it complies with the Illinois Procurement Code and the provisions of Section 30-22 thereof relating to apprenticeship and training, if applicable. The Contractor further certifies for work that will be performed by subcontract that each of its subcontractors submitted for approval either is in compliance or will begin participation in an approved apprenticeship and training program prior to commencing any Work. The Illinois Department of Labor, at any time before or after award, may require production of a copy of each applicable Certificate of Registration issued by the United States Department of Labor evidencing such participation by the Contractor and all of its Subcontractors. Applicable apprenticeship and training programs are those that have been approved or registered with the United States Department of Labor. The Contractor shall provide to the City, upon request, copies of all Certificates of Registration, and copies of all work or craft job category included in the Work, along with such other records as the City may require. Any records or logs required to be provided by law shall be provided by the Contractor, without requiring a request from the City.

Non-Discrimination, Certification, and Equal Employment Opportunity: The Contractor agrees to comply with applicable provisions of the Illinois Human Rights Act (775 Illinois Compiled Statutes 5), the U.S. Civil Rights Act, the Americans with Disabilities Act, Section 504 of the U.S. Rehabilitation Act and the rules applicable to each. The equal opportunity clause of Section 750.10 of the Illinois Department of Human Rights Rules is specifically incorporated herein. The Contractor shall comply with Executive Order 11246, entitled Equal Employment Opportunity, as amended by Executive Order 11375, and as supplemented by U.S. Department of Labor regulations (41 C.F.R. Chapter 60). The Contractor agrees to incorporate this clause into all subcontracts under this Contract. The Contractor acknowledges that neither it nor the City shall discriminate on the basis of any protected classification.

Record Retention and Audits: If 30 ILCS 500/20-65 requires the Contractor (and any subcontractors) to maintain, for a period of 3 years after the later of the date of completion of this Contract or the date of final payment under the Contract, all books and records relating to the performance of the Contract and necessary to support amounts charged to the City under the Contract. The Contract and all books and records related to the Contract shall be available for review and audit by the City and the Illinois Auditor General. If this Contract is funded from contract/grant funds provided by the U.S. Government, the Contract, books, and records shall be available for review and audit by the Comptroller General of the U.S. and/or the Inspector General of the federal sponsoring agency. The Contractor agrees to cooperate fully with any audit and to provide full access to all relevant materials.

United States Resident Certification: (This certification must be included in all contracts involving personal services by non-resident aliens and foreign entities in accordance with requirements imposed by the Internal Revenue Services for withholding and reporting federal income taxes.) The Contractor certifies that he/she/it is a: ☐ United States Citizen or Corporation

☐ Resident Alien ☐ Non-Resident Alien. The Internal Revenue Service requires that taxes be withheld on payments made to non-resident aliens for the performance of personal services at the rate of 30%.

Tax Payer Certification: Under penalties of perjury, the Contractor certifies that its Federal Tax Payer Identification Number or Social Security Number is _____ and is doing business as a (check one): ☐ Individual ☐ Real Estate Agent ☐ Sole Proprietorship ☐ Government Entity ☐ Partnership ☒ Tax Exempt Organization (IRC 501(a) only) ☐ Corporation ☐ Not for Profit Corporation ☐ Trust or Estate ☐ Medical and Health Care Services Provider Corp.

Authorized in Illinois: The Contractor certifies that it is authorized to lawfully transact business in the State of Illinois, under all applicable Illinois laws and regulations. The Contractor certifies that it shall comply with the Corporate Accountability for Tax Administration Act, 20 ILCS 715/1, *et. seq.* Where applicable, the Contractor certifies that it is not barred from bidding by virtue of having been adjudicated to have committed a willing or knowing violation of Section 42 of the Environmental Protection Act within the five years preceding this bid, pursuant to 415 ILCS 5/1, *et. seq.* The Contractor further certifies that it is in compliance with all applicable requirements of the Business Enterprise for Minorities, Females and Persons with Disabilities Act, 30 ILCS 575/1, *et. seq.*

Export Administration, Supplies, Labor: The Contractor certifies that neither it nor any substantially owned affiliate is participating, nor shall participate, in an international boycott which is in violation of the provisions of the US Export Administration Act of 1979 or the regulations of the US Department of Commerce promulgated under the Act, including but not limited to the requirements of 30 ILCS 582/5. The Contractor further certifies that no foreign made equipment, materials or supplies furnished under the proposal or agreement have been or will be produced in whole or in part by forced labor, convict labor, or indentured labor, nor made in whole or in part by the labor of any child under the age of 12, under penal sanction pursuant to 30 ILCS 583/1 and 30 ILCS 584/1. The Contractor certifies that steel products used or supplied in the performance of a contract for public works shall be manufactured or produced in the United States, unless the City Manager grants an exception to said requirement, pursuant to 30 ILCS 565/1, *et. seq.*

General Compliance and Certification: The Contractor certifies that it has and will comply with all other applicable laws, regulations, ordinances or restrictions applicable to any component of the bidding process, agreement, or any services or materials provided in connection therewith. The Contractor acknowledges that it is responsible for identifying and complying with all applicable laws, ordinances, rules and regulations, and that it shall indemnify and hold harmless the City of DeKalb from any claim, liability or damages arising out of the failure to identify or comply with any such applicable legal restriction. The City reserves the right to reject any bid, cancel any contract or pursue any other legal remedy deemed necessary should it become aware of any violation of any laws, ordinances, rules or regulations on the part of the Contractor or any subcontractor.

OSHA Standards: The Contractor certifies that it will identify and comply with all requirements and standards imposed by the Occupational Safety and Health Act. All guards and protectors, all appropriate markings, and all other protections shall be in place prior to delivery of any item, and at all times during performance of any Work.

CERCLA Indemnification: The Contractor certifies that it shall, to the maximum extent permitted by law, indemnify, defend and hold harmless the City, and City Indemnitees from and against any and all liability, including without limitation, costs of response, removal, remediation, investigation, property damage, personal injury, damage to natural resources, health assessments, health settlements, attorneys' fees, and other related transaction costs arising under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 USC 9601, *et. seq.*, as amended from time to time, and all other applicable statutes, regulations, ordinances, and under common law for any release or threatened release of the waste material collected by the Contractor both before and after its disposal.

Buy America: The Contractor certifies that, if required, it shall comply with 49 USC 5323(j), the Federal Transportation Administration's (FTA) Buy America regulations at 49 CFR Part 661, and any amendments thereto, and any implementing guidance issued by the FTA, with respect to this contract, when financed by Federal funds (through a grant agreement or cooperative

agreement), and to submit to the City an executed Buy America Certificate in a form acceptable to the City.

Collusion: The Contractor certifies that it is not colluding with any other party or person in the preparation or submittal of this Agreement.

I. Indemnification:

Contractor shall indemnify and hold harmless the City and City's agents, servants, and employees against all loss, damage, taxes, liabilities, charges or expense, including but not limited to attorneys' fees and court costs, which the City may sustain or for which it may become liable on account of injury to or death of persons, or on account of damage to or destruction of property resulting from the performance of work under this agreement by Contractor or its Subcontractors, due to or arising in any manner from the intentional or wrongful act or negligence of Contractor or its Subcontractors of any employee of any of them, or otherwise arising out of this Agreement or the Contractor's performance of services on behalf of the City.

The Contractor shall be responsible for any and all damages to property or persons arising out of an error, omission, and/or negligent act in the prosecution of the work or failure to prosecute the work and shall indemnify and hold harmless the City, its officers, agents, and employees from all suits, claims, actions or damages of any nature whatsoever resulting therefrom. The Company shall assume all restitution and repair costs arising out of an error, omission and/or negligence.

J. Insurance, Licensure and Intellectual Property:

The Contractor shall comply with all insurance requirements described on the attached Exhibit E. The Contractor agrees and warrants that it has procured all licenses, permits or other official permissions required by any applicable law to perform the services contemplated herein, that it will procure all additional licenses, permits or other official permissions hereafter required by law during the term of this Agreement, and that it will keep all such licenses in effect during the term of this Agreement. The Contractor shall provide a copy of any such licenses or permits upon request. All such insurance and licensure shall be provided at the Contractor's sole expense. Contractor also warrants that it has complete ownership or authorization/entitlement to any intellectual property, software, images or other such items used in the performance of its work under this Agreement, and that it shall transfer to the City, unrestricted, the ability to modify, amend, publicize or otherwise utilize any intellectual property provided to the City under this Agreement unless the City expressly preapproves in writing a limitation to these provisions.

The Contractor shall not commence work under this Contract until they have obtained all insurance required and such insurance has been submitted to and approved by the City, nor shall the Contractor permit any Subcontractor to commence work on any subcontract until the same insurance has been obtained by the Subcontractor. The Company and all Subcontractors shall maintain their insurance in place for not less than two (2) years following completion of all work required under this Contract.

All drawings, specifications, reports and any other project documents prepared by the Contractor in connection with any or all of the services to be furnished thereunder shall be delivered to the City for the expressed use of the City. The Contractor shall have the right to retain original documents, but shall cause to be delivered to the City such quality of documents so as to assure total reproducibility of the documents delivered. All information, worksheets, reports, design calculations, plans and specifications shall be the sole property of the City unless otherwise specified in the negotiated agreement. The Contractor agrees that basic survey notes and sketches, charts, computations and other data prepared or obtained by the Contractor pursuant to this Agreement shall be made available, upon request, to the City without cost and without restriction or limitation as to their use. All field notes, test records, and reports shall be available to the City upon request.

The prices included on this Agreement include all royalties and costs arising in the Work. Any items or services provided shall be provided to the City subject to the Contractor's legal right to provide the same. The Contractor shall indemnify and hold harmless the City and City Indemnitees from any and all claims for infringement by reason of the use of any such patent design, device, materials or process, to be performed or used under the Agreement, and shall indemnify and hold harmless the City for any costs, expenses, attorneys' fees and damages which it may be obligated to pay, by reason of any infringement at any time during the prosecution or after completion of the Work.

K. Additional Terms or Modification:

The terms of this agreement shall be further modified as provided on the attached Exhibits and the Contract Documents. Except for those Exhibits, no additional terms are included as a part of this agreement. All prior understandings and agreements between the parties are merged into this agreement, and this agreement may not be modified orally or in any manner other than by an agreement in writing signed by both parties. The City reserves the right by written amendment to make changes in requirements, amount of work, or time schedule adjustments. The Contractor shall negotiate appropriate adjustments acceptable to both parties to accommodate any changes. The City may, at any time by written order, require the Contractor to stop all or part of the services required by this Agreement. Upon receipt of such an order, the Contractor shall immediately comply with its terms.

L. Notices:

All notices required to be given under the terms of this License shall be given mail, addressed to the parties as follows:

For the City:

City Manager
City of DeKalb
164 E. Lincoln Hwy.
DeKalb, IL 60115

For the Contractor:

Water Solutions Unlimited
8824 Union Hills Dr
Camby, IN 46113

Either of the parties may designate in writing from time to time substitute addresses or persons in connection with required notices.

M. Subcontractors and Third Parties:

Contractor shall not assign or subcontract for the performance of any obligation under this Agreement, except with the express, written preapproval of the City, which consent may be withheld in the City's sole and absolute discretion. Should Contractor assign any obligation arising under this Agreement with the consent of the City, the Contractor shall remain to be primarily liable to the City for the performance of the obligation in question, and further shall be liable for ensuring that the subcontractor(s) comply with all obligations arising under this Agreement as if the subcontractor(s) was/were the Contractor itself. Further, should Contractor request to assign the performance of any obligation arising hereunder to a subcontractor, Contractor expressly provides its consent to the City contracting directly with such proposed subcontractor (or another subcontractor acceptable to the City) for the performance of such work, and to the amendment of this Agreement to reduce the scope and cost accordingly.

Nothing contained in this Agreement, nor the performance of the parties hereunder, is intended to benefit, nor shall it inure to the benefit of any third party.

N. Progress Reports:

Contractor shall report to the City Manager or her designee, and shall submit written progress reports identifying, in detail, the extent of work completed, the percentage of project completion, and project status, accompanying any invoice submitted to the City. Contractor shall also provide additional written or verbal progress reports to the City upon request, at any time, without additional charge. The Contractor shall attend conferences and visit the site of the work as may be outlined in the Request for Proposal and at any reasonable time when requested to do so by the City, at no additional charge.

O. Document Correction / Supplements:

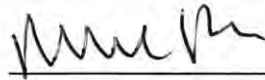
Contractor agrees and acknowledges that the terms of the Contract Documents shall be binding upon this Work, notwithstanding the failure of this Agreement or the actions of the City to the contrary. No act by the City (other than a written amendment to these Contract Documents), including but not limited to payment of Contractor's invoices, shall waive the City's ability to later insist on strict compliance with the terms of these Contract Documents. Contractor agrees and acknowledges that it shall execute corrected documents upon request by the City if any error or discrepancy is identified by the City, and shall provide certificates of insurance or other security required hereunder at any time, upon request of the City, notwithstanding the City's failure to previously demand the same.

Agreed to this 22 day of September, 2022.

City of DeKalb

Contractor

City Manager



Executive Assistant

Mike Ricks
Caryn Morris

Exhibit E: Insurance Requirements:

1. All Contractors and All Contracts.

Contractor shall provide any and all insurance required under any applicable law, regulation, statute or ordinance, including but not limited to workers' compensation insurance, unemployment insurance, automobile liability insurance and other legally required insurance. Contractor shall produce a certificate evidencing current coverage, upon request from the City. Contractor shall indemnify and hold harmless the City from any and all liability, damage, cost or expense which the City may incur or be liable to pay as a result of any and all accidental injuries or damages suffered by the Consultant or its employees (in addition to any other required indemnification or insurance from Consultant).

2. Certificates and General Conditions:

Unless otherwise indicated herein, any certificate of insurance shall further indicate that the City is additional *primary* insured on such policy of insurance, shall indicate that such policies shall not have any right of subrogation against the City or the City's insurers, and shall indicate that said policy shall not be cancelled or revoked except after the provision of not less than thirty (30) day notice to the City. Contractor shall maintain said policy in full force and effect for the duration of this Agreement, and shall periodically provide updated certificates of insurance to evidence continuing coverage in compliance herewith. For purposes of this Agreement and insurance provided hereunder, the "City" shall include the City of DeKalb, its employees, appointed and elected officers, its committees, its attorneys, and all corporate bodies that exist as a subsidiary to the City.

3. Comprehensive General Liability Coverage Requirements.

Unless this Section 3 of Exhibit E is clearly marked out as being inapplicable, Contractor shall also be required to provide the City with a Certificate of Insurance, in a form and from an issuer acceptable to the City, indicating that the Contractor has obtained and maintains comprehensive general liability insurance with policy limits of not less than One Million Dollars (\$1,000,000.00) per person / Two Million Dollars (\$2,000,000.00) per occurrence. This insurance shall include independent contractors' protective liability, products and completed operations broad form property damage coverage. The completed operations and products liability coverage shall be maintained for at least two years after final payment. The coverage shall also include contractual liability insurance coverage for the Contractor's obligations to indemnify and hold harmless the City and the City Indemnitees.

4. Automobile Insurance Coverage:

Unless this Section 4 of Exhibit E is clearly marked out as being inapplicable, Contractor shall also be required to provide the City with a Certificate of Insurance, in a form and from an issuer acceptable to the City, indicating that the Contractor has obtained and maintains comprehensive automobile liability insurance with policy limits of not less than One Million Dollars (\$1,000,000.00) per person / Two Million Dollars (\$2,000,000.00) per occurrence. This policy shall include coverage for all owned, hired and non-owned automobiles used in furtherance of this Agreement.

5. Professional Liability Insurance Coverage / Errors & Omissions Insurance Coverage:

Unless one or more subsections of this Section 5 of Exhibit E is clearly marked out as being in applicable:

A. Professional Liability / Malpractice: Contractor shall also be required to provide the City with a Certificate of Insurance, in a form and from an issuer acceptable to the City, indicating

that the Contractor has obtained and maintains professional liability or malpractice insurance with policy limits of not less than One Million Dollars (\$1,000,000.00) per person / per occurrence. Said policy need not identify the City as additional primary insured.

B. Errors & Omissions Insurance Coverage: Contractor shall also be required to provide the City with a Certificate of Insurance, in a form and from an issuer acceptable to the City, indicating that the Contractor has obtained and maintains errors & omissions insurance with policy limits of not less than One Million Dollars (\$1,000,000.00) per person / per occurrence. Said policy need not identify the City as additional primary insured.

6. Indemnification.

The policy limits, availability or unavailability of insurance coverage or the applicability of claims, defenses or limitations based upon applicable law (including but not limited to the Illinois Worker's Compensation Act or similar laws or statutes) shall in no way limit the Contractor's obligation to indemnify and hold harmless the City from any claims for damage, liabilities or other costs arising out of or relating to the Contractor's work or this Agreement.

7. Additional Insurance Requirements.

Contractor shall also be required to provide the following insurance:

EACH CERTIFICATE OF LIABILITY INSURANCE SHALL REFERENCE THE SPECIFIC BID NUMBER AND PROJECT DESCRIPTION IN THE ADDITIONAL INSURED FIELD, AND MUST BE PROVIDED DIRECTLY TO THE CITY REPRESENTATIVE.

Exhibit F: Bid Scope

Hydrofluosilicic Acid

Scope: Provide for the purchase and delivery of a total of approximately 6,200 pounds of Hydrofluosilicic Acid in fifty-five (55) gallon drums annually for a contract period of (1) one year with two optional yearly extensions. Deliveries will be made to the City of DeKalb – Water Division located at 1216 Market St., DeKalb IL. Hydrofluosilicic acid is used at the City of DeKalb’s five (5) potable water treatment plants to treat drinking water. The quantity shown is an estimated amount only and is not to be construed as a firm quantity. The City reserves the right to increase or decrease any quantities during the term of the contract without penalty or additional costs. All bids must be on a per pound basis and inclusive of **all** costs associated with the purchase and delivery of Hydrofluosilicic acid including any delivery charges, fuel surcharges and any other charges that may affect the contract price as specified in the original bid document.

Deliveries will be made on an as-needed basis as determined by the City of DeKalb – Water Division located at 1216 Market St. and will be placed by phone to a customer service representative provided by the contractor and whose availability at a minimum is Monday through Friday between the hours of 9:00 a.m. and 3:00 p.m. Delivery of the product must occur within ten (10) business days of placement of the order, between the hours of 7:00 a.m. – 11:45 a.m. and 1:00 p.m. – 3:00 p.m., Monday through Friday. No deliveries will be made on Saturdays, Sundays, or holidays unless otherwise directed by the Assistant Director of Public Works - Water Division.

HYDROFLUOSILICIC SPECIFICATIONS

Quantity: Shipments of Hydrofluosilicic Acid will typically be truckload lots of fifteen (15), fifty-five (55) gallon drums of hydrofluosilicic acid. Quantities will be delivered to a lift platform at the City of DeKalb – Water Division located at 1216 Market St. Water Division personnel will be responsible for dispersing the shipment to the City’s five (5) water treatment plants. The City of DeKalb – Water Division reserves the right to increase or decrease shipment quantities at their discretion. The City of DeKalb – Water Division has the ability to unload drums onto a platform lift. In the event that the platform lift is inoperable, the City reserves the right to require the provider to make deliveries using a truck capable of unloading fifty-five gallon drums.

Quality: The hydrofluosilicic acid is used to treat the City of DeKalb’s public water supply and must conform to ANSI/NSF Standard 60. Hydrofluosilicic Acid must be at least 23% hydrofluosilicic acid by weight.

Containers: The containers shall be fifty-five (55) gallon drums and meet the requirements of heavy handling and service. The containers remain the property of the seller.

Any shipment may be examined by the City or tested to insure product is of suitable grade prior to acceptance. If the shipment is unacceptable, the Contractor must remove the shipment from the institution and replace the shipment within twenty-four (24) hours at no additional cost to the City.

Exhibit G: Project Checklist

	Yes	No
Attended Pre-Bid Meeting		✓
Timely Submitted Bid	✓	
Bid Sealed and Properly Labeled	✓	
All Pages Submitted	✓	
Bid Bond Required?		
Bid Bond Submitted		
Date of Bid Opening:		
Date of Bid Award:		
Selected Bidder:		
Date of Bidder Notification:		
Selected Bidder Acknowledged Bid Award (Date: _____)		
Subcontractors identified and authorized		
<i>Contract Signature:</i>		
Bidder Provided Signed Contract within 5 days		
<i>Pre-Performance Items:</i>		
Performance Security Required?		
Performance Security Provided (prior to start of work)		
Certificates of Insurance Provided (prior to start of work)		
Pre-Performance/Pre-Delivery Meeting Conducted		
<i>Pre-Payment Items:</i>		
Lien Waivers Received		
Prevailing Wage Records Received		
City Punch list Approval Received		
Warranty, Retention or Maintenance Bond Required?		
Warranty, Retention or Maintenance Bond Received		
Warranty, Retention or Maintenance Bond Period Close Reminder Docketed? ²		

Warranty/Retention/Maintenance Bond Instructions:

² It is recommended to docket a reminder for this deadline at least 60 days prior to the deadline.

Exhibit H: Subcontractor Listing

Any subcontractors that are proposed to be utilized in the performance of this Agreement, either as subcontractors or materialmen, shall be expressly identified below. Attach additional pages if necessary.

#1:

Subcontractor or Materialman Name:

Address:

Telephone Number:

Email Address:

Primary Contact Person:

Primary Contact Cellular Telephone:

Attach a List of Five References for Subcontractor (See Section 3.13):

Detailed description of services to be offered by this Subcontractor or Materialman:

#2:

Subcontractor or Materialman Name:

Address:

Telephone Number:

Email Address:

Primary Contact Person:

Primary Contact Cellular Telephone:

Attach a List of Five References for Subcontractor (See Section 3.13):

Detailed description of services to be offered by this Subcontractor or Materialman:

Exhibit I: City Punch list and Acceptance Notice

Prior to final payment for project, this document shall be completed to identify: 1) any punchlist or corrective items identified that must be completed prior to final payment; and, 2) completion of all such items and approval, by the City Representative, of this project for final payment.

Punchlist items for correction:

Item Description	Date Corrected and Approved by City Representative

Date of Punchlist Item Completion and Project Completion: _____
(Note: the following day shall serve as the first day of the warranty period for this project).

City Representative Certification:

I, _____ (City Representative) have reviewed this project and determined that the Work, as defined therein, has been completed in accordance with the requirements of the Contract Documents, that as of the date of this Certification, all identified punchlist items have been satisfied and corrected to my satisfaction, and that this project is otherwise ready for final payout.

Signature Date

Contractor Certification:

I, Mike Pucks (Contractor's Representative) have reviewed this project and determined that the Work, as defined therein, has been completed in accordance with the requirements of the Contract Documents, that as of the date of this Certification, all identified punchlist items have been satisfied and corrected to the City's satisfaction, and that this project is otherwise ready for final payout.

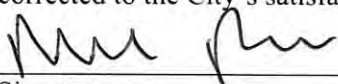
 9/22/22
Signature Date

Exhibit J: Form of Bid Addendum

Hydrofluosilicic Acid



164 East Lincoln Highway
DeKalb, Illinois 60115
815.748.2000 • cityofdekalb.com

Bid Addendum:

Name of Product: **Hydrofluosilicic Acid**

General Description of Project: **Purchase and delivery of fifty-five (55) gallon drums (approximately 650 pounds/drum) of hydrofluosilicic acid to the City of DeKalb – Water Division located at 1216 Market St., DeKalb, IL. Hydrofluosilicic acid is used at the City of DeKalb – Water Division’s five (5) potable water treatment plants to treat drinking water. The City expects to use a total of approximately 6,200 pounds of hydrofluosilicic acid annually during the term of this contract.**

Website Link: <http://www.cityofdekalb.com>

Date of Addendum: _____

Description:

Exhibit A: Detailed Cost Sheet

Ortho/Poly Blended Phosphate

Note: The total extended cost must be transferred to the *Bid Sheet*. Failure of the Bidder to complete the *Detailed Cost Sheet* OR transfer the extended total cost to the *Bid Sheet* may be cause for rejection of the bid submittal.

City of DeKalb
1216 Market St.
DeKalb, IL 60115

Bid Opening: Monday, October 3, 2:00 p.m.

Company Name: Water Solutions Unlimited Telephone: 317 736 6868
Address: 8824 Union Mills Dr. Fax: 317 736 4322
City, State, Zip: Carmy IN 46113 Email: orders@getwsu.com
Contact Person: Mike Ricks

BID PRICE:

Contract Period:

January 1, 2023 and will expire on December 31, 2023 (12 months)

(Upon mutual agreement, this contract may be extended for two additional one-year terms upon a ninety (90) day written notice from the City of its intention to exercise this option)

Ortho/Poly blended phosphate – 55-gallon drums (approx. 650 pounds) \$1.20/per pound

***Price per pound must include all charges including: delivery and fuel surcharges and any other charges which may affect the bid price as stated above.

List any and all deviations from minimum specifications:

I certify that I am acting as an agent for the firm designated below and that the firm will sell to the City of DeKalb the product (s) described herein for the amount specified above. Further, I certify that all exceptions or deviations from the attached detailed specifications are clearly stated in writing and the price quoted shall include all terms specified unless otherwise noted.

Mike Ricks
Signature of Authorized Representative

Mike Ricks, President
Name and Title of Authorized Representative

Exhibit B: Bid Sheet

Ortho/Poly Blended Phosphate

Note: the Bidder must complete all portions of the Bid Sheet.

The undersigned, having examined the specifications and all conditions affecting the specified project, offer to furnish all services, labor, and incidentals specified for the price below.

The undersigned Bidder certifies that they are not barred from bidding on this contract as a result of a conviction for the violation of state laws prohibiting bid rigging or bid rotating, (720ILCS 5/33E-1, et seq.) and is not delinquent in any taxes to the Illinois Department of Revenue. (65ILCS 5/11-42.1-1)

It is understood that the City reserves the right to reject any and all bids and to waive any irregularities and that the prices contained herein will remain valid for a period of not less than sixty (60) days.

I (We) propose to complete the following project as more fully described in the specifications for the following:

Bidding Company Name: Water Solutions Unlimited, Inc

Total, Not-To-Exceed Price: \$ 1.45 /pound

☐ **Our firm has not altered any of the written text within this document. Only those areas requiring input by the respondent have been changed or completed.**

If it is the Contractor's intention to utilize a subcontractor(s) to fulfill the requirements of this contract, the City must be advised of the subcontractor's company name, address, telephone and fax numbers, and a contact person's name at the time of bid submittal.		
Will you be utilizing a subcontractor?	YES	<u>NO</u>
If yes, have you included all required information with your bid submittal?	YES	NO
Are your subcontractors registered to do business with the City?	YES	NO

- OR -

INDEMNIFICATION: The Bidder hereby agrees to protect, defend, indemnify, and save harmless the City against loss, damage, or expense from any suit, claim, demand, judgment, cause of action, or shortage initiated by any person whatsoever, arising or alleged to have arisen out of work described herein, except that in no instance shall the Bidder be held responsible for any liability, claim, demand, or cause of action attributable solely to the intentional misconduct of the City. The Bidder agrees to indemnify, defend, insure and hold harmless the City in compliance with the most stringent language in this bid package.

I hereby certify that the item(s) proposed is/are in accordance with the specifications as noted and that the prices quoted are not subject to change; and that the Company submitting this bid complies with the Bidder Certifications included in the Form of Agreement attached as Exhibit D.

TOTAL PRICE: The Bidder hereby affirms and states that the prices quoted herein constitute the total hourly cost to the City for all work involved in the respective items and that this cost also includes all insurance, royalties, transportation charges, use of all tools and equipment, superintendence, overhead expenses, all profits and all other work, services and conditions, necessarily involved in the work to be done and materials to be furnished in accordance with the requirements of the Contract Documents considered severally and collectively.

Water Solutions Unlimited Mike Ruts, President
Bidder's Firm Name Signed Name and Title

8824 Union Mills Drive Mike Ruts, President
Street Address Print Name and Title

Carmy IN 46013 orders@getwsu.com
City State Zip Code E-mail Address

317 736-0868 317 736-4322
Phone Number Fax Number

9-22-2027
Date

Exhibit C: Detailed Exceptions Sheet

Ortho/Poly Blended Phosphate

EXCEPTIONS: Any exception to any term of this document or to the Agreement must be clearly noted on the *Detail Exceptions Sheet(s)*. Failure to do so may be reason for rejection of the bid. It is not our intention to prohibit any potential Bidder from bidding by virtue of the specifications, but to describe the material(s) and service(s) actually required. The City reserves the right to accept or reject any or all exceptions.

DETAIL EXCEPTIONS SHEET MUST BE ENCLOSED WITH BID SHEET. ATTACH ADDITIONAL PAGES IF NECESSARY.

Bidder's exceptions are:

SECTION NUMBER	EXCEPTION TITLE	EXCEPTION DETAIL
Exhibit F	Name of Product	Product 60/40 blend
		called AquaGold 160

Exhibit D: Form of Agreement

Ortho/Poly Blended Phosphate

Independent Contractor Agreement for Services

THIS AGREEMENT, by and between the City of DeKalb, hereinafter referred to as the "City" and "Water Solutions" hereinafter referred to as the "Contractor", with the City and Contractor agreeing as follows

A. Services:

Contractor agrees to furnish to the City the following services:

See attached Exhibit F

Contractor represents that it possesses the skills and knowledge necessary to provide all such services and understands that the City is relying upon such representation. Contractor further acknowledges that Exhibit A is an integral part of this Agreement and may not be modified except in accordance with a modification to the terms of this Agreement.

B. Term:

Services will be provided as needed and directed by the City beginning on the date of execution of this agreement and continuing, until terminated by either party upon 7 days written notice to the non-terminating party. Upon termination the Contractor shall be compensated for all work performed for the City prior to termination and shall provide to the City all work completed through the date of termination. The City's issuance of a notice of termination shall function as a stop work order, beyond which the Contractor shall not incur any additional costs without the City's express, written permission.

C. Compensation:

Contractor shall receive as compensation for all work and services to be performed herein, an amount based on the fee schedule attached hereto as Exhibit A and B. All payments will be made according to the Illinois State Prompt Payment Act.

Any payment made to the Contractor shall be strictly on the basis of quantum merit. The Contractor shall submit to the City a detailed breakdown and invoice of all charges, including detail of past payments and amounts still remaining due, accurate to the date of the invoice, with each request for payment. Any additions to or deductions from the approved total amount of the contract, and any out of scope work shall require prior, written approval from the City. Any work performed without the City's express, written consent shall be solely at the expense of the Contractor.

Prior to tendering any payment to Contractor, Contractor shall provide the City with a completed W-9 form.

D. Changes in Rates of Compensation (and Prevailing Wages):

If the Contractor seeks to impose any change in the fee schedule (whether in terms of hourly fee or lump sum fees), then the Contractor shall provide not less than ninety days written notice of its intent to change its fee schedule, and any such change in fee schedule shall require the approval of the City. To the extent applicable, the contractor shall further comply the requirements of the Prevailing Wage Act in that all laborers, mechanics and other workers performing work under this Agreement which is subject to the Prevailing Wage Act shall be paid not less than the general prevailing rate of hourly wage as provided for in 820 ILCS 130/1 et seq.

E. Ownership of Records and Documents / Confidential Information:

Contractor agrees to keep and maintain all books and records and other recorded information required to comply with any applicable laws, including but not limited to the Prevailing Wage Act. Contractor agrees to keep such information confidential and not to disclose or disseminate the information to third parties without the consent of the City. Contractor further agrees to keep as confidential any information belonging or relating to the City which is of a confidential nature, including without limitation information which is proprietary, personal, required by law to be confidential, or relates to the business, operations or accounts of the City. This confidentiality shall not apply to material or information, which would otherwise be subject to public disclosure through the freedom of information act or if already previously disclosed by a third party. Contractor acknowledges that the Freedom of Information Act, 5 ILCS 140/1 et seq. (the "Act") places an obligation on the City to produce certain records that may be in the possession of Contractor. Contractor shall comply with the record retention and documentation requirements of the Local Records Act 50 ILCS 205/1 et seq. and the Act and shall maintain all records relating to this Agreement in compliance with the Local Records Retention Act and the Act (complying in all respects as if the Contractor was, in fact, the City). Contractor shall review its records promptly and produce to the City within two business days of contact from the City the required documents responsive to a request under the Act. If additional time is necessary to comply with the request, the Contractor may request the City to extend the time do so, and the City will, if time and a basis for extension under the Act permits, consider such extensions.

F. Governing Law:

This contract shall be governed and construed in accordance with the laws of the State of Illinois. Venue and jurisdiction for any legal action arising out of or related to this Agreement shall be exclusively fixed in the DeKalb County Circuit Court, DeKalb County, Illinois.

G. Independent Contractor:

Contractor shall have sole control over the manner and means of providing the work and services performed under this agreement. The City's relationship to the Contractor under this agreement shall be that of an independent contractor. Contractor will not be considered an employee to the City for any purpose. The parties agree that the Contractor is exclusively responsible for the determination of what work is required to complete the tasks outlined in Exhibit F, and for the means and methods of completing such work. The City's compensation to Contractor shall be limited to that described in Exhibits A and B, and the City shall not reimburse any expenses, provide any benefits, withhold any employment taxes or otherwise have a financial relationship with Contractor other than payment of the stated compensation. The Contractor shall be solely responsible for withholding of taxes, providing employee benefits, or otherwise complying with applicable laws relating to its employees or contractors.

In the event that the City determines, in its sole discretion, that it is economically advantageous for the City to provide certain supplies or tools for use by Contractor in lieu of paying Contractor to provide the same, the City and Contractor agree that Contractor shall then utilize the City's

equipment or supplies according to its own determination of their best and appropriate use. Contractor shall be responsible for its' own personnel, training, instruction and related matters. Contractor shall be responsible for determining its sequence of performance for required work. Contractor's work shall be evaluated by the City based upon the end result of such work. Contractor shall be responsible for any expenses incurred by Contractor in the performance of its work, and shall not be authorized, expressly or impliedly, to obligate the City on any debt, contract or other agreement whatsoever. In the event that Contractor is compensated on an hourly basis under the terms of this Agreement, the City and Contractor agree that Contractor's compensation is usual and customary, based on the terms that Contractor offers its services to the market in general.

The Contractor acknowledges that neither it nor its personnel shall be acting as an employee or official representative of the City for purposes of being offered any protection or coverage under City insurance policies for tort immunity or other legal purposes.

H. Certifications:

Executing this Agreement constitutes acknowledgment, acceptance, and certification of the accuracy of the following certifications, and any other certifications required under any applicable law relating to the performance of this Agreement. The Contractor is responsible for identifying all such applicable regulations and certifications, and for compliance with the same.

Sexual Harassment: The Contractor certifies that it is in compliance with the Illinois Human Rights Act 775 ILCS 5/1.101, et seq. including establishment and maintenance of sexual harassment policies and program.

Tax Delinquency: The Contractor certifies that it is not delinquent in payment of any taxes to the Illinois Department of Revenue in accordance with 65 ILCS 5/11-42.1, and is not delinquent in the payment of any tax, charge or obligation to the City of DeKalb.

Employment Status: The Contractor certifies that if any of its personnel are an employee of the State of Illinois, they have permission from their employer to perform the service.

Anti-Bribery: The Contractor certifies it is not barred under 30 Illinois Compiled Statutes 500/50-5(a) - (d) from contracting as a result of a conviction for or admission of bribery or attempted bribery of an officer or employee of the State of Illinois or any other state.

Loan Default: If the Contractor is an individual, the Contractor certifies that he/she is not in default for a period of six months or more in an amount of \$600 or more on the repayment of any educational loan guaranteed by the Illinois State Scholarship Commission made by an Illinois institution of higher education or any other loan made from public funds for the purpose of financing higher education (5 ILCS 385/3).

Felony Certification: The Contractor certifies that it is not barred pursuant to 30 ILCS 500/50-10 from conducting business with the State of Illinois or any agency as a result of being convicted of a felony.

Barred from Contracting: The Contractor certifies that it has not been barred from contracting as a result of a conviction for bid-rigging or bid rotating under 720 ILCS 5/33E-3 (Bid Rigging) or 720 ILCS 5/33-4 (Bid Rotating) or a similar law of another state or of the federal government.

Prevailing Wage: The Contractor certifies that it shall comply with all applicable provisions of the Prevailing Wage Act, and further certifies that it is not in violation of said Act and has not been barred from bidding on this proposal by virtue of a past violation of the Act. A copy of the most recent available list of prevailing wages is attached hereto or has been provided to the Contractor. The Contractor is responsible for regularly updating said list as new prevailing wage rates are made available by the City or by the Illinois Department of Labor. The Illinois Department of Labor posts regular updates to prevailing wage rates on its official website, which is currently www.illinois.gov/idol. This notice is given pursuant to 820 ILCS 130/4 and the balance of the Illinois Prevailing Wage Act, which is incorporated herein by reference as if fully restated. In the event that this is a public works project as defined under the Prevailing Wage Act, Proposer agrees to comply with the Substance Abuse Prevention on Public Works Projects Acts, 820 ILCS 265/1 et.

seq., and further agrees that all of its subcontractors shall comply with such Act. As required by the Act, Contractor agrees that it will file with the City, prior to commencing work, its written substance abuse prevention program and/or that of its subcontractor(s) which meet or exceed the requirements of the Act.

Drug Free Workplace: The Contractor certifies that it is in compliance with the Drug Free Workplace Act (30 Illinois Compiled Statutes 580) as of the effective date of this contract. The Drug Free Workplace Act requires, in part, that Contractors, with 25 or more employees certify and agree to take steps to ensure a drug free workplace by informing employees of the dangers of drug abuse, of the availability of any treatment or assistance program, of prohibited activities and of sanctions that will be imposed for violations; and that individuals with contracts certify that they will not engage in the manufacture, distribution, dispensation, possession, or use of a controlled substance in the performance of the contract. The Contractor further certifies that it maintains a substance-abuse program and provide drug testing in accordance with 820 ILCS 130/11G, Public Act 095-0635. The Contractor shall also comply with the Federal Highway Administrative Rules on Controlled Substances and Alcohol Use and Testing, 49 CFR Parts 40 and 382 and that all of Contractor's drivers are currently participating in a drug and alcohol testing program pursuant to the Rules.

Responsible Contractor Requirements: The Contractor certifies that it complies with the Illinois Procurement Code and the provisions of Section 30-22 thereof relating to apprenticeship and training, if applicable. The Contractor further certifies for work that will be performed by subcontract that each of its subcontractors submitted for approval either is in compliance or will begin participation in an approved apprenticeship and training program prior to commencing any Work. The Illinois Department of Labor, at any time before or after award, may require production of a copy of each applicable Certificate of Registration issued by the United States Department of Labor evidencing such participation by the Contractor and all of its Subcontractors. Applicable apprenticeship and training programs are those that have been approved or registered with the United States Department of Labor. The Contractor shall provide to the City, upon request, copies of all Certificates of Registration, and copies of all work or craft job category included in the Work, along with such other records as the City may require. Any records or logs required to be provided by law shall be provided by the Contractor, without requiring a request from the City.

Non-Discrimination, Certification, and Equal Employment Opportunity: The Contractor agrees to comply with applicable provisions of the Illinois Human Rights Act (775 Illinois Compiled Statutes 5), the U.S. Civil Rights Act, the Americans with Disabilities Act, Section 504 of the U.S. Rehabilitation Act and the rules applicable to each. The equal opportunity clause of Section 750.10 of the Illinois Department of Human Rights Rules is specifically incorporated herein. The Contractor shall comply with Executive Order 11246, entitled Equal Employment Opportunity, as amended by Executive Order 11375, and as supplemented by U.S. Department of Labor regulations (41 C.F.R. Chapter 60). The Contractor agrees to incorporate this clause into all subcontracts under this Contract. The Contractor acknowledges that neither it nor the City shall discriminate on the basis of any protected classification.

Record Retention and Audits: If 30 ILCS 500/20-65 requires the Contractor (and any subcontractors) to maintain, for a period of 3 years after the later of the date of completion of this Contract or the date of final payment under the Contract, all books and records relating to the performance of the Contract and necessary to support amounts charged to the City under the Contract. The Contract and all books and records related to the Contract shall be available for review and audit by the City and the Illinois Auditor General. If this Contract is funded from contract/grant funds provided by the U.S. Government, the Contract, books, and records shall be available for review and audit by the Comptroller General of the U.S. and/or the Inspector General of the federal sponsoring agency. The Contractor agrees to cooperate fully with any audit and to provide full access to all relevant materials.

United States Resident Certification: (This certification must be included in all contracts involving personal services by non-resident aliens and foreign entities in accordance with requirements imposed by the Internal Revenue Services for withholding and reporting federal income taxes.) The Contractor certifies that he/she/it is a: ☐ United States Citizen or Corporation ☐ Resident Alien ☐ Non-Resident Alien. The Internal Revenue Service requires that taxes be

withheld on payments made to non-resident aliens for the performance of personal services at the rate of 30%.

Tax Payer Certification: Under penalties of perjury, the Contractor certifies that its Federal Tax Payer Identification Number or Social Security Number is _____ and is doing business as a (check one): ☐ Individual ☐ Real Estate Agent ☐ Sole Proprietorship ☐ Government Entity ☐ Partnership ☒ Tax Exempt Organization (IRC 501(a) only) ☐ Corporation ☐ Not for Profit Corporation ☐ Trust or Estate ☐ Medical and Health Care Services Provider Corp.

Authorized in Illinois: The Contractor certifies that it is authorized to lawfully transact business in the State of Illinois, under all applicable Illinois laws and regulations. The Contractor certifies that it shall comply with the Corporate Accountability for Tax Administration Act, 20 ILCS 715/1, *et. seq.* Where applicable, the Contractor certifies that it is not barred from bidding by virtue of having been adjudicated to have committed a willing or knowing violation of Section 42 of the Environmental Protection Act within the five years preceding this bid, pursuant to 415 ILCS 5/1, *et. seq.* The Contractor further certifies that it is in compliance with all applicable requirements of the Business Enterprise for Minorities, Females and Persons with Disabilities Act, 30 ILCS 575/1, *et. seq.*

Export Administration, Supplies, Labor: The Contractor certifies that neither it nor any substantially owned affiliate is participating, nor shall participate, in an international boycott which is in violation of the provisions of the US Export Administration Act of 1979 or the regulations of the US Department of Commerce promulgated under the Act, including but not limited to the requirements of 30 ILCS 582/5. The Contractor further certifies that no foreign made equipment, materials or supplies furnished under the proposal or agreement have been or will be produced in whole or in part by forced labor, convict labor, or indentured labor, nor made in whole or in part by the labor of any child under the age of 12, under penal sanction pursuant to 30 ILCS 583/1 and 30 ILCS 584/1. The Contractor certifies that steel products used or supplied in the performance of a contract for public works shall be manufactured or produced in the United States, unless the City Manager grants an exception to said requirement, pursuant to 30 ILCS 565/1, *et. seq.*

General Compliance and Certification: The Contractor certifies that it has and will comply with all other applicable laws, regulations, ordinances or restrictions applicable to any component of the bidding process, agreement, or any services or materials provided in connection therewith. The Contractor acknowledges that it is responsible for identifying and complying with all applicable laws, ordinances, rules and regulations, and that it shall indemnify and hold harmless the City of DeKalb from any claim, liability or damages arising out of the failure to identify or comply with any such applicable legal restriction. The City reserves the right to reject any bid, cancel any contract or pursue any other legal remedy deemed necessary should it become aware of any violation of any laws, ordinances, rules or regulations on the part of the Contractor or any subcontractor.

OSHA Standards: The Contractor certifies that it will identify and comply with all requirements and standards imposed by the Occupational Safety and Health Act. All guards and protectors, all appropriate markings, and all other protections shall be in place prior to delivery of any item, and at all times during performance of any Work.

CERCLA Indemnification: The Contractor certifies that it shall, to the maximum extent permitted by law, indemnify, defend and hold harmless the City, and City Indemnitees from and against any and all liability, including without limitation, costs of response, removal, remediation, investigation, property damage, personal injury, damage to natural resources, health assessments, health settlements, attorneys' fees, and other related transaction costs arising under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 USC 9601, *et. seq.*, as amended from time to time, and all other applicable statutes, regulations, ordinances, and under common law for any release or threatened release of the waste material collected by the Contractor both before and after its disposal.

Buy America: The Contractor certifies that, if required, it shall comply with 49 USC 5323(j), the Federal Transportation Administration's (FTA) Buy America regulations at 49 CFR Part 661, and any amendments thereto, and any implementing guidance issued by the FTA, with respect to this contract, when financed by Federal funds (through a grant agreement or cooperative

agreement), and to submit to the City an executed Buy America Certificate in a form acceptable to the City.

Collusion: The Contractor certifies that it is not colluding with any other party or person in the preparation or submittal of this Agreement.

I. Indemnification:

Contractor shall indemnify and hold harmless the City and City's agents, servants, and employees against all loss, damage, taxes, liabilities, charges or expense, including but not limited to attorneys' fees and court costs, which the City may sustain or for which it may become liable on account of injury to or death of persons, or on account of damage to or destruction of property resulting from the performance of work under this agreement by Contractor or its Subcontractors, due to or arising in any manner from the intentional or wrongful act or negligence of Contractor or its Subcontractors of any employee of any of them, or otherwise arising out of this Agreement or the Contractor's performance of services on behalf of the City.

The Contractor shall be responsible for any and all damages to property or persons arising out of an error, omission, and/or negligent act in the prosecution of the work or failure to prosecute the work and shall indemnify and hold harmless the City, its officers, agents, and employees from all suits, claims, actions or damages of any nature whatsoever resulting therefrom. The Company shall assume all restitution and repair costs arising out of an error, omission and/or negligence.

J. Insurance, Licensure and Intellectual Property:

The Contractor shall comply with all insurance requirements described on the attached Exhibit E. The Contractor agrees and warrants that it has procured all licenses, permits or other official permissions required by any applicable law to perform the services contemplated herein, that it will procure all additional licenses, permits or other official permissions hereafter required by law during the term of this Agreement, and that it will keep all such licenses in effect during the term of this Agreement. The Contractor shall provide a copy of any such licenses or permits upon request. All such insurance and licensure shall be provided at the Contractor's sole expense. Contractor also warrants that it has complete ownership or authorization/entitlement to any intellectual property, software, images or other such items used in the performance of its work under this Agreement, and that it shall transfer to the City, unrestricted, the ability to modify, amend, publicize or otherwise utilize any intellectual property provided to the City under this Agreement unless the City expressly preapproves in writing a limitation to these provisions.

The Contractor shall not commence work under this Contract until they have obtained all insurance required and such insurance has been submitted to and approved by the City, nor shall the Contractor permit any Subcontractor to commence work on any subcontract until the same insurance has been obtained by the Subcontractor. The Company and all Subcontractors shall maintain their insurance in place for not less than two (2) years following completion of all work required under this Contract.

All drawings, specifications, reports and any other project documents prepared by the Contractor in connection with any or all of the services to be furnished thereunder shall be delivered to the City for the expressed use of the City. The Contractor shall have the right to retain original documents, but shall cause to be delivered to the City such quality of documents so as to assure total reproducibility of the documents delivered. All information, worksheets, reports, design calculations, plans and specifications shall be the sole property of the City unless otherwise specified in the negotiated agreement. The Contractor agrees that basic survey notes and sketches, charts, computations and other data prepared or obtained by the Contractor pursuant to this Agreement shall be made available, upon request, to the City without cost and without restriction.

or limitation as to their use. All field notes, test records, and reports shall be available to the City upon request.

The prices included on this Agreement include all royalties and costs arising in the Work. Any items or services provided shall be provided to the City subject to the Contractor's legal right to provide the same. The Contractor shall indemnify and hold harmless the City and City Indemnitees from any and all claims for infringement by reason of the use of any such patent design, device, materials or process, to be performed or used under the Agreement, and shall indemnify and hold harmless the City for any costs, expenses, attorneys' fees and damages which it may be obligated to pay, by reason of any infringement at any time during the prosecution or after completion of the Work.

K. Additional Terms or Modification:

The terms of this agreement shall be further modified as provided on the attached Exhibits and the Contract Documents. Except for those Exhibits, no additional terms are included as a part of this agreement. All prior understandings and agreements between the parties are merged into this agreement, and this agreement may not be modified orally or in any manner other than by an agreement in writing signed by both parties. The City reserves the right by written amendment to make changes in requirements, amount of work, or time schedule adjustments. The Contractor shall negotiate appropriate adjustments acceptable to both parties to accommodate any changes. The City may, at any time by written order, require the Contractor to stop all or part of the services required by this Agreement. Upon receipt of such an order, the Contractor shall immediately comply with its terms.

L. Notices:

All notices required to be given under the terms of this License shall be given mail, addressed to the parties as follows:

For the City:

City Manager
City of DeKalb
164 E. Lincoln Hwy.
DeKalb, IL 60115

For the Contractor:

Water Solutions Unlimited
3824 Union Mills Dr
Camby In
46113

Either of the parties may designate in writing from time to time substitute addresses or persons in connection with required notices.

M. Subcontractors and Third Parties:

Contractor shall not assign or subcontract for the performance of any obligation under this Agreement, except with the express, written preapproval of the City, which consent may be withheld in the City's sole and absolute discretion. Should Contractor assign any obligation arising under this Agreement with the consent of the City, the Contractor shall remain to be primarily liable to the City for the performance of the obligation in question, and further shall be liable for ensuring that the subcontractor(s) comply with all obligations arising under this Agreement as if the subcontractor(s) was/were the Contractor itself. Further, should Contractor request to assign the performance of any obligation arising hereunder to a subcontractor, Contractor expressly provides its consent to the City contracting directly with such proposed subcontractor (or another subcontractor acceptable to the City) for the performance of such work, and to the amendment of this Agreement to reduce the scope and cost accordingly.

Nothing contained in this Agreement, nor the performance of the parties hereunder, is intended to benefit, nor shall it inure to the benefit of any third party.

N. Progress Reports:

Contractor shall report to the City Manager or her designee, and shall submit written progress reports identifying, in detail, the extent of work completed, the percentage of project completion, and project status, accompanying any invoice submitted to the City. Contractor shall also provide additional written or verbal progress reports to the City upon request, at any time, without additional charge. The Contractor shall attend conferences and visit the site of the work as may be outlined in the Request for Proposal and at any reasonable time when requested to do so by the City, at no additional charge.

O. Document Correction / Supplements:

Contractor agrees and acknowledges that the terms of the Contract Documents shall be binding upon this Work, notwithstanding the failure of this Agreement or the actions of the City to the contrary. No act by the City (other than a written amendment to these Contract Documents), including but not limited to payment of Contractor's invoices, shall waive the City's ability to later insist on strict compliance with the terms of these Contract Documents. Contractor agrees and acknowledges that it shall execute corrected documents upon request by the City if any error or discrepancy is identified by the City, and shall provide certificates of insurance or other security required hereunder at any time, upon request of the City, notwithstanding the City's failure to previously demand the same.

Agreed to this 22 day of September, 20 22.

City of DeKalb

Contractor

City Manager

Executive Assistant

Mike Ricks
Caryn Morris

Exhibit E: Insurance Requirements:

1. All Contractors and All Contracts.

Contractor shall provide any and all insurance required under any applicable law, regulation, statute or ordinance, including but not limited to workers' compensation insurance, unemployment insurance, automobile liability insurance and other legally required insurance. Contractor shall produce a certificate evidencing current coverage, upon request from the City. Contractor shall indemnify and hold harmless the City from any and all liability, damage, cost or expense which the City may incur or be liable to pay as a result of any and all accidental injuries or damages suffered by the Consultant or its employees (in addition to any other required indemnification or insurance from Consultant).

2. Certificates and General Conditions:

Unless otherwise indicated herein, any certificate of insurance shall further indicate that the City is additional *primary* insured on such policy of insurance, shall indicate that such policies shall not have any right of subrogation against the City or the City's insurers, and shall indicate that said policy shall not be cancelled or revoked except after the provision of not less than thirty (30) days notice to the City. Contractor shall maintain said policy in full force and effect for the duration of this Agreement, and shall periodically provide updated certificates of insurance to evidence continuing coverage in compliance herewith. For purposes of this Agreement and insurance provided hereunder, the "City" shall include the City of DeKalb, its employees, appointed and elected officers, its committees, its attorneys, and all corporate bodies that exist as a subsidiary to the City.

3. Comprehensive General Liability Coverage Requirements.

Unless this Section 3 of Exhibit E is clearly marked out as being inapplicable, Contractor shall also be required to provide the City with a Certificate of Insurance, in a form and from an issuer acceptable to the City, indicating that the Contractor has obtained and maintains comprehensive general liability insurance with policy limits of not less than One Million Dollars (\$1,000,000.00) per person / Two Million Dollars (\$2,000,000.00) per occurrence. This insurance shall include independent contractors' protective liability, products and completed operations broad form property damage coverage. The completed operations and products liability coverage shall be maintained for at least two years after final payment. The coverage shall also include contractual liability insurance coverage for the Contractor's obligations to indemnify and hold harmless the City and the City Indemnitees.

4. Automobile Insurance Coverage:

Unless this Section 4 of Exhibit E is clearly marked out as being inapplicable, Contractor shall also be required to provide the City with a Certificate of Insurance, in a form and from an issuer acceptable to the City, indicating that the Contractor has obtained and maintains comprehensive automobile liability insurance with policy limits of not less than One Million Dollars (\$1,000,000.00) per person / Two Million Dollars (\$2,000,000.00) per occurrence. This policy shall include coverage for all owned, hired and non-owned automobiles used in furtherance of this Agreement.

5. Professional Liability Insurance Coverage / Errors & Omissions Insurance Coverage:

Unless one or more subsections of this Section 5 of Exhibit E is clearly marked out as being in applicable:

A. Professional Liability / Malpractice: Contractor shall also be required to provide the City with a Certificate of Insurance, in a form and from an issuer acceptable to the City, indicating

that the Contractor has obtained and maintains professional liability or malpractice insurance with policy limits of not less than One Million Dollars (\$1,000,000.00) per person / per occurrence. Said policy need not identify the City as additional primary insured.

B. Errors & Omissions Insurance Coverage: Contractor shall also be required to provide the City with a Certificate of Insurance, in a form and from an issuer acceptable to the City, indicating that the Contractor has obtained and maintains errors & omissions insurance with policy limits of not less than One Million Dollars (\$1,000,000.00) per person / per occurrence. Said policy need not identify the City as additional primary insured.

6. Indemnification.

The policy limits, availability or unavailability of insurance coverage or the applicability of claims, defenses or limitations based upon applicable law (including but not limited to the Illinois Worker's Compensation Act or similar laws or statutes) shall in no way limit the Contractor's obligation to indemnify and hold harmless the City from any claims for damage, liabilities or other costs arising out of or relating to the Contractor's work or this Agreement.

7. Additional Insurance Requirements.

Contractor shall also be required to provide the following insurance:

EACH CERTIFICATE OF LIABILITY INSURANCE SHALL REFERENCE THE SPECIFIC BID NUMBER AND PROJECT DESCRIPTION IN THE ADDITIONAL INSURED FIELD, AND MUST BE PROVIDED DIRECTLY TO THE CITY REPRESENTATIVE.

Exhibit F: Bid Scope

Ortho/Poly Blended Phosphate

Scope: Provide for the purchase and delivery of a total of approximately 70,000 pounds of Ortho/Poly blended phosphate in fifty-five (55) gallon drums annually for a contract period of one (1) year with two optional yearly extensions. Deliveries will be made to the City of DeKalb – Water Division located at 1216 Market St., DeKalb IL. The City of DeKalb's IEPA Permit for blended phosphate is for the purpose of corrosion control and sequestration of iron. The quantity shown is an estimated amount only and is not to be construed as a firm quantity. The City reserves the right to increase or decrease any quantities during the term of the contract without penalty or additional costs. All bids must be on a per pound basis and inclusive of **all** costs associated with the purchase and delivery of Ortho/Poly blended phosphate including any delivery charges, fuel surcharges and any other charges that may affect the contract price as specified in the original bid document.

Deliveries will be made on an as-needed basis as determined by the City of DeKalb – Water Division located at 1216 Market St. and will be placed by phone to a customer service representative provided by the contractor and whose availability at a minimum is Monday through Friday between the hours of 9:00 a.m. and 3:00 p.m. Delivery of the product must occur within ten (10) business days of placement of the order, between the hours of 7:00 a.m. – 11:45 a.m. and 1:00 p.m. – 3:00 p.m., Monday through Friday. No deliveries will be made on Saturdays, Sundays, or holidays unless otherwise directed by the Assistant Director of Public Works - Water Division.

ORTHO/POLY BLENDED PHOSPHATE SPECIFICATIONS

Quantity: Shipments of Ortho/Poly blended phosphate will typically be truckload lots of fifteen (15), fifty-five (55) gallon drums of Ortho/Poly blended phosphate. Quantities will be delivered to a lift platform at the City of DeKalb – Water Division located at 1216 Market St. Water Division personnel will be responsible for dispersing the shipment to the City's five (5) water treatment plants. The City of DeKalb – Water Division reserves the right to increase or decrease shipment quantities at their discretion. The City of DeKalb – Water Division has the ability to unload drums onto a platform lift. In the event that the platform lift is inoperable, the City reserves the right to require the provider to make deliveries using a truck capable of unloading fifty-five-gallon drums.

Quality: The Ortho/Poly blended phosphate is used to treat the City of DeKalb's public water supply and must conform to ANSI/NSF Standard 60. The phosphate blended product currently in use by City of DeKalb is Carus 8400. This product has been used with success for an extended period of time by the City of DeKalb. Competitive alternate product bids should have similar specifications to this product. The specifications for Carus 8400 are as follows:

- 11.34 lbs./gallon
- Specific Gravity = 1.36
- Total Phosphate = 32%
- Orthophosphate = 12%
- Polyphosphate = 20%
- 60 poly/40 ortho ratio blended phosphate

Deviations to the above specifications must be identified in detail.

Containers: The containers shall be fifty-five (55) gallon drums and meet the requirements of heavy handling and service.

Any shipment may be examined by the City or tested to insure product is of suitable grade prior to acceptance. If the shipment is unacceptable, the Contractor must remove the shipment from the institution and replace the shipment within twenty-four (24) hours at no additional cost to the City.

Exhibit G: Project Checklist

	Yes	No
Attended Pre-Bid Meeting		✓
Timely Submitted Bid	✓	
Bid Sealed and Properly Labeled	✓	
All Pages Submitted	✓	
Bid Bond Required?		
Bid Bond Submitted		
Date of Bid Opening:		
Date of Bid Award:		
Selected Bidder:		
Date of Bidder Notification:		
Selected Bidder Acknowledged Bid Award (Date: _____)		
Subcontractors identified and authorized		
<i>Contract Signature:</i>		
Bidder Provided Signed Contract within 5 days		
<i>Pre-Performance Items:</i>		
Performance Security Required?		
Performance Security Provided (prior to start of work)		
Certificates of Insurance Provided (prior to start of work)		
Pre-Performance/Pre-Delivery Meeting Conducted		
<i>Pre-Payment Items:</i>		
Lien Waivers Received		
Prevailing Wage Records Received		
City Punch list Approval Received		
Warranty, Retention or Maintenance Bond Required?		
Warranty, Retention or Maintenance Bond Received		
Warranty, Retention or Maintenance Bond Period Close Reminder Docketed? ³		

Warranty/Retention/Maintenance Bond Instructions:

³ It is recommended to docket a reminder for this deadline at least 60 days prior to the deadline.

Exhibit H: Subcontractor Listing

Any subcontractors that are proposed to be utilized in the performance of this Agreement, either as subcontractors or materialmen, shall be expressly identified below. Attach additional pages if necessary.

#1:

Subcontractor or Materialman Name:

Address:

Telephone Number:

Email Address:

Primary Contact Person:

Primary Contact Cellular Telephone:

Attach a List of Five References for Subcontractor (See Section 3.13):

Detailed description of services to be offered by this Subcontractor or Materialman:

#2:

Subcontractor or Materialman Name:

Address:

Telephone Number:

Email Address:

Primary Contact Person:

Primary Contact Cellular Telephone:

Attach a List of Five References for Subcontractor (See Section 3.13):

Detailed description of services to be offered by this Subcontractor or Materialman:

Exhibit I: City Punch list and Acceptance Notice

Prior to final payment for project, this document shall be completed to identify: 1) any punchlist or corrective items identified that must be completed prior to final payment; and, 2) completion of all such items and approval, by the City Representative, of this project for final payment.

Punchlist items for correction:

Item Description	Date Corrected and Approved by City Representative

Date of Punchlist Item Completion and Project Completion: _____
(Note: the following day shall serve as the first day of the warranty period for this project).

City Representative Certification:

I, _____ (City Representative) have reviewed this project and determined that the Work, as defined therein, has been completed in accordance with the requirements of the Contract Documents, that as of the date of this Certification, all identified punchlist items have been satisfied and corrected to my satisfaction, and that this project is otherwise ready for final payout.

Signature

Date

Contractor Certification:

I, Mike Ricks (Contractor's Representative) have reviewed this project and determined that the Work, as defined therein, has been completed in accordance with the requirements of the Contract Documents, that as of the date of this Certification, all identified punchlist items have been satisfied and corrected to the City's satisfaction, and that this project is otherwise ready for final payout.

Mike Ricks
Signature

9/22/22
Date

Exhibit J: Form of Bid Addendum

Ortho/Poly Blended Phosphate



164 East Lincoln Highway
DeKalb, Illinois 60115
815.748.2000 • cityofdekalb.com

Bid Addendum:

Name of Product: **Otho/Poly Blended Phosphate**

General Description of Project: **Purchase and delivery of fifty-five (55) gallon drums (approximately 650 pounds/drum) of Ortho/Poly blended phosphate to the City of DeKalb – Water Division located at 1216 Market St., DeKalb, IL. Ortho/Poly blended phosphate is used at the City of DeKalb – Water Division’s five (5) potable water treatment plants to treat drinking water for corrosion control and for iron sequestration. The City expects to use a total of approximately 70,000 pounds of ortho/poly blended phosphate annually during the term of this contract.**

Website Link: <http://www.cityofdekalb.com>

Date of Addendum: _____

Description