



Amendment No. 3
to
Contract No. MA 2200 GA210000068
for
Fluorsilicic Acid
between
Univar Solutions USA Inc. D/B/A Univar Usa
and the
City of Austin, Texas

- 1.0 The City hereby exercises this extension option for the subject contract. This extension option will be effective August 26th, 2024, to August 25th, 2025.
- 2.0 By signing this Amendment, the Contractor certifies that the Contractor and its principals are not currently suspended or debarred from doing business with the Federal Government, as indicated by the General Services Administration List of Parties Excluded from Federal Procurement and Non-Procurement Programs, the State of Texas, or the City of Austin.

ALL OTHER TERMS AND CONDITIONS REMAIN THE SAME.

BY THE SIGNATURE affixed below, this Amendment is hereby incorporated and made a part of the above referenced contract.

Ryan Braziel Digitally signed by Ryan Braziel
Date: 2024.07.15 12:04:10 -05'00'

Ryan Braziel Procurement Specialist IV
City of Austin



Amendment No. 2
to
Contract No. MA 2200 GA210000068
for
Fluorosilicic Acid
between
Univar Solutions USA Inc.
and the
City of Austin, Texas

1.0 The City hereby amends the above referenced contract to revise pricing in accordance with Section 1.42, Economic Price Adjustment, of the Terms and Conditions, effective January 15, 2024, and indicated below. This price increase applies to all three (3) Water Treatment Plants: Ullrich, Davis, and Handcox.

	Item	Current Pricing	% Change	Revised Pricing
	Fluorosilicic Acid	\$368.97/ton	25%	\$498.34/ton

2.0 By signing this Amendment, the Contractor certifies that the Contractor and its principals are not currently suspended or debarred from doing business with the Federal Government, as indicated by the General Services Administration List of Parties Excluded from Federal Procurement and Non-Procurement Programs, the State of Texas, or the City of Austin.

ALL OTHER TERMS AND CONDITIONS REMAIN THE SAME.

BY THE SIGNATURES affixed below, this Amendment is hereby incorporated and made a part of the above referenced contract.

Signature & Date:

 1/12/24
Signature & Date

Printed Name: Shawnasey McCarthy

Authorized Representative

Univar Solutions USA Inc.
12720 E. US Hwy 92, Trl: 427
Dover, FL 33527

Signature & Date:

Marissa Jones Digitally signed by Marissa Jones
Date: 2024.01.12 11:06:41 -06'00'

Signature & Date

Marissa Jones, Procurement Specialist III
City of Austin



Amendment No. 1
to
Contract No. GA210000068
for
Fluorosilicic Acid
between
Univar Solutions Usa Inc. D/B/A Univar Usa
and the
City of Austin, Texas

- 1.0 The City hereby exercises this first extension option of three for the subject contract. This extension option will be effective August 26th, 2023, to August 25th, 2024.
- 2.0 By signing this Amendment, the City certifies that the Contractor and its principals are not currently suspended or debarred from doing business with the Federal Government, as indicated by the General Services Administration List of Parties Excluded from Federal Procurement and Non-Procurement Programs, the State of Texas, or the City of Austin.

ALL OTHER TERMS AND CONDITIONS REMAIN THE SAME.

BY THE SIGNATURE affixed below, this Amendment is hereby incorporated and made a part of the above referenced contract.

Erin D'Vincent Digitally signed by Erin D'Vincent
Date: 2023.08.15 13:38:40 -05'00'

Erin D'Vincent, Procurement Manager
City of Austin

OFFER CERTIFICATION

Instructions. Offerors shall complete and sign the Offer Certification section of this section as indicated. Offerors shall not complete any portions of the Acceptance section below. Submittals with incomplete and/or unsigned Offer Certification are not considered to be Offers and will be rejected as nonresponsive.

Company Name: **Univar Solutions USA Inc**

Company Address: **8201 S 212th Street**

City, State, Zip: **Kent WA 98032**

Company's Austin Finance Online Vendor Registration No. **VAN974750**

Company's Officer or Authorized Representative: **Roise Holiday**

Title of Officer or Authorized Representative: **Municipal Specialist**

Email: **Muniteam-west@univarsolutions.com**

Offeror's Phone: **206-653-5075**

Offeror's Signature: 

Date: **5/20/2021**

OFFER: The above signed, by his/her signature, represents that he/she is submitting a binding offer and is authorized to bind the respondent to fully comply with the solicitation document contained herein. The Offeror, by submitting and signing below, acknowledges that he/she has received and read the entire document packet including all revisions, and addenda and agrees to be bound by the terms therein.

ACCEPTANCE BY THE CITY

For City Staff only. The City will complete and sign this section only if the City accepts the Offer.

Contract Number: MA 2200 GA210000068

Printed Name of City's Authorized Procurement Staff: Sandy Wirtanen

Title of City's Authorized Procurement Staff: Procurement Specialist IV

Signature: Sandy Wirtanen Digitally signed by Sandy Wirtanen
Date: 2021.08.26 12:27:28 -05'00' Date: _____

Email: sandy.wirtanen@austintexas.gov Phone: 512-974-7711

ACCEPTANCE: The Offer is hereby accepted. Contractor is now bound to sell the materials or services specified in the Contract.

**CITY OF AUSTIN
TERMS AND CONDITIONS
FLUOROSILICIC ACID
SOLICITATION NUMBER: IFB 2200 SLW1054**

1 GENERAL

1.1 TERM OF CONTRACT:

- A. The Contract shall commence upon execution unless otherwise specified and shall continue in effect until all obligations are performed in accordance with the Contract. Upon written notice to the Contractor from the City's Purchasing Officer or designee, the Contract may be extended beyond the initial term at the City's sole option unless the Contractor is notified 30 days prior to the expiration. If the City exercises any extension option, all terms, conditions, and provisions of the Contract shall remain in effect for that extension period, subject only to any economic price adjustment otherwise allowed under the Contract.
- B. Upon expiration of the initial term or any period of extension, the Contractor agrees to holdover under the terms and conditions of this Contract for such a period as is reasonably necessary for the City to re-solicit and/or complete the Deliverables due under this Contract. Any holdover period will not exceed 180 calendar days unless mutually agreed on by both parties in writing.

1.2 INDEFINITE QUANTITY:

The quantities and/or services listed herein are estimates of the goods and services needed by the City for the period of the Contract. The City reserves the right to purchase more or less of these quantities and/or services as may be required during the Contract term. Quantities and/or services will be as needed and specified by the City for each order. Unless specified in the Contract, there are no minimum order quantities.

1.3 INVOICES:

- A. The Contractor shall submit separate Invoices for each Order after each delivery or on the schedule provided in the Contract. If partial shipments or deliveries are authorized by the City, a separate Invoice must be sent for each shipment or delivery made.
- B. Invoices shall be sent to the address on the Purchase Order of Delivery Order in the section entitled, "BILL TO". Proper Invoices must include a unique Invoice number, the purchase Order or delivery Order number, the master agreement number (if applicable), the Department's Name, and the name of the point of contact for the Department. Invoices shall be itemized according to pricing structure in the Contract. A copy of the bill of lading and the freight waybill, when applicable, shall be attached to the Invoice. The Contractor's name and, if applicable, the tax identification number on the Invoice must exactly match the information in the Vendor's registration with the City. Unless otherwise instructed in writing, the City may rely on the remittance address specified on the Contractor's Invoice. Invoices received without all required information cannot be processed and will be returned to the vendor.
- C. Invoices for labor shall include a tabulation of work-hours at the appropriate rates and grouped by work Order number. Time billed for labor shall be limited to hours actually worked.
- D. **Unless otherwise expressly authorized in the Contract, the Contractor shall pass through all** Subcontracting and other authorized expenses at actual cost without markup.
- E. Federal excise taxes, State taxes, or City sales taxes must not be included in the Invoiced amount. The City will furnish a tax exemption certificate upon request.

1.4 PAYMENT:

- A. All proper Invoices received by the City will be paid within 30 calendar days of the City's receipt of the Deliverables or of the Invoice, whichever is later.

**CITY OF AUSTIN
TERMS AND CONDITIONS
FLUOROSILICIC ACID
SOLICITATION NUMBER: IFB 2200 SLW1054**

- B. If payment is not timely made, (per Paragraph A), interest shall accrue on the unpaid balance at the lesser of the rate specified in Texas Government Code §2251.025 or the maximum lawful rate; except, if payment is not timely made for a reason for which the City may withhold payment hereunder, interest shall not accrue until 10 calendar days after the grounds for withholding payment have been resolved.
- C. If partial shipments or deliveries are authorized by the City, the Contractor will be paid for the partial shipment or delivery, as stated above, provided that the Invoice matches the shipment or delivery.
- D. The City may withhold or set off the entire payment or part of any payment otherwise due the Contractor to such extent as may be necessary on account of:
 - i. Delivery of defective or non-conforming Deliverables by the Contractor;
 - ii. Third party claims, which are not covered by the insurance which the Contractor is required to provide under the terms of this Contract, are filed or there is reasonable evidence indicating probable filing of such claims;
 - iii. Failure of the Contractor to pay Subcontractors, or for labor, materials or equipment;
 - iv. Damage to the property of the City or the City's agents, employees or Contractors, which is not covered by insurance required to be provided by the Contractor;
 - v. Reasonable evidence demonstrates that the Contractor's obligations will not be completed within the time specified in the Contract, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay;
 - vi. Failure of the Contractor to submit proper Invoices with all required attachments and supporting documentation; or
 - vii. Failure of the Contractor to comply with any material provision of the Contract Documents.
- E. Notice is hereby given of Article VIII, §1 of the Austin City Charter which prohibits the payment of any money to any person, firm or corporation who is in arrears to the City for taxes, and of §2-8-3 of the Austin City Code concerning the right of the City to offset indebtedness owed the City.
- F. The Contractor agrees to accept payment by either credit card, check or Electronic Funds Transfer for all goods and/or services provided under the Contract. The Contractor shall factor the cost of processing credit card payments into the Offer. There shall be no additional charges, surcharges, or penalties to the City for payments made by credit card.
- G. The awarding or continuation of this Contract is dependent upon the availability of funding. The City's payment obligations are payable only and solely from funds appropriated and available for this Contract. The absence of appropriated or other lawfully available funds shall render the Contract null and void to the extent funds are not appropriated or available and any Deliverables delivered but unpaid shall be returned to the Contractor. The City shall provide the Contractor written notice of the failure of the City to make an adequate appropriation for any fiscal year to pay the amounts due under the Contract, or the reduction of any appropriation to an amount insufficient to permit the City to pay its obligations under the Contract. In the event of inadequate appropriation of funds, there will be no penalty nor removal fees charged to the City. The City shall pay the Contractor, to the extent of funds appropriated or otherwise legally available for such purposes, for all goods delivered and services performed, and obligations incurred prior to the date of notice of non-appropriation.

1.5 FINAL PAYMENT AND CLOSE OUT:

- A. If a Minority-Owned Business Enterprise/Women-Owned Business Enterprise (MBE/WBE) Program Compliance Plan is required by the Solicitation, and the Contractor has identified Subcontractors, the Contractor is required to submit a Contract Close-Out MBE/WBE Compliance Report to the Project Manager or Contract Manager no later than the 15th calendar day after completion of all work under

**CITY OF AUSTIN
TERMS AND CONDITIONS
FLUOROSILICIC ACID
SOLICITATION NUMBER: IFB 2200 SLW1054**

the Contract. Final payment, retainage, or both may be withheld if the Contractor is not in compliance with the requirements of the Compliance Plan as accepted by the City.

- B. The making and acceptance of final payment will constitute:
- i. A waiver of all claims by the City against the Contractor, except claims (1) which have been previously asserted in writing and not yet settled, (2) arising from defective work appearing after final inspection, (3) arising from failure of the Contractor to comply with the Contract or the terms of any warranty specified herein, (4) arising from the Contractor's continuing obligations under the Contract, including but not limited to indemnity and warranty obligations, or (5) arising under the City's right to audit; and
 - ii. A waiver of all claims by the Contractor against the City other than those previously asserted in writing and not yet settled.

1.6 AUDITS AND RECORDS:

- A. The Contractor agrees that the representatives of the Office of the City Auditor or other authorized representatives of the City shall have access to, and the right to audit, examine, or reproduce, any and all records of the Contractor related to the performance under this Contract, at the City's expense. The Contractor agrees to refund to the City any overpayments disclosed by any such audit. The City agrees to protect from disclosure Contractor's confidential and proprietary information disclosed during an audit to the same extent it protects its own confidential and proprietary information, subject to the requirements of the Texas Public Information Act, Chapter 2251, Texas Government Code.
- B. Records Retention:
- i. Contractor is subject to City Code Chapter 2-11 (Records Management), and as it may subsequently be amended.
 - ii. The Contractor shall retain all records for a period of three years after final payment on this Contract or until all audit and litigation matters that the City has brought to the attention of the Contractor are resolved, whichever is longer.

1.7 FINANCIAL DISCLOSURES AND ASSURANCE:

The City may request and review financial information as the City requires to determine the credit worthiness of the Contractor, including but not limited to, annual reports, audited financial Statements and reports, bank letters of credit or other credit instruments. Failure of the Contractor to comply with this requirement shall be grounds for terminating the Contract.

1.8 RIGHT TO ASSURANCE:

Whenever one party to the Contract in good faith has reason to question the other party's intent to perform, demand may be made to the other party for written assurance of the intent to perform. If no assurance is given within the time specified after demand is made, the demanding party may treat this failure as an anticipatory repudiation of the Contract.

1.9 STOP WORK NOTICE:

The City may issue an immediate Stop Work Notice in the event the Contractor is observed performing in a manner that is in violation of Federal, State, or local guidelines, or in a manner that is determined by the City to be unsafe to either life or property. Upon notification, the Contractor will cease all work until notified by the City that the violation or unsafe condition has been corrected. The Contractor shall be liable for all costs incurred by the City as a result of the issuance of such Stop Work Notice.

**CITY OF AUSTIN
TERMS AND CONDITIONS
FLUOROSILICIC ACID
SOLICITATION NUMBER: IFB 2200 SLW1054**

1.10 DEFAULT:

The Contractor shall be in default under the Contract if the Contractor (a) fails to fully, timely and faithfully perform any of its material obligations under the Contract, (b) fails to provide adequate assurance of performance, (c) becomes insolvent or seeks relief under the bankruptcy laws of the United States or (d) makes a material misrepresentation in Contractor's Offer, or in any report or Deliverable required to be submitted by the Contractor to the City. The City shall be in default if it fails to make payment in accordance with the Payment terms of this Contract.

1.11 TERMINATION FOR CAUSE:

In the event of a default by either party, the non-defaulting party shall have the right to terminate the Contract for cause, by written notice effective ten 10 calendar days, unless otherwise specified, after the date of such notice, unless the defaulting party, within such 10 day period, cures such default, or provides evidence sufficient to prove to the non-defaulting party's reasonable satisfaction that such default does not, in fact, exist. Additionally, the City shall have the right to act in accordance with the terms defined by "City of Austin Purchasing Office Probation, Suspension and Debarment Rules for Vendors." In addition to any other remedy available under law or in equity, either party shall be entitled to recover all actual damages, costs, losses and expenses, incurred by the party as a result of the Contractor's default, including, without limitation, cost of cover, court costs, and prejudgment and post-judgment interest at the maximum lawful rate. All rights and remedies under the Contract are cumulative and not exclusive of any other right or remedy provided by law.

1.12 ATTORNEY'S FEES:

In consideration of the award and execution of this Contract and in consideration of the City's waiver of its right to attorney's fees, the Contractor knowingly and intentionally waives its right to attorney's fees under §271.153, Texas Local Government Code, in any administrative proceeding, alternative dispute resolution proceeding, or litigation arising out of or connected to this Contract.

1.13 TERMINATION WITHOUT CAUSE:

The City shall have the right to terminate the Contract, in whole or in part, without cause any time upon 30 calendar days' prior written notice. Upon receipt of a notice of termination, the Contractor shall promptly cease all further work pursuant to the Contract, with such exceptions, if any, specified in the notice of termination. The City shall pay the Contractor, to the extent of funds appropriated or otherwise legally available for such purposes, for all goods delivered and services performed, and obligations incurred prior to the date of termination in accordance with the terms hereof.

1.14 FRAUD:

Fraudulent Statements by the Contractor on any Offer or in any report or Deliverable required to be submitted by the Contractor to the City shall be grounds for the termination of the Contract for cause by the City and may result in legal action.

1.15 DELAYS:

The City may delay scheduled delivery or other due dates by written notice to the Contractor if the City deems it is in its best interest. If such delay causes an increase in the cost of the work under the Contract, the City and the Contractor shall negotiate an equitable adjustment for costs incurred by the Contractor in the Contract price and execute an amendment to the Contract. The Contractor must assert its right to an adjustment within 30 calendar days from the date of receipt of the notice of delay. Failure to agree on any

**CITY OF AUSTIN
TERMS AND CONDITIONS
FLUOROSILICIC ACID
SOLICITATION NUMBER: IFB 2200 SLW1054**

adjusted price shall be handled under the Dispute Resolution Clause. However, nothing in this provision shall excuse the Contractor from delaying the delivery as notified.

1.16 FORCE MAJEURE:

Contractor may be excused from performance under the Contract for any period when performance is prevented as the result of an act of God, strike, war, civil disturbance, epidemic, pandemic, sovereign conduct, or court order provided that the Contractor experiences the event of force majeure and prudently and promptly acts to take any and all steps that are within the Contractor's control to ensure performance and to shorten the duration of the event of force majeure. Contractor shall provide notice of the force majeure event to the City within three (3) business days of the event or delay, whichever occurs later, to establish a mutually agreeable period of time reasonably necessary to overcome the effect of such failure to perform. Subject to this provision, such non-performance shall not be deemed a default or a ground for termination. However, the City may terminate an order under the Contract if it is determined by the City that the Contractor will not be able to deliver goods or services in a timely manner to meet the business needs of the City.

1.17 INDEMNITY:

A. IN THIS SECTION, THE FOLLOWING TERMS HAVE THE MEANINGS ASSIGNED BELOW:

- i. "INDEMNIFIED PARTY" IS THE CITY AND THE CITY'S OFFICERS, ELECTED AND APPOINTED OFFICIALS, EMPLOYEES, AGENTS, REPRESENTATIVES, SUCCESSORS AND ASSIGNS.
 - (1) "INDEMNIFYING PARTY" IS THE CONTRACTOR, ITS OFFICERS, AGENTS, EMPLOYEES, SUBCONTRACTORS, SUCCESSORS AND ASSIGNS.
 - (2) THE INDEMNIFYING PARTY SHALL INDEMNIFY, HOLD HARMLESS, AND DEFEND THE INDEMNIFIED PARTY AGAINST ANY AND ALL LOSSES, DAMAGES, LIABILITIES, DEFICIENCIES, CLAIMS, CAUSES OF ACTION, JUDGMENTS, SETTLEMENTS, INTEREST, AWARDS, PENALTIES, FINES, COSTS OR EXPENSES, INCLUDING PROFESSIONAL FEES AND ATTORNEYS' FEES, THAT ARE INCURRED BY THE INDEMNIFIED PARTY ARISING OUT OF ANY DIRECT OR THIRD PARTY CLAIM OF:
 - ii. BREACH OR NON-FULFILLMENT OF ANY PROVISION OF THIS CONTRACT BY THE INDEMNIFYING PARTY;
 - iii. ANY FALSE REPRESENTATION OR WARRANTY MADE BY THE INDEMNIFYING PARTY IN THIS CONTRACT OR IN THE INDEMNIFYING PARTY'S PROPOSAL/RESPONSE LEADING TO THIS CONTRACT;
 - iv. ANY NEGLIGENT OR MORE CULPABLE ACT OR OMISSION OF THE INDEMNIFYING PARTY, INCLUDING ANY RECKLESS OR WILLFUL MISCONDUCT, RELATED TO THE PERFORMANCE OF ITS OBLIGATIONS UNDER THIS CONTRACT;
 - v. BODILY INJURY; DEATH OF ANY PERSON; OCCUPATIONAL ILLNESS OR DISEASE; LOSS OF SERVICES, WAGES, OR INCOME; OR DAMAGE TO REAL OR PERSONAL PROPERTY CAUSED BY THE NEGLIGENT OR MORE CULPABLE ACTS OR OMISSIONS OF INDEMNIFYING PARTY, INCLUDING ANY RECKLESS OR WILLFUL MISCONDUCT; OR
 - vi. ANY FAILURE OF THE INDEMNIFYING PARTY TO COMPLY WITH ANY APPLICABLE FEDERAL, STATE, OR LOCAL LAWS, REGULATIONS, OR CODES RELATED TO THE PERFORMANCE OF ITS OBLIGATIONS UNDER THIS CONTRACT.

B. ***THE INDEMNIFYING PARTY'S OBLIGATIONS UNDER THIS SECTION ARE NOT EXCUSED IN THE EVENT A CLAIM IS CAUSED IN PART BY THE ALLEGED NEGLIGENCE OR MORE CULPABLE ACTS OR OMISSIONS OF THE INDEMNIFIED PARTY, INCLUDING ANY RECKLESS OR WILLFUL MISCONDUCT.***

**CITY OF AUSTIN
TERMS AND CONDITIONS
FLUOROSILICIC ACID
SOLICITATION NUMBER: IFB 2200 SLW1054**

- C. THE INDEMNIFIED PARTY SHALL GIVE THE INDEMNIFYING PARTY WRITTEN NOTICE (A "CLAIM NOTICE") OF ANY CLAIM RECEIVED RELATED TO THIS CONTRACT. THE INDEMNIFYING PARTY'S DUTY TO DEFEND APPLIES IMMEDIATELY. THE INDEMNIFIED PARTY'S FAILURE TO PROVIDE A CLAIM NOTICE TO THE INDEMNIFYING PARTY DOES NOT RELIEVE THE INDEMNIFYING PARTY OF ITS DUTY TO INDEMNIFY, HOLD HARMLESS AND DEFEND THE INDEMNIFIED PARTY.
- D. THE INDEMNIFIED PARTY MAY SELECT ITS OWN LEGAL COUNSEL TO REPRESENT ITS INTERESTS. THE INDEMNIFYING PARTY SHALL:
 - i. REIMBURSE THE INDEMNIFIED PARTY FOR ITS COSTS AND ATTORNEY'S FEES IMMEDIATELY UPON REQUEST, AS THEY ARE INCURRED, AND
 - ii. REMAIN RESPONSIBLE TO THE INDEMNIFIED PARTY FOR ANY LOSSES INDEMNIFIED UNDER THIS SECTION.
- E. THE INDEMNIFYING PARTY SHALL GIVE PROMPT, WRITTEN NOTICE TO THE INDEMNIFIED PARTY OF ANY PROPOSED SETTLEMENT OF A CLAIM THAT IS INDEMNIFIABLE UNDER THIS SECTION. THE INDEMNIFYING PARTY MAY NOT, WITHOUT THE INDEMNIFIED PARTY'S PRIOR, WRITTEN CONSENT, SETTLE OR COMPROMISE ANY CLAIM OR CONSENT TO THE ENTRY OF ANY JUDGMENT REGARDING WHICH INDEMNIFICATION IS BEING SOUGHT UNDER THIS SECTION.
- F. MAINTENANCE OF THE INSURANCE REQUIRED BY THIS CONTRACT SHALL NOT LIMIT THE INDEMNIFYING PARTY'S OBLIGATIONS UNDER THIS SECTION. THE INDEMNIFYING PARTY SHALL REQUIRE ALL SUBCONTRACTORS TO INDEMNIFY THE CITY IN THE SAME MANNER AS PROVIDED IN THIS SECTION.

1.18 NOTICES:

Unless otherwise specified, all notices, requests, or other communications required or appropriate to be given under the Contract shall be in writing and shall be deemed delivered three business days after postmarked if sent by U.S. Postal Service Certified or Registered Mail, Return Receipt Requested. Notices delivered by other means shall be deemed delivered upon receipt by the addressee. Notices to the Contractor shall be sent to the address registered with the City. Notices to the City shall be addressed to the City at P.O. Box 1088, Austin, Texas 78767 and marked to the attention of the assigned Procurement Specialist.

1.19 CONFIDENTIALITY:

The Contractor may be granted access to certain of the City's or licensor's confidential information (including inventions, employee information, trade secrets, confidential know-how, confidential business information, and other information which City or its licensors consider confidential) (Confidential Information) to provide the Deliverables to the City. The Contractor acknowledges and agrees that the Confidential Information is the valuable property of the City and its licensors and any unauthorized use, disclosure, dissemination, or other release of the Confidential Information will substantially injure the City and its licensors. The Contractor (including its employees, Subcontractors, agents, or representatives) agrees it will maintain the Confidential Information in strict confidence and shall not disclose, disseminate, copy, divulge, recreate, or otherwise use the Confidential Information without prior written consent of City, or in a manner not expressly permitted under this Contract, unless the Confidential Information is required to be disclosed by law or an Order of a court or other governmental authority (including a Texas Attorney General opinion) with proper jurisdiction. In all cases, the Contractor agrees to promptly notify the City before disclosing Confidential Information to permit the City reasonable time to seek an appropriate protective Order. The Contractor agrees to use protective measures no less stringent than the Contractor uses in its business to protect its own most valuable information. In all circumstances, the Contractor's

**CITY OF AUSTIN
TERMS AND CONDITIONS
FLUOROSILICIC ACID
SOLICITATION NUMBER: IFB 2200 SLW1054**

protective measures must be at least reasonable measures to ensure the continued confidentiality of the Confidential Information.

- A. Confidential information includes, but is not limited to, all information regarding commercial data, customer information, financial data and projections, pricing proposals, and cost analyses, whether in tangible form or orally or visually conveyed to, or acquired by, the Contractor in the course of its work under the Contract. Confidential Information may be in any medium and may be written or oral.
- B. The Contractor agrees: (i) not to use Confidential Information for any reason other than for the purpose of providing or receiving the Deliverables, (ii) not to disclose Confidential Information to any third party other than to its employees who have a need to know the Confidential Information for furtherance of providing the Deliverables, (iii) to promptly notify City of any request for Confidential Information to be disclosed under any law or Order of any court or other governmental authority with proper jurisdiction, so as to permit City reasonable time to seek an appropriate protective Order, and (iv) to use measures to protect the Confidential Information that are no less stringent than the Contractor uses within its own business to protect its own most valuable information, which protective measures shall under all circumstances be at least reasonable measures to ensure the continued confidentiality of the Confidential Information.
- C. All Confidential Information and derivations thereof shall remain the sole and exclusive property of City, and no license or other right to the Confidential Information or intellectual property is granted or implied hereby. Upon the written request of City, the Contractor shall promptly return to City all tangible items of Confidential Information furnished by City and all copies thereof or certify in writing that all Confidential Information, including all copies, has been destroyed.
- D. No expiration or termination of the Contract shall affect either party's rights or obligations with respect to Confidential Information.
- E. The parties acknowledge and agree that any breach or threatened breach of the Contract could cause harm for which money damages may not provide an adequate remedy.
The parties agree that in the event of such a breach or threatened breach of the Contract, in addition to any other available remedies, City may seek temporary and permanent injunctive relief restraining the Contractor from disclosing or using, in whole or in part, any Confidential Information.

1.20 TEXAS PUBLIC INFORMATION ACT:

- A. All material submitted by the Contractor to the City related to the Contract shall become property of the City upon receipt. Any portions of such material claimed by the Contractor to be proprietary must be clearly marked as such. Determination of the public nature of the material is subject to the Texas Public Information Act, Chapter 552, Texas Government Code.
- B. In accordance with Texas Government Code §552.372, if this Contract has a stated expenditure of at least \$1 million in public funds for the purchase of goods or services by the City or results in the expenditure of at least \$1 million in public funds for the purchase of goods or services by the City in a fiscal year, Contractor agrees to:
 - i. Preserve all Contracting information related to the Contract as provided by the records retention requirements in the AUDITS AND RECORDS Section of the Contract;
 - ii. Promptly provide to the City any Contracting information related to the Contract that is in the custody or possession of Contractor on request of the City; and
 - iii. On completion of the Contract, either:
 - (1) Provide at no cost to the City all Contracting information related to the Contract that is in the custody or possession of Contractor; or

**CITY OF AUSTIN
TERMS AND CONDITIONS
FLUOROSILICIC ACID
SOLICITATION NUMBER: IFB 2200 SLW1054**

- (2) Preserve the Contracting information related to the Contract as provided by the records retention requirements in the AUDITS AND RECORDS Section of the Contract.
- C. The requirements of Subchapter J, Chapter 552, Texas Government Code, may apply to this Contract, and the Contractor agrees that the Contract can be terminated if the Contractor knowingly or intentionally fails to comply with a requirement of that Subchapter.

1.21 PUBLICATIONS:

All published material and written reports submitted under the Contract must be originally developed material unless otherwise specifically provided in the Contract. When material not originally developed is included in a report in any form, the source shall be identified.

1.22 ADVERTISING:

The Contractor shall not advertise or publish, without the City's prior written consent, the fact that the City has entered into the Contract, except to the extent required by law.

1.23 NO CONTINGENT FEES:

The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure the Contract upon any agreement or understanding for commission, percentage, brokerage, or contingent fee, excepting bona fide employees of bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, the City shall have the right, in addition to any other remedy available, to cancel the Contract without liability and to deduct from any amounts owed to the Contractor, or otherwise recover, the full amount of such commission, percentage, brokerage or contingent fee.

1.24 GRATUITIES:

The City may, by written notice to the Contractor, cancel the Contract without liability if it is determined by the City that gratuities were Offered or given by the Contractor or any agent or representative of the Contractor to any officer or employee of the City of Austin with a view toward securing the Contract or securing favorable treatment with respect to the awarding or amending or the making of any determinations with respect to the performing of such Contract. In the event the Contract is canceled by the City pursuant to this provision, the City shall be entitled, in addition to any other rights and remedies, to recover or withhold the amount of the cost incurred by the Contractor in providing such gratuities.

1.25 PROHIBITION AGAINST PERSONAL INTEREST IN CONTRACTS:

No officer, employee, independent consultant, or elected official of the City who is involved in the development, evaluation, or decision-making process of the performance of any Solicitation shall have a financial interest, direct or indirect, in the Contract resulting from that Solicitation. Any willful violation of this Section shall constitute impropriety in office, and any officer or employee guilty thereof shall be subject to disciplinary action up to and including dismissal. Any violation of this provision, with the knowledge, expressed or implied, of the Contractor shall render the Contract voidable by the City.

1.26 INDEPENDENT CONTRACTOR:

The Contract shall not be construed as creating an employer/employee relationship, a partnership, or a joint venture. The Contractor's services shall be those of an independent Contractor. The Contractor agrees and understands that the Contract does not grant any rights or privileges established for employees of the City.

**CITY OF AUSTIN
TERMS AND CONDITIONS
FLUOROSILICIC ACID
SOLICITATION NUMBER: IFB 2200 SLW1054**

1.27 ASSIGNMENT DELEGATION:

The Contract shall be binding upon and ensure to the benefit of the City and the Contractor and their respective successors and assigns, provided however, that no right or interest in the Contract shall be assigned and no obligation shall be delegated by the Contractor without the prior written consent of the City. Any attempted assignment or delegation by the Contractor shall be void unless made in conformity with this Paragraph. The Contract is not intended to confer rights or benefits on any person, firm or entity not a party hereto; it being the intention of the parties that there be no third-party beneficiaries to the Contract.

1.28 WAIVER:

The claim or right arising out of a breach of the Contract can be discharged in whole or in part by a waiver or renunciation of the claim or right unless the waiver or renunciation is supported by consideration and is in writing signed by the aggrieved party. No waiver by either the Contractor or the City of any one or more events of default by the other party shall operate as, or be construed to be, a permanent waiver of any rights or obligations under the Contract, or an express or implied acceptance of any other existing or future default or defaults, whether of a similar or different character.

1.29 MODIFICATIONS:

The Contract can be modified or amended only in writing and signed by both parties. No pre-printed or similar terms on any Contractor Invoice, Order, clickwrap agreement or other document shall have any force or effect to change the terms, covenants, and conditions of the Contract.

1.30 INTERPRETATION:

The Contract is intended by the parties as a final, complete and exclusive Statement of the terms of their agreement. No course of prior dealing between the parties or course of performance or usage of the trade shall be relevant to supplement or explain any term used in the Contract. Although the Contract may have been substantially drafted by one party, it is the intent of the parties that all provisions be construed in a manner to be fair to both parties, reading no provisions more strictly against one party or the other. Whenever a term defined by the Uniform Commercial Code, as enacted by the State of Texas, is used in the Contract, the UCC definition shall control, unless otherwise defined in the Contract.

1.31 DISPUTE RESOLUTION:

- A. If a dispute arises out of or relates to the Contract, or the breach thereof, the parties agree to negotiate prior to prosecuting a suit for damages. However, this Section does not prohibit the filing of a lawsuit to toll the running of a statute of limitations or to seek injunctive relief. Either party may make a written request for a meeting between representatives of each party within 14 calendar days after receipt of the request or such later period as agreed by the parties. Each party shall include, at a minimum, one senior level individual with decision-making authority regarding the dispute. The purpose of this and any subsequent meeting is to attempt in good faith to negotiate a resolution of the dispute. If, within 30 calendar days after such meeting, the parties have not succeeded in negotiating a resolution of the dispute, they will proceed directly to mediation as described below. Negotiation may be waived by a written agreement signed by both parties, in which event the parties may proceed directly to mediation as described below.
- B. If the efforts to resolve the dispute through negotiation fail, or the parties waive the negotiation process, the parties may select, within 30 calendar days, a mediator trained in mediation skills to assist with resolution of the dispute. Should they choose this option, the City and the Contractor agree to act

**CITY OF AUSTIN
TERMS AND CONDITIONS
FLUOROSILICIC ACID
SOLICITATION NUMBER: IFB 2200 SLW1054**

in good faith in the selection of the mediator and to consider qualified individuals nominated to act as mediator. Nothing in the Contract prevents the parties from relying on the skills of a person who is trained in the subject matter of the dispute or a Contract interpretation expert. If the parties fail to agree on a mediator within 30 calendar days of initiation of the mediation process, the mediator shall be selected by the Travis County Dispute Resolution Center. The parties agree to participate in mediation in good faith for up to 30 calendar days from the date of the first mediation session. The City and the Contractor will share the mediator’s fees equally and the parties will bear their own costs of participation such as fees for any consultants or attorneys they may utilize to represent them or otherwise assist them in the mediation.

1.32 JURISDICTION AND VENUE:

The Contract is made under and shall be governed by the laws of the State of Texas, including, when applicable, the Uniform Commercial Code as adopted in Texas, Bus. & Comm. Code, Chapter 1, excluding any rule or principle that would refer to and apply the substantive law of another State or jurisdiction. All issues arising from this Contract shall be resolved in the courts of Travis County, Texas and the parties agree to submit to the exclusive personal jurisdiction of such courts. The foregoing, however, shall not be construed or interpreted to limit or restrict the right or ability of the City to seek and secure injunctive relief from any competent authority as contemplated herein.

1.33 INVALIDITY:

The invalidity, illegality, or unenforceability of any provision of the Contract shall in no way affect the validity or enforceability of any other portion or provision of the Contract. Any void provision shall be deemed severed from the Contract and the balance of the Contract shall be construed and enforced as if the Contract did not contain the particular portion or provision held to be void. The parties further agree to reform the Contract to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision. The provisions of this Section shall not prevent this entire Contract from being void should a provision which is the essence of the Contract be determined to be void.

1.34 HOLIDAYS:

The following holidays are observed by the City:

<u>Holiday</u>	<u>Date Observed</u>
New Year’s Day	January 1
Martin Luther King, Jr.’s Birthday	Third Monday in January
President’s Day	Third Monday in February
Memorial Day	Last Monday in May
Juneteenth	June 18
Independence Day	July 4
Labor Day	First Monday in September
Veteran’s Day	November 11
Thanksgiving Day	Fourth Thursday in November
Friday after Thanksgiving	Friday after Thanksgiving
Christmas Eve	December 24
Christmas Day	December 25

**CITY OF AUSTIN
TERMS AND CONDITIONS
FLUOROSILICIC ACID
SOLICITATION NUMBER: IFB 2200 SLW1054**

If a Legal Holiday falls on Saturday, it will be observed on the preceding Friday. If a Legal Holiday falls on Sunday, it will be observed on the following Monday.

1.35 SURVIVABILITY OF OBLIGATIONS:

All provisions of the Contract that impose continuing obligations on the parties, including but not limited to the warranty, indemnity, and confidentiality obligations of the parties, shall survive the expiration or termination of the Contract.

1.36 COOPERATIVE CONTRACT:

- A. The City has entered into Interlocal Purchasing Agreements with other governmental entities, for the purpose of accessing their cooperative contracts and making available our cooperative contracts, pursuant to the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code. The Contractor agrees to offer the same prices and terms and conditions of this cooperative contract to other eligible governmental agencies that have entered into an interlocal agreement with the City for the purpose of accessing the City's cooperative contracts.
- B. The City does not accept any responsibility or liability for the purchases by other governmental entities made under a separate contract based on this cooperative contract.

1.37 NON-DEBARMENT CERTIFICATION:

When using Federal funds, the City of Austin does not Contract with or make prime or sub-awards to parties that are debarred or whose principals are debarred from Federal Contracts. By accepting a Contract with the City, the Vendor certifies that its firm and its principals are not currently debarred from doing business with the Federal Government, as indicated by the General Services Administration List of Parties Excluded from Federal Procurement and Non-Procurement Programs. The Contractor shall notify the Procurement Specialist within five business days if they become debarred from doing business with the Federal Government during the term of the Contract.

1.38 EQUAL OPPORTUNITY:

- A. **Equal Employment Opportunity:** No Contractor, or Contractor's agent, shall engage in any discriminatory employment practice as defined in Chapter 5-4 of the City Code. No Offer submitted to the City shall be considered, nor any Purchase Order issued, or any Contract awarded by the City unless the Offeror has executed and filed with the City Purchasing Office a current Non-Discrimination Certification. Non-compliance with Chapter 5-4 of the City Code may result in sanctions, including termination of the Contract and the Contractor's suspension or debarment from participation on future City Contracts until deemed compliant with Chapter 5-4.
- B. **Non-Retaliation:** The Contractor agrees to prohibit retaliation, discharge or otherwise discrimination against any employee or applicant for employment who has inquired about, discussed or disclosed their compensation.
- C. **Americans with Disabilities Act (ADA) Compliance:** No Contractor, or Contractor's agent, shall engage in any discriminatory practice against individuals with disabilities as defined in the ADA, including but not limited to: employment, accessibility to goods and services, reasonable accommodations, and effective communications.

**CITY OF AUSTIN
TERMS AND CONDITIONS
FLUOROSILICIC ACID
SOLICITATION NUMBER: IFB 2200 SLW1054**

1.39 MANDATORY ANTI-ISRAEL BOYCOTT PROVISION:

Pursuant to *Amawi v. Pflugerville Independent School District*, 373 F.Supp.3d 717 (W.D. Texas 2019), the State of Texas is preliminarily enjoined from enforcing this provision. However, if that injunction is lifted, this provision may apply to the Contract:

Pursuant to Texas Government Code §2271.002, the City is prohibited from contracting with any “company” for goods or services unless the following verification is included in this Contract.

A. For the purposes of this Section only, the terms “company” and “boycott Israel” have the meaning assigned by Texas Government Code §2271.001.

B. If the Contractor qualifies as a “company”, then the Contractor verifies that he:

i. does not “boycott Israel”; and

ii. will not “boycott Israel” during the term of this Contract.

C. The Contractor’s obligations under this Section, if any exist, will automatically cease or be reduced to the extent that the requirements of Texas Government Code Chapter 2271 are subsequently repealed, reduced, or declared unenforceable or invalid in whole or in part by any court or tribunal of competent jurisdiction or by the Texas Attorney General, without any further impact on the validity or continuity of this Contract.

1.40 PROHIBITION ON LGBTQ+ CONVERSION THERAPY:

The Contractor certifies that it is aware of City Council Resolution No. 20191114-056, which prohibits the City from Contracting with entities that engage in certain practices related to conversion therapy. By accepting this Contract, the Contractor agrees that: (1) its firm and its principals are not currently and will not during the term of the Contract engage in practicing LGBTQ+ conversion therapy; referring persons to a healthcare provider or other person or organization for LGBTQ+ conversion therapy; or Contracting with another entity to conduct LGBTQ+ conversion therapy; and (2) if the City determines in its sole discretion that Contractor has during the term of this Contract engaged in any such practices, the City may terminate this Contract without penalty to the City.

1.41 LIQUIDATED DAMAGES:

Time is of the essence in the performance of the Contract; therefore, the Contractor shall strictly adhere to the Contract delivery schedule. No changes in the delivery schedule shall be effective unless in writing executed by both the City and the Contractor. The parties agree that if, due to no fault of the City, delivery of any material or performance of any service is delayed beyond the time specified in the Contract, the actual damages sustained by the City because of such delay will be uncertain and difficult to determine, and that the reasonable foreseeable damage incurred by the City is hereby stipulated to be one percent (1%) per calendar day of total dollar amount of the subject quantity in the specific purchase order of the missed delivery. The parties intend that the liquidated damages constitute compensation, and not a penalty. The Contractor, therefore, agrees to apply as a credit to the amount requested on the invoice for the delayed load.

1.42 ECONOMIC PRICE ADJUSTMENT:

A. **Price Adjustments:** Prices shown in this Contract shall remain firm for the first twelve (12) of calendar days/months of the Contract. After that, in recognition of the potential for fluctuation of the Contractor’s cost, a price adjustment (increase or decrease) may be requested by either the City or the Contractor on the anniversary date of the Contract or as may otherwise be specified herein. The percentage change between the Contract price and the requested price shall not exceed the percentage

**CITY OF AUSTIN
TERMS AND CONDITIONS
FLUOROSILICIC ACID
SOLICITATION NUMBER: IFB 2200 SLW1054**

change between the specified index in effect on the date the Solicitation closed and the most recent, non-preliminary data at the time the price adjustment is requested. The requested price adjustment shall not exceed 25% percent for any single line item and in no event shall the total amount of the Contract be automatically adjusted as a result of the change in one or more-line items made pursuant to this provision. Prices for products or services unaffected by verifiable cost trends shall not be subject to adjustment.

- B. **Effective Date:** Approved price adjustments will go into effect on the first day of the upcoming renewal period or anniversary date of Contract award and remain in effect until Contract expiration unless changed by subsequent amendment.
- C. **Adjustments:** A request for price adjustment must be made in writing and submitted to the other Party prior to the yearly anniversary date of the Contract; adjustments may only be considered at that time unless otherwise specified herein. Requested adjustments must be solely for the purpose of accommodating changes in the Contractor's direct costs. Contractor shall provide an updated price listing once agreed to adjustment(s) have been approved by the parties.
- D. **Indexes:** In most cases an index from the Bureau of Labor Standards will be utilized; however, if there is more appropriate, industry recognized standard then that index may be selected.
 - i. The following definitions apply:
 - (1) **Base Period:** Month and year of the original Contracted price (the Solicitation close date).
 - (2) **Base Price:** Initial price quoted, proposed and/or Contracted per unit of measure.
 - (3) **Adjusted Price:** Base Price after it has been adjusted in accordance with the applicable index change and instructions provided.
 - (4) **Change Factor:** The multiplier utilized to adjust the Base Price to the Adjusted Price.
 - (5) **Weight %:** The percent of the Base Price subject to adjustment based on an index change.
 - a. **Adjustment-Request Review:** Each adjustment-request received will be reviewed and compared to changes in the index(es) identified below. Where applicable:
 - i. Utilize final Compilation data instead of Preliminary data
 - ii. If the referenced index is no longer available shift up to the next higher category index.
 - iii. Index Identification: Complete.

Weight % or \$ of Base Price: 100%	
Database Name: Bureau of Labor Statistics Data	
Series ID: PCU325180325180	
<input checked="" type="checkbox"/> Not Seasonally Adjusted	<input type="checkbox"/> Seasonally Adjusted
Geographical Area: National	
Description of Series ID: Other basic inorganic chemical manufacturing.	
This index shall apply to the following items of the Bid Sheet / Cost Proposal: All	

- E. **Calculation:** Price adjustment will be calculated as follows:

Single Index: Adjust the Base Price by the same factor calculated for the index change.

Index at time of calculation
Divided by index on solicitation close date
Equals Change Factor
Multiplied by the Base Rate
Equals the Adjusted Price

**CITY OF AUSTIN
TERMS AND CONDITIONS
FLUOROSILICIC ACID
SOLICITATION NUMBER: IFB 2200 SLW1054**

- F. If the requested adjustment is not supported by the referenced index, the City, at its sole discretion, may consider approving an adjustment on fully documented market increases.

1.43 INSURANCE:

A GENERAL INSURANCE REQUIREMENTS:

- i. The Contractor shall provide a Certificate of Insurance as verification of coverages and endorsements required in Section B., Specific Insurance Requirements, to the City prior to Contract execution and within 14 calendar days after written request from the City. Failure to provide the required Certificate of Insurance may subject the Offer to disqualification from consideration for award. The Contractor must also forward a Certificate of Insurance to the City whenever a previously identified policy period has expired, or an extension option or hold over period is exercised, as verification of continuing coverage.
- ii. All endorsements naming the City as additional insured, waivers, and notices of cancellation shall indicate, and the Certificate of Insurance shall be mailed to the following address:
City of Austin Purchasing Office
P.O. Box 1088 OR PURInsuranceCompliance@austintexas.gov
Austin, Texas 78767
- iii. The Contractor shall not commence work until the required insurance is obtained and until such insurance has been reviewed by the City. Approval of insurance by the City shall not relieve or decrease the liability of the Contractor hereunder and shall not be construed to be a limitation of liability on the part of the Contractor.
- iv. The City may request that the Contractor submit certificates of insurance to the City for all Subcontractors prior to the Subcontractors commencing work on the project.
- v. The Contractor's and all Subcontractors' insurance coverage shall be written by companies authorized to do business in the State of Texas and have an A.M. Best rating of B+VII or better.
- vi. The "other" insurance clause shall not apply to the City where the City is an additional insured shown on any policy. It is intended that policies required in the Contract, covering both the City and the Contractor, shall be considered primary coverage as applicable.
- vii. If insurance policies are not written for amounts specified in Section B., Specific Insurance Requirements, the Contractor shall carry Umbrella or Excess Liability Insurance for any differences in amounts specified. If Excess Liability Insurance is provided, it shall follow the form of the primary coverage.
- viii. The City shall be entitled, upon request, at an agreed upon location, and without expense, to review certified copies of policies and endorsements thereto and may make any reasonable requests for deletion or revision or modification of particular policy terms, conditions, limitations, or exclusions except where policy provisions are established by law or regulations binding upon either of the parties hereto or the underwriter on any such policies.
- ix. The City reserves the right to review the insurance requirements set forth during the effective period of the Contract and to make reasonable adjustments to insurance coverage, limits, and exclusions when deemed necessary and prudent by the City based upon changes in exposure, statutory law, court decisions, the claims history of the industry or financial condition of the insurance company as well as the Contractor.
- x. The Contractor shall not cause any insurance to be canceled nor permit any insurance to lapse during the term of the Contract or as required in the Contract.

**CITY OF AUSTIN
TERMS AND CONDITIONS
FLUOROSILICIC ACID
SOLICITATION NUMBER: IFB 2200 SLW1054**

- xi. The Contractor shall be responsible for premiums, deductibles and self-insured retentions, if any, stated in policies. Self-insured retentions greater than \$499,999 shall be disclosed on the Certificate of Insurance.
 - xii. If any required insurance is written on a claims-made basis, the Certificate of Insurance shall state that the coverage is claims-made and the retroactive date shall be prior to or coincident with the date of the Contract and the coverage continuous and shall be provided for 24 months following the completion of the Contract.
 - xiii. The insurance coverages specified in Section B., Specific Insurance Requirements, are required minimums and are not intended to limit the responsibility or liability of the Contractor.
- B. **Specific Insurance Coverage Requirements:** The Contractor, consistent with its status as an independent Contractor shall carry and will cause its Subcontractors to carry, at a minimum insurance in the types and amounts indicated below for the duration of the Contract, including extension options and hold over periods, and during any warranty period.
- i. **Worker's Compensation and Employers' Liability Insurance:** Coverage shall be consistent with statutory benefits outlined in the Texas Worker's Compensation Act (Section 401). The minimum policy limits for Employer's Liability are \$100,000 bodily injury each accident, \$500,000 bodily injury by disease policy limit and \$100,000 bodily injury by disease each employee.
 - (1) The Contractor's policy shall apply to the State of Texas and include these endorsements in favor of the City of Austin:
 - a. Waiver of Subrogation, Form WC420304, or equivalent coverage;
 - b. 30 Days' Notice of Cancellation, Form WC420601, or equivalent coverage.
 - ii. **Commercial General Liability Insurance:** Coverage with minimum bodily injury and property damage per occurrence limits of \$500,000 for coverages A (Bodily Injury and Property Damage) and B (Personal and Advertising Injury).
 - (1) The policy shall contain the following provisions:
 - a. Contractual liability coverage for liability assumed under the Contract and all other Contracts related to the project;
 - b. Independent Contractors coverage (Contractor/Subcontracted work);
 - c. Products/Completed Operations Liability for the duration of the warranty period;
 - d. If the project involves digging or drilling, provide Explosion, Collapse, and Underground (X, C, & U) Coverage.
 - (2) The policy shall also include these endorsements in favor of the City of Austin:
 - a. Waiver of Subrogation, Endorsement CG 2404, or equivalent coverage;
 - b. 30 Day's Notice of Cancellation, Endorsement CG 0205, or equivalent coverage;
 - c. The City of Austin listed as an additional insured, Endorsement CG 2010, or equivalent coverage.
 - iii. **Business Automobile Liability Insurance:** Coverage for all owned, non-owned and hired vehicles with a minimum combined single limit of \$500,000 per occurrence for bodily injury and property damage. Alternate acceptable limits are \$250,000 bodily injury per person, \$500,000 bodily injury per occurrence and at least \$100,000 property damage liability per accident.
 - (1) The policy shall include these endorsements in favor of the City of Austin:
 - a. Waiver of Subrogation, Endorsement CA0444, or equivalent coverage;
 - b. 30 Days' Notice of Cancellation, Endorsement CA0244, or equivalent coverage;
 - c. The City of Austin listed as an additional insured, Endorsement CA2048, or equivalent coverage.

**CITY OF AUSTIN
TERMS AND CONDITIONS
FLUOROSILICIC ACID
SOLICITATION NUMBER: IFB 2200 SLW1054**

- iv. **Hazardous Materials Insurance:** For Work which involves hazardous materials CONTRACTOR or Subcontractor responsible for the Work shall comply with the following insurance requirements in addition to those specified above:
- (1) Provide a pollution endorsement to the Commercial General Liability policy with minimum bodily injury and property damage limits of \$1,000,000 per occurrence for coverages A&B and products/completed operations coverage with a separate aggregate of \$1,000,000. This policy shall not exclude hazardous materials or pollution and shall provide "occurrence" coverage without a sunset clause.
 - a. The policy shall provide 30-day Notice of Cancellation
 - b. Waiver of Subrogation endorsements in favor of OWNER.
 - (2) CONTRACTOR or Subcontractor responsible for transporting any hazardous materials shall provide pollution coverage. Federal law requires interstate or intrastate transporters of hazardous materials to provide an MCS 90 endorsement with a \$5,000,000 limit when transporting hazardous materials in bulk in conveyances of gross vehicle weight rating of 10,000 pounds or more. Interstate transporters of hazardous materials in non-bulk in conveyances of gross vehicle weight rating of 10,000 pounds or more must provide an MCS 90 endorsement with a \$1,000,000 limit. The terms "conveyance" and "bulk" are defined by Title 49 CFR 171.8. All other transporters of hazardous material shall provide either an MCS 90 endorsement with minimum limits of \$1,000,000 or an endorsement to their Commercial General Liability Insurance policy which provides coverage for bodily injury and property damage arising out of the transportation of hazardous materials. The endorsement shall, at a minimum, provide a \$1,000,000 limit of liability and cover events arising from fire, wind, hail, lightning, overturn of conveyance, collision with other vehicles or objects, and loading and unloading of conveyances.
- C. **Endorsements:** The specific insurance coverage endorsements specified above, or their equivalents must be provided. If endorsements, which are the equivalent of the required coverage, are proposed to be substituted for the required coverage, copies of the equivalent endorsements must be provided for the City's review and approval.

2 GOODS

2.1 DELIVERY AND PACKAGING TERMS:

- A. **DELIVERY AND TRANSPORTATION CHARGES:** Deliverables shall be shipped F.O.B. destination, prepaid and allowed unless otherwise specified. Unless otherwise stated in this Contract, the Contractor's price shall be deemed to include all delivery and transportation charges of required mode of transportation. The City shall have the right to designate what method of transportation shall be used to ship the Deliverables. The place of delivery shall be set forth in the block of the Purchase Order or Delivery Order entitled "SHIP TO" and/or Offer Sheet. Unless requested by the City, deliveries shall not be made on City-recognized legal holidays. The City expressly reserves all rights under law, to inspect the Deliverables at delivery before accepting them, and to reject defective or non-conforming Deliverables.
- B. **NO REPLACEMENT OF DEFECTIVE TENDER:** Every tender or delivery of Deliverables must fully comply with all provisions of the Contract as to time of delivery, quality, and quantity. Any non-complying tender shall constitute a breach. However, the Contractor shall have the right to substitute a conforming tender; provided if the time for performance has not yet expired. The Contractor shall notify the City of the intention to cure and may then make a conforming tender within the time allotted in the Contract.

CITY OF AUSTIN
TERMS AND CONDITIONS
FLUOROSILICIC ACID
SOLICITATION NUMBER: IFB 2200 SLW1054

- C. **ACCEPTANCE OF INCOMPLETE OR NON-CONFORMING DELIVERABLES:** All Deliverables must be shipped complete unless arrangements for partial shipments are made in advance. If, instead of requiring immediate correction or removal and replacement of defective or non-conforming Deliverables, the City prefers to accept it, the City may do so. The Contractor shall pay all claims, costs, losses and damages attributable to the City's evaluation of and determination to accept such defective or non-conforming Deliverables or Services. If any such acceptance occurs prior to final payment, the City may deduct such amounts as are necessary to compensate the City for the diminished value of the defective or non-conforming Deliverables or Services. If the acceptance occurs after final payment, such amount will be refunded to the City by the Contractor within 30 calendar days of notification provided by the City.
- D. **RIGHT OF INSPECTION AND REJECTION:** The City expressly reserves all rights under law to inspect the Deliverables at delivery before accepting them, and to reject defective or non-conforming Deliverables
- E. **CONTRACTOR PACKAGING DELIVERABLES:** The Contractor will package Deliverables in accordance with good commercial practice and shall include a packing list showing the description of each item, the quantity and unit price. Unless otherwise provided in the Specifications, each shipping container shall be clearly and permanently marked as follows: (a) The Contractor's name and address, (b) the City's name, address and Purchase Order or Delivery Order number and the price agreement number if applicable, (c) container number and total number of containers, e.g. box 1 of 4 boxes, and (d) the number of the container bearing the packing list. The Contractor shall bear the cost of packaging. Deliverables shall be suitably packed to secure lowest transportation costs and to conform with requirements of common carriers and any applicable Specifications. The City's count or weight shall be final and conclusive on shipments not accompanied by packing lists.

2.2 WARRANTY:

A. PRICE:

- i. The Contractor certifies that the prices in the Offer have been arrived at independently without consultation, communication, or agreement for the purpose of restricting competition, as to any matter relating to such fees with any other firm or with any competitor.
- ii. The Contractor warrants that its prices provided in this Contract are no higher than its current prices on orders for similar goods under similar terms of purchase.

B. TITLE & RISK OF LOSS: Title to and risk of loss of the Deliverables shall pass to the City only when the City actually receives and accepts the Deliverables. The Contractor warrants that it has good and indefeasible title to all Deliverables furnished under the Contract, and that the Deliverables are free and clear of all liens, claims, security interests and encumbrances. The Contractor shall indemnify and hold the City harmless from and against all adverse title claims to the Deliverables.

C. DELIVERABLES: The Contractor warrants and represents that all Deliverables sold the City under the Contract shall be free from defects in design, workmanship or manufacture, and conform in all material respects to the Specifications, drawings, and descriptions in the Solicitation, to any samples furnished by the Contractor, to the terms, covenants and conditions of the Contract, and to all applicable State, Federal or local laws, rules, and regulations, and industry codes and standards. Unless otherwise stated in the Solicitation, the Deliverables shall be new or recycled merchandise, and not used or reconditioned.

- i. The Contractor may not limit, exclude or disclaim the foregoing warranty or any warranty implied by law; and any attempt to do so shall be without force or effect.
- ii. Unless otherwise specified in the Contract, the warranty period shall be at least one year from the date of acceptance of the Deliverables or from the date of acceptance of any replacement

**CITY OF AUSTIN
TERMS AND CONDITIONS
FLUOROSILICIC ACID
SOLICITATION NUMBER: IFB 2200 SLW1054**

Deliverables. If during the warranty period, one or more of the above warranties are breached, the Contractor shall promptly upon receipt of demand either repair the non-conforming Deliverables or replace the non-conforming Deliverables with fully conforming Deliverables, at the City's option and at no additional cost to the City. All costs incidental to such repair or replacement, including but not limited to, any packaging and shipping costs, shall be borne exclusively by the Contractor. The City shall endeavor to give the Contractor written notice of the breach of warranty within 30 calendar days of discovery of the breach of warranty, but failure to give timely notice shall not impair the City's rights under this Section.

- iii. If the Contractor is unable or unwilling to repair or replace defective or non-conforming Deliverables as required by the City, then in addition to any other available remedy, the City may reduce the quantity of Deliverables it may be required to purchase under the Contract from the Contractor, and purchase conforming Deliverables from other sources. In such event, the Contractor shall pay to the City upon demand the increased cost, if any, incurred by the City to procure such Deliverables from another source.
- iv. If the Contractor is not the manufacturer, and the Deliverables are covered by a separate manufacturer's warranty, the Contractor shall transfer and assign such manufacturer's warranty to the City. If for any reason the manufacturer's warranty cannot be fully transferred to the City, the Contractor shall fully assist and cooperate with the City to enforce such manufacturer's warranty for the benefit of the City.

2.3 WARRANTY BY CONTRACTOR AGAINST INFRINGEMENTS:

- A. The Contractor represents and warrants to the City that: (i) the Contractor shall provide the City good and indefeasible title to the Deliverables and (ii) the Deliverables supplied by the Contractor in accordance with the Specifications in the Contract will not infringe, directly or contributorily, any patent, trademark, copyright, trade secret, or any other intellectual property right of any kind of any third party; that no claims have been made by any person or entity with respect to the ownership or operation of the Deliverables and the Contractor does not know of any valid basis for any such claims.
- B. The Contractor shall, at its sole expense, defend, indemnify, and hold the City harmless from and against all liability, damages, and costs (including court costs and reasonable fees of attorneys and other professionals) arising out of or resulting from: (i) any claim that the City's exercise anywhere in the world of the rights associated with the City's ownership, and if applicable, license rights, and its use of the Deliverables infringes the intellectual property rights of any third party; or (ii) the Contractor's breach of any of Contractor's representations or warranties Stated in this Contract.
- C. In the event of any such claim, the City shall have the right to monitor such claim or at its option engage its own separate counsel to act as co-counsel on the City's behalf. Further, Contractor agrees that the City's Specifications regarding the Deliverables shall in no way diminish Contractor's warranties or obligations under this Paragraph and the City makes no warranty that the production, development, or delivery of such Deliverables will not impact such warranties of Contractor.

2.4 RESTOCKING FEES:

- A. The Contractor may bill the City restocking fees (if specifically authorized by this Contract) for parts that are Ordered by the City under the Contract and returned for refund. The Contractor is not obligated to accept for refund any part that is not resalable and/or not in the same condition as when purchased.
- B. Restocking fees may be charged to the City when multiple parts or groups of parts are returned for refund at one time due to the City inventory warehouse cleaning, unless these parts are returned at an

**CITY OF AUSTIN
TERMS AND CONDITIONS
FLUOROSILICIC ACID
SOLICITATION NUMBER: IFB 2200 SLW1054**

annual pre-arranged date. The date for the annual return shall be mutually agreed upon between the City and the Contractor.

2.5 PUBLISHED PRICE LISTS:

The Published Price List may be superseded or replaced during the Contract term only if price revisions are the result of a modification to the manufacturer's official Published Price List. Written notification from the Contractor of price changes, along with one copy of the revised manufacturer's official Published Price List must be submitted to the Purchasing Office with the effective date of change to be at least 30 calendar days after written notification. The City reserves the right to refuse any list revision. The discounts or markups on equipment rental, material, supplies, parts, and Contract services shall be fixed throughout the term of the Contract and are not subject to increase. Failure to submit written notification of Published Price List revisions will result in the rejection of new prices being Invoiced. The City will only pay Invoices according to the last approved price list.

2.6 HAZARDOUS MATERIALS:

- A. If this Contract involves hazardous materials, the Contractor shall provide the City the Safety Data Sheets (SDS) on all chemicals and hazardous materials being used, specifying the generic and trade name of product, product specification, and full hazard information including receiving and storage hazards. Instructions, special equipment needed for handling, information on approved containers, and instructions for the disposal of the material are also required.
- B. Failure to submit the SDS is grounds for the City to terminate this Contract immediately.
- C. The SDS, instructions and information required in Paragraph "A" must be included with each shipment under the Contract.

3 SERVICES

3.1 ACCEPTANCE OF INCOMPLETE OR NON-CONFORMING DELIVERABLES AND/OR SERVICES:

If, instead of requiring immediate correction or removal and replacement of defective or non-conforming Deliverables or Services, the City prefers to accept it, the City may do so. The Contractor shall pay all claims, costs, losses and damages attributable to the City's evaluation of and determination to accept such defective or non-conforming Deliverables or Services. If any such acceptance occurs prior to final payment, the City may deduct such amounts as are necessary to compensate the City for the diminished value of the defective or non-conforming Deliverables or Services. If the acceptance occurs after final payment, such amount will be refunded to the City by the Contractor within 30 calendar days of notification provided by the City.

3.2 WORKFORCE:

- A. The Contractor shall employ only orderly and competent workers, skilled in the performance of the services which they will perform under the Contract.
- B. The Contractor, its employees, Subcontractors, and Subcontractor's employees may not while engaged in participating or responding to a Solicitation or while in the course and scope of delivering goods or services under a City of Austin Contract or on the City's property:
 - i. Illegally use or possess a firearm, except as required by the terms of the Contract; or

**CITY OF AUSTIN
TERMS AND CONDITIONS
FLUOROSILICIC ACID
SOLICITATION NUMBER: IFB 2200 SLW1054**

- ii. Use or possess alcoholic or other intoxicating beverages, illegal drugs or controlled substances, nor may such workers be intoxicated, or under the influence of alcohol or drugs, on the job.
- C. If the City or the City's representative notifies the Contractor that any worker is incompetent, disorderly or disobedient, has knowingly or repeatedly violated safety regulations, has illegally possessed any firearms, or has possessed or was under the influence of alcohol or drugs on the job, the Contractor shall immediately remove such worker from Contract services, and may not employ such worker again on Contract services without the City's prior written consent.

3.3 GUARANTEE – SERVICES:

The Contractor warrants and represents that all services to be provided to the City under the Contract will be fully and timely performed in a good and workmanlike manner in accordance with generally accepted industry standards and practices following the terms, conditions, and covenants of the Contract, and all applicable Federal, State and local laws, rules or regulations.

- A. The Contractor may not limit, exclude or disclaim the foregoing warranty or any warranty implied by law, and any attempt to do so shall be without force or effect.
- B. Unless otherwise specified in the Contract, the warranty period shall be at least one year from final acceptance. If during the warranty period, one or more of the above warranties are breached, the Contractor shall promptly upon receipt of demand perform the services again in accordance with the services warranty standard at no additional cost to the City. All costs incidental to such additional performance shall be borne by the Contractor. The City shall endeavor to give the Contractor written notice of the breach of warranty within 30 calendar days of discovery of the breach of warranty, but failure to give timely notice shall not impair the City's rights under this Section.
- C. If the Contractor is unable or unwilling to perform its services in accordance with the above standard as required by the City, then in addition to any other available remedy, the City may reduce the amount of services it may be required to purchase under the Contract from the Contractor and purchase conforming services from other sources. In such event, the Contractor shall pay to the City upon demand the increased cost, if any, incurred by the City to procure such services from another source.

3.4 WORKFORCE SECURITY CLEARANCE AND IDENTIFICATION (ID):

- A. Access to the Austin Water Department building by the Contractor, all Subcontractors and their employees will be strictly controlled, at all times, by the City. Security badges will be issued by the Department for this purpose. The Contractor shall submit a complete list of all persons requiring access to the (Austin Water building at least 30 days in advance of their need for access. The City reserves the right to deny a security badge to any Contractor personnel for reasonable cause. The City will notify the Contractor of any such denial no more than 20 days after receipt of the Contractor's submittal.
- B. Where denial of access by a particular person may cause the Contractor to be unable to perform any portion of the work of the Contract, the Contractor shall so notify the City's Contract Manager, in writing, within 10 days of the receipt of notification of denial.
- C. Contractor personnel will be required to check in at the security desk or gate when entering or leaving the Austin Water building and security badges must be on display, at all times, when in the building. Failure to do so may be cause for removal of Contractor Personnel from the worksite, without regard to Contractor's schedule. Security badges may not be removed from the premises.
- D. The Contractor shall provide the City's Contract Manager with a list of personnel scheduled to enter the building, seven days in advance. The list shall identify the persons by name, date of birth,

**CITY OF AUSTIN
TERMS AND CONDITIONS
FLUOROSILICIC ACID
SOLICITATION NUMBER: IFB 2200 SLW1054**

driver's license number, the times that they will be inside the building and the areas where they will be working. Only persons previously approved by the City for the issuance of security badges will be admitted to the building.

- E. The Contractor shall comply with all other security requirements imposed by the City and shall ensure that all employees and Subcontractors are kept fully informed as to these requirements.

**CITY OF AUSTIN
SCOPE OF WORK
FLUOROSILICIC ACID
SOLICITATION NUMBER: IFB 2200 SLW1054**

1. **PURPOSE:**

The Contractor shall provide 23% Fluorosilicic Acid. The contract will be used by the Austin Water (AW) treatment plants to aid in dental health. The City reserves the right to add or remove City Departments, locations, services, or adjust frequency as deemed necessary throughout the contract term.

Any items or services that have been omitted from this scope of work that are clearly necessary or in conformance of services/goods shall be considered a requirement although not directly specified or called for in the scope of work.

2. **TERM OF CONTRACT:**

The term of the contract shall commence upon execution and remain in effect for an initial term of 24 months. The contract may be extended beyond the initial term for up to three additional twelve-month periods at the City's sole option.

3. **DELIVERY REQUIREMENTS:**

3.1 Delivery is to be made within 14 business days after the order is placed (either verbally or in writing) on an "as needed" basis. All orders must be shipped complete unless arrangements for partial shipments are made in advance.

3.2 Contractors shall be responsible for the contacting the authorized contact and requesting a site visit to ensure delivery conditions are acceptable PRIOR to submitting a bid. Otherwise, the City will assume that the delivery conditions are acceptable to the Contractor submitting a bid.

3.3 Prior to the first delivery, the Contractor's delivery personnel shall visit the water treatment plants to ensure requirements for delivery to the respective plants are understood.

3.4 If the Contractor changes trucking companies to one that is different than the one listed on the bid sheet, the Contractor shall notify the Plant Supervisor or designee, in writing, at least one week prior to any deliveries made by the new company.

3.5 The Contractor shall be fully responsible for cleanup of any spillage or leakage and repairing any property damage occurring during transportation and/or on the Plant site due to defective pumping and/or unloading equipment and/or negligence of driver. Cleanup/repairs shall be completed before the driver leaves the facility, if possible. If an immediate clean/repair is not possible, the Contractor shall then complete the cleanup/repairs within five business days.

3.6 The Plant Supervisor/Designee will contact the Contractor to place an order and provide a delivery date and quantity. The Contractor shall confirm delivery date within two business days of receiving the order request. No partial shipment or backorders shall be allowed.

3.7 Minimum orders shall be for full tank truck loads (standard size – 20 tons)

3.8 If a delivery needs to be rescheduled, the Contractor shall notify Plant Supervisor or designee in writing no later than close of business the day before originally scheduled delivery date.

3.9 Delivery drivers must be able to speak fluent English.

3.10 The truck driver must check in and show their driver's license at the administrative building upon arrival. The driver shall not offload the product unless the Plant Supervisor or designee accompanies the driver to the area where the product will be unloaded.

3.11 The Contractor shall provide, with each delivery, a Shipping or Delivery Ticket showing the description of each item, quantity, and unit price.

**CITY OF AUSTIN
SCOPE OF WORK
FLUOROSILICIC ACID
SOLICITATION NUMBER: IFB 2200 SLW1054**

- 3.12 The Contractor shall obtain sign-off on the Chemical Delivery Notice on every delivery. A Chemical Delivery Notice shall be submitted to the Plant Supervisor or designee, a minimum four hours prior to delivery. "Estimated Arrival Time" on the Chemical Delivery Notice should be completed with an estimate not exceeding a two-hour window.
- 3.13 The Contractor shall confirm the quantity to be shipped on all orders within two hours of notification from the City in writing and/or in a method and manner as mutually agreed to by the Contractor and the Contract Manger or designee.
- 3.14 The Fluorosilicic Acid shall be purchased on a weight basis, and the Contractor shall furnish weight certificates from the State of Texas certified scales in the Austin area. An individual certified scale receipt indicating the date, the tare, and gross weight shall accompany each delivered load along with a Safety Data Sheet (SDS).
- 3.15 The Contractor shall provide to the Plant Supervisor or designee the manufacturer's certificate of analysis of each load of the Fluorosilicic Acid upon delivery of each load. The certified analysis statement shall attest that the Fluorosilicic Acid contains more than 20.0% H₂SiF₆ by weight prior to each shipment, that the free acid content is less than 1.0 percent (other than Fluorosilicic Acid), expressed as HF (hydrofluoric acid), and that the total heavy metals concentration expressed as lead (Pb) is not more than 0.020 percent. The City reserves the right to test samples from each delivery.
- 3.16 Delivery shall be made Monday thru Friday (except on City observed holidays) between the hours of 7:30 a.m. and 2:00 p.m. Central Time. If the Contractor makes a delivery on any date/time other than the scheduled delivery date/time, the City will not be charged demurrage for any delays encountered in unloading the truck. The Plant Supervisor or designee will be present during all deliveries. The delivery driver shall remain with the truck during the unloading process.
- 3.17 If a truck arrives to deliver on a Saturday, Sunday, holiday, or after 2:00 p.m. Central Time (City regular work day) without the prior approval from the Plant Supervisor or designee, the City will charge the Contractor any and all overtime and call back expenses for unloading. Otherwise, the Contractor or the City can decide that the truck will not be unloaded until normal City working hours.
- 3.18 The Contractor shall complete by 3:00 p.m. Central Time any transferring to the storage tank without demurrage of additional truck standing time charges. Should a delivery be completed after 3:00 pm Central Time, the Contractor shall be responsible for all associated costs, including any overtime required for City employees working outside of their normal business hours to accept the delivery.
- 3.19 The Contractor shall allow a minimum two-hour time requirement for transferring the product from the delivery truck into the City's tank without demurrage of additional truck standing time charges.
- 3.20 The Contractor may be required to deliver on holidays and weekends, as needed. Deliveries will not be accepted at other times unless scheduled and approved by the Plant Supervisor or designee.
- 3.21 Rescheduled/missed deliveries will be subject to liquidated damages per Section 1.42, Liquidated Damages of the Contract Terms and Conditions.
- 3.22 The Contractor shall note that the treatment plants are not serviced by rail. Delivery shall be made in bulk trucks.
- 3.23 Inlet fittings provided by the City are:
- Ullrich WTP – " PVC pipe (4-hole, 125 lb. blind flange, with male or female quick connects available.
 - Davis WTP – Seal Fast, quick hose coupling, 2"
 - Handcox WTP– 3" quick disconnect

**CITY OF AUSTIN
SCOPE OF WORK
FLUOROSILICIC ACID
SOLICITATION NUMBER: IFB 2200 SLW1054**

- 3.24 The water plant inlets for the product storage tanks are located at elevations of up to 10 feet above grade. The delivery trucks shall be equipped with a minimum 40-foot hose, the proper fittings to attach to the City’s inlets, and pump or pneumatic delivery system capable of transferring the product from the truck to the storage tanks, without the use of City resources. If air is used to transfer the product from the truck to the City’s tank, the truck shall have a self-contained air supply and a functioning regulator capable of regulating the air pressure to a minimum of 14 psi. If a pump is used to transfer the product from the truck to the City’s tank, the Contractor shall ensure the pump and associated piping/appurtenances are clean and free of dirt, debris, or other chemicals. The Contractor may connect his own set of adapters to all the City’s inlets (during the contract period) which will be standard to all of the truck couplers.
- 3.25 Emergency Deliveries shall be made within 24 hours after the order is placed or as mutually agreed between the City and the Contractor. The City may require partial deliveries from a single truckload to be made at more than one location. The City will pay the additional freight charge as indicated on the bid sheet.

Location:
Ullrich Water Treatment Plant
1000 Forest View Dr.
Austin, TX 78746
Freddie Harris, Plant Supervisor
Freddie.harris@austintexas.gov
512-972-1807 (office) 512-972-1834 (fax)

DELIVERY AND DEPARTURE ROUTE FOR THIS LOCATION IS RESTRICTED TO RED BUD TRAIL

Location:
Davis Water Treatment Plant
3500 W. 35 th St.
Austin, TX 78703
Willie Walker, Plant Superintendent
Willie.walker@austintexas.gov
512-972-1730 (office) 512-972-1727 (fax)

Location:
Handcox Water Treatment Plant
6800 N. FM 620
Austin, TX 78732
Mark Penton, Plant Superintendent
Mark.penton@austintexas.gov
512-972-2201 (office) 512-972-2212 (fax)

4. INVOICE AND PAYMENT ADDRESS:

- 4.1 Invoices shall include a completed and signed Chemical Delivery Notice and certified scale receipt for each delivery. The City will pay based on assumed 23.0% of active and available Fluorosilicic Acid. If the amount falls below 20.0% as analyzed by the Austin Water – Water Quality Laboratory, price adjustments will be made on a prorated basis. The City will spot check loads and if there is a discrepancy between the City’s results and the certificate of analysis, the City’s result will be the one used for payment. If the Contractor disagrees, a third-party lab will be retained to run the sample. If

**CITY OF AUSTIN
SCOPE OF WORK
FLUOROSILICIC ACID
SOLICITATION NUMBER: IFB 2200 SLW1054**

the result is closer to the City’s result, the Contractor will pay for the analysis. If the result is closer to the Contractor’s result, the City will pay.

- 4.2 Invoices shall include, but not be limited to the following:
- Contractor’s name, on a professionally pre-printed, sequentially numbered form
 - Contractor’s address and phone number
 - City’s contract number/purchase order number
 - Date of each delivery
 - Location of each delivery
 - Itemized description of service and pricing for each delivery
 - Chemical Delivery Notice

- 4.3 Invoices shall be emailed or mailed within five calendar days after each delivery to the address where the delivery was made. The Contractor shall email or mail invoices to the below addresses. For questions regarding your invoice/payment, please contact the City Contract Manager.

	City of Austin
Department:	Austin Water – Ullrich Water Treatment Plant
Attn:	Freddie Harris
Address:	1000 Forest View Dr.
City, State Zip Code	Austin, TX 78746
Email:	AWAdminUllrich@austintexas.gov

	City of Austin
Department:	Austin Water – Davis Water Treatment Plant
Attn:	Willie Walker
Address:	3500 W. 35 th St.
City, State Zip Code	Austin, TX 78703
Email:	AWAdminDavis@austintexas.gov

	City of Austin
Department:	Austin Water – Handcox Water Treatment Plant
Attn:	Mark Penton
Address:	6800 N. FM 620
City, State Zip Code	Austin, TX 78703
Email:	AWAdminHandcox@austintexas.gov

5. DESIGNATION OF KEY PERSONNEL:

The City and the Contractor resolve to keep the same key personnel assigned to this engagement throughout its term. In the event it becomes necessary for the Contractor to replace any key personnel, the replacement will be an individual(s) having equivalent experience and competence in executing projects such as the one described herein. Additionally, the Contractor shall promptly notify the City and obtain written approval for the replacement. Such approval shall not be unreasonably withheld. The City’s key personnel are identified as follows:

	Name	Phone Number	Email Address
Contract Manager	Georgia Billela	512-972-0096	Georgia.billela@ausintexas.gov
Contract Monitor	Kim Thoene	512-972-0360	Kim.thoene@austintexas.gov

CITY OF AUSTIN
SCOPE OF WORK
FLUOROSILICIC ACID
SOLICITATION NUMBER: IFB 2200 SLW1054

Operational Monitor	Christine Graf	512-972-0171	Christine.graf@austintexas.gov
Procurement Specialist	Billy Toler	512-974-2054	William.toler@austintexs.gov

6. APPLICABLE SPECIFICATIONS:

- 6.1 The Contractor shall ensure the Fluorosilicic Acid complies with Federal, State and Local Laws, regulations, policies, ordinances, and AW guidelines
- 6.2 The Fluorosilicic Acid shall comply with American Water Works Association (AWWA) standards as contained in the most recent AWWA B703 publication, except for any modifications contained in these specifications.
- 6.3 The Fluorosilicic Acid shall be certified as suitable for contact with or treatment of drinking water by an accredited certification organization in accordance with ANSI/NSF Standard 60, Drinking Water Treatment Chemicals – Health Effects.
- 6.4 The Contractor shall comply with American National Standards Institute/American Water Works Association Standards: <https://www.awwa.org/Publications/Standards>
- 6.5 The Contractor shall comply with:
- Environmental Protection Agency (EPA). <https://www.epa.gov/>
 - Texas Commission on Environmental Quality (TCEQ): <https://www.tceq.texas.gov/>
 - Occupational Safety and Health Administration (OSHA) safety requirements: <https://www.osha.gov/>
 - Federal Motor Carrier Safety Regulations, specifically 49CFR part 383 <https://www.fmcsa.dot.gov>
 - City of Austin Ordinances and regulations: https://library.municode.com/tx/austin/codes/code_of_ordinances

7. SAMPLES – EXACT REPLICA:

- 7.1 The City reserves the right to conduct sampling analysis at any time throughout the Contract.
- 7.2 Samples may be taken at the time of delivery. Samples shall be pulled by the truck driver in the presence of AW staff. The Contractor shall be responsible for capture and disposal of any product wasted to flush the truck discharge manifold, not to exceed five gallons.
- The truck manifold will be flushed with up to five gallons of product.
 - One 0.5-L grab sample shall be collected by the Contractor and tested by City staff for clarity and Specific Gravity (SG) at the delivery location to confirm the load will be accepted. If the test results indicate the load does not meet specification requirements, the Contractor may collect a new sample for the City to re-test. The Contractor shall be responsible for capture and disposal of any additional wasted product used to collect the new sample. If the test results still indicate the load does not meet specification requirements. The load will be rejected. Any freight charges associated with rejected loads that do not meet specification requirements shall be borne by the Contractor.
 - If the grab sample results meet the City’s specification requirements, up to two additional grab samples or a composite sample may be collected. The composite sample will be collected during the offload in accordance with AWWA procedures. To create the composite sample, equal portions shall be taken at five equally spaced intervals during unloading. The composite

CITY OF AUSTIN
SCOPE OF WORK
FLUOROSILICIC ACID
SOLICITATION NUMBER: IFB 2200 SLW1054

sample will be collected using a sample valve at the City's offloading station and will not necessitate disconnecting and reconnecting the Contractor's hose.

- If taken, the five samples collected during the offload will be mixed with distributed into three 0.5-L containers to form three composite samples.
- The City's Water Quality Laboratory will analyze one of the composite samples within five business days of product delivery per AWWA/ASTM standards. The percentage of active and available Fluorosilicic Acid contained in this sample will be used, if needed, as a basis for payment. If the City's Water Quality Laboratory results demonstrate the load does not meet the City's specification requirements, the City has the option of accepting or rejecting the load of products.
- The Contractor has the option to request one 0.5-L composite sample for their own analysis. The Contractor will be responsible for any costs associated with this effort, including shipping.
- The remainder of the samples will be stored by the City for at least 30 calendar days. Should any dispute arise regarding the accuracy of the City's analysis, one 0.5-K composite sample will be turned over to an independent laboratory, agreed upon by both parties, for analysis.

7.3 If the product does not meet specifications at any time during the contract period, the City reserves the right to reject the material and require the Contractor to remove the product from the storage tanks, clean the tanks, and replace the product with material meeting specifications at no additional expense to the City. The Contractor will provide temporary storage as needed to avoid disruption in chemical feed while the tank is being emptied, cleaned, and refilled.

8. MATERIAL REQUIREMENTS:

- 8.1 Acid strength – The Fluorosilicic Acid shall contain no less than 20.0% H₂SiF₆ by weight and no more than 30.0% H₂SiF₆ by weight.
- 8.2 The Fluorosilicic Acid shall contain a maximum of 1.0 percent free acid (other than Fluorosilicic Acid), expressed as HF (hydrofluoric acid).
- 8.3 Impurities – The Fluorosilicic Acid shall not contain more than 0.020% 'heavy metals' expressed as lead (Pb), nor shall it contain any impurities that will impart a taste or odor to the water when used in recommended dosages.
- 8.4 The Fluorosilicic Acid shall be suitable for use in municipal water supplies and, when used in standard recommended dosages, shall not contain any impurities that would cause water to be unsuited for human consumption.
- 8.5 The Fluorosilicic Acid shall be free of any inorganic or organic substances in quantities capable of producing deleterious or injurious effects of the health of those consuming the water that has been properly treated with the Fluorosilicic Acid.
- 8.6 The Fluorosilicic Acid shall be clean and free of visible suspended matter and/or sediment.

9. CONTRACTOR RESPONSIBILITIES:

- 9.1 The Contractor shall be a manufacturer, authorized dealer/reseller, or supplier of the products offered.
- 9.2 The Contractor shall schedule a kick-off meeting with the Plant Supervisors within 10 business days after notification of award of the contract.
- 9.3 The Contractor shall furnish the exact product stated on the Bid Sheet listed under the Bidder Response row titled "MFG. Name ".

CITY OF AUSTIN
SCOPE OF WORK
FLUOROSILICIC ACID
SOLICITATION NUMBER: IFB 2200 SLW1054

- 9.4 The Contractor shall indicate the manufacturer's name of the product and shall indicate the shipping address/location from where the material is being shipped. In the event this information changes during the contract period and prior to the shipping the first shipment from the new location, the Contractor shall submit written notification to each Plant facility. This shall assure that the Fluorosilicic Acid is not repackaged and is shipped from a National Sanitation Foundation (NSF) approved manufacturer or by an NSF approved trucking company.
- 9.5 The Contractor shall notify the Plant Supervisor or designee in writing throughout the life of the contract of any changes in manufacture, product name and/or, if a manufacturer discontinues a Contract Item.
- 9.6 The Contractor shall request in writing approval from the Plant Supervisor or designee on any contract product substitution.
- 9.7 The Contractor shall provide his personnel with any safety equipment required for each delivery and proper spill response requirements.

10. SAFETY DATA SHEET (SDS) REQUIREMENTS:

- 10.1 Upon award, an electronic copy of the SDS with contract information shall be transmitted by the Contractor to the following City email address: Israel.Custodio@austintexas.gov .
- 10.2 Contracts for Supply of Hazardous Materials: With respect to all contracts under which the Contractor will deliver a "hazardous material" for which a "Safety Data Sheet" ("SDS") is required under Texas Health & Safety Code, Sec. 502.006, as amended, will provide, on or before the date of each delivery of the hazardous material, an electronic version of the most current "Safety Data Sheet" meeting the requirements set forth in Sec. 502.006, Texas Health & Safety Code. Each SDS provided shall bear the date when it was last revised.
- 10.3 The Contractor shall provide the City with a copy of the Safety Data Sheet on or before the date of each delivery of the chemical. Failure to provide the Safety Data Sheet on or before the date of each delivery may constitute grounds for termination of the contract.

11. SAFETY REQUIREMENTS

The Contractor and any subcontractors shall wear the necessary Personal Protective Equipment (PPE) while on City property. PPE required will vary depending on the chemical being delivered, City procedure, and construction activity on site; PPE may include long pants, long-sleeved shirt, work boots with safety toe, safety glasses, reflective vest, hard hat, and any PPE required as is appropriate for the chemical being delivered. PPE shall be provided at no additional expense to the City.

12. CITY REQUIREMENTS:

The City Plant Supervisor or designee will provide updated Point of Contact for this contract if any changes of personnel occur during the term of this contract.

13. SECURITY:

- 13.1 Due to developments in national security, AW needs to know who is delivering bulk chemicals and needs to ensure orders are accurate. The Contractor shall FAX a completed "Chemical Delivery Notice" see Attachment A, to the Plant Supervisor or designee within four business hours prior to dispatching

CITY OF AUSTIN
SCOPE OF WORK
FLUOROSILICIC ACID
SOLICITATION NUMBER: IFB 2200 SLW1054

driver for delivery. The driver must provide a photo ID (any U.S. state) to the Plant Supervisor or designee, no exceptions.

13.2 Transportation of Hazardous Material to a City location must be in compliance with the Federal Motor Carrier Safety Regulations, specifically 49CFR part 383 which governs commercial driver license standards requirements and penalties. In accordance with this regulation, delivery driver shall present to Plant staff a Class C CDL with an H or an X endorsement at the time of delivery.

13.3 Hazardous Material is defined under 49 CFR part 383.5 as:

Any material that has been designated as hazardous referencing 49 U.S.C. 5103 and is required to be placarded under subpart F of 49 CFR Subpart F, Part 172 or any quantity of a material listed as a select agent or toxin in 42 CFR part 73.

AUSTIN WATER UTILITY

*****NOTICE OF CHEMICAL DELIVERY*****

CHEMICAL VENDOR NAME: _____

TRUCKING COMPANY NAME: _____

COMPANY CONTACT PHONE: _____ DATE OF THIS NOTICE: _____

TYPE OF CHEMICAL TO BE DELIVERED: _____

DELIVERY INFORMATION:

DESTINATION: _____ TIME DELIVERY LEFT COMPANY: _____

BOL/DO#: _____ ESTIMATED ARRIVAL TIME/DATE: _____

TRUCK DESCRIPTION:

MAKE: _____ MODEL: _____ COLOR: _____

TRUCK (front) LICENSE PLATE #: _____ TANK SECURITY SEAL #: _____

TRUCK / TANKER #: _____ / _____

DRIVER & COMMERCIAL DRIVER'S LICENSE (CDL) INFORMATION:

DRIVER NAME (not necessary at this time)
DRIVER CDL NUMBER & EXPIRATION DATE

DRIVER CONTACT PHONE CDL ENDORSEMENT ON LICENSE? YES NO
Circle One

CDL ENDORSEMENT CODE: H or X or N
Circle One

(This section for AWU use only)

Actual arrival time: _____ Is CDL endorsement code appropriate for this vehicle*? YES NO
Circle One

I have verified the information submitted on this form with actual conditions at delivery:

AWU Staff Signature: _____ Printed Name: _____

*Endorsement letters: N = Required for tanker vehicle
H = Required for transporting hazardous materials that require display of placards on truck/trailer
X = Combines N and H; Required for operating tanker vehicles carrying hazardous materials

This form should be retained and submitted with the related payment materials to AWU Accounts Payable.

NOTE: THIS FORM SHALL BE FAXED TO DELIVERY LOCATION SITE SUPERVISOR WHEN DRIVER HAS BEEN DISPATCHED FOR DELIVERY TO AUSTIN WATER UTILITY DELIVERY SITE. PLEASE CALL (512) 972-0310 WITH ANY QUESTIONS OR CONCERNS REGARDING THIS FORM.

**PRICE SHEET
CITY OF AUSTIN
FLUROSILICIC ACID
SOLICITATION NUMBER: IFB 2200 SLW1054**

Special Instructions: Offerors must use this Bid Sheet to submit pricing.

Be advised that exceptions taken or qualifying statements made to any portion of the solicitations may jeopardize acceptance of the quote and may result in disqualification of the quote. Prices being submitted shall include **ALL** discounts, handling and shipping charges, FOB Destination.

A bid of '0' (zero) will be interpreted by the City as a no-charge (free) item and the City will not expect to pay for that item. A bid of 'no bid' will be interpreted by the City that the responder does not wish to bid on that item.

LINE ITEM	ITEM DESCRIPTION	ESTIMATED ANNUAL QUANTITY	UNIT OF MEASURE	UNIT PRICE	EXTENDED PRICE
1	Fluorosilicic Acid - Ullrich Water Treatment Plant MFG. NAME:	340	Ton	\$398.67	\$ 135,547.80
2	Fluorosilicic Acid - Davis Water Treatment Plant MFG. NAME:	230	Ton	\$398.67	\$ 91,694.10
3	Fluorosilicic Acid - Handcox Water Treatment Plant MFG. NAME:	130	Ton	\$ 398.67	\$ 51,827.10
TOTAL EXTENDED PRICE:					\$ 279,069.00

Additional Products or Catalog Items (FOR INFORMATIONAL PURPOSE - PRICING FOR THIS SECTION WILL NOT BE USED TO DETERMINE AWARD).

This information will not be used in the evaluation of the bid and is for informational purposes only. There is no guarantee of purchase.

Please list any additional products or catalog items your Company offers and the associated minimum discount off retail price for the listed products or catalog items.

LINE ITEM	DESCRIPTION OF OTHER SERVICES OR PRODUCTS	LATEST EFFECTIVE DATE OF PRICE LIST	UNIT OF MEASURE
4	Percentage discount off catalogue/price list of other items: Indicate the discount from Manufacturer's Suggested Retail Price.		_____% Minimum Discount
5	Other: MFG name is Univar Solutions. *Minimum order quantity is 20 tons*		

* Unless otherwise specified, Price may be quoted as a firm-fixed price or as a percentage discount from Offeror's regular fees.

DELIVERY TERMS: DELIVERY IS TO BE FOB DESTINATION, PREPAID AND ALLOWED

DELIVERY METHOD: Univar Trucks

COMPANY NAME: Univar Solutions USA Inc.

COMPANY EMAIL: Muniteam-west@univarsolutions.com



**ADDENDUM
FLUOROSILICIC ACID
CITY OF AUSTIN, TEXAS**

Solicitation: IFB 2200 SLW1054

Addendum No: 1

Date of Addendum: 5/20/2021

This addendum is to incorporate the following changes to the above referenced solicitation:

I. Questions and Answers:

Q1: Are there pictures available for each site?

A1: Yes, pictures are below.

II. ALL OTHER TERMS AND CONDITIONS REMAIN THE SAME.

ACKNOWLEDGED BY:

Raise Holiday
Name

Raise Holiday
Authorized Signature

5/20/2021
Date

RETURN ONE COPY OF THIS ADDENDUM TO THE PURCHASING OFFICE, CITY OF AUSTIN, WITH YOUR RESPONSE OR PRIOR TO THE SOLICITATION CLOSING DATE. FAILURE TO DO SO MAY CONSTITUTE GROUNDS FOR REJECTION.