



SUPPLY AGREEMENT NO. 4433

Liquid Aluminum Sulfate

This **Liquid Aluminum Sulfate Agreement** ("Agreement") is entered into by and between the City of Corpus Christi, a Texas home-rule municipal corporation ("City"), acting by and through the City Manager or his designee ("City Manager"), and Chemtrade Chemicals US, LLC ("Contractor"), and is effective upon execution by the City Manager.

WHEREAS, Contractor has agreed to provide Liquid Aluminum Sulfate in accordance with the terms of this Agreement, such product being vital and necessary to preserve or protect the public health or safety of the City's residents.

NOW, THEREFORE, City and Contractor agree as follows:

- 1. Scope.** Contractor shall provide Liquid Aluminum Sulfate in accordance with the attached Scope of Work, as shown in Attachment A, the content of which is incorporated by reference into this Agreement as if fully set out here in its entirety. "Goods," "products", and "supplies", as used in this Agreement, refer to and have the same meaning as the item identified in this section.
- 2. Term.** The Term of this Agreement is one year beginning on the date provided in the Notice to Proceed ("NTP") from the Contract Administrator or the City's Procurement Division. The parties may mutually renew the term of this Agreement for up to one additional one-year period ("Option Period"), provided, the parties do so in writing prior to the expiration of the original term or the then-current Option Period.
- 3. Compensation and Payment.** This Agreement is for an amount not to exceed \$3,358,282.00 for the initial term and for an amount not to exceed \$4,834,282.00 for the Option Period should the parties mutually so exercise it, subject to approved extensions and changes, for a combined potential amount of up to \$8,192,564.00. Payment will be made for goods delivered and accepted by the City within 30 days of acceptance, subject to receipt of an acceptable invoice. Any amount not expended during the initial term or any Option Period may, at the City's discretion, be allocated for use in a future Option Period.

Pricing offer for bulk deliveries, as opposed to annual fixed pricing, is pricing that is aligned with the pricing Contractor receives from its supplier on dry aluminum sulfate. For the term of this Agreement, the unit price of the product shall be a fixed price for liquid aluminum sulfate ("ALUM") for six-month periods. The applicable price adjustment dates are February 18th and August 18th of each calendar year (an "Adjustment Date"), excluding February 18th of the initial

calendar year of this Agreement. A price adjustment calculation will be established on or about January 15th and July 15th of each calendar year (each being an "Adjustment Calculation Date") for the next pricing term, and such adjustment amount shall be calculated by the Contractor as follows:

(A) Base (ALUM) unit price, beginning February 18, 2023, is \$166.21/ton.

(B) On the Friday before an Adjustment Calculation Date, Contractor shall record the prices per ton of the change in raw materials (RMC), as follows:

(i) Sulfuric Acid: The price adjustment threshold is the Base Tampa Sulfur Index of \$90/LT (fourth quarter, 2022). During the initial term and any Option Period, if sulfur drops to \$90/LT or below, the semiannual adjustment for sulfuric acid will be \$0.00.

- The price adjustment formula: (latest Tampa sulfur price - \$90) x 0.165.

(ii) Hydrate: The price adjustment threshold is the price Contractor is charged by its supplier.

- The price adjustment formula: change in hydrate cost x 0.245.

(iii) Cost changes for other inputs may need to be adjusted on a semiannual basis when the change is equal to +/- 5% on a per ton basis. Should Contractor determine that consideration regarding a cost change of another input may be necessary, Contractor shall notify the City in writing at any time in advance of the next Adjustment Calculation Date, for budgetary determination purposes of the City, identifying the input item, rationale, and anticipated cost change.

(iv) Freight Change (FC): The FC will be adjusted on a semiannual basis for any changes (decrease or increase) in the fully delivered cost of freight, which may include base and fuel surcharges.

(v) Operating Cost of Manufacture (OCM): The price will be adjusted with an annual OCM amount of \$8/T to the base ALUM price effective February 18, 2024.

(C) The unit price per ton will decrease or increase according to the cost change. Based on the formulas in subpart (B) above, the complete formula for semiannual pricing of ALUM per ton is:

New ALUM base price = base price (then in effect) + RMC (raw material change) + FC (freight change) + OCM (operating cost of manufacture (annual basis only))

(D) A copy of the applicable pricing page(s) will be provided by the Contractor upon request of the Contract Administrator.

(E) Notice of a change in the unit price shall be provided by the Contractor in advance of the applicable Adjustment Date.

In no event can the total compensation during the initial term, or Option Period if mutually exercised, exceed the maximum amount provided in this Agreement without a validly executed amendment as required by Section 13 below.

Invoices must be mailed to the following address, along with a copy provided to the Contract Administrator:

City of Corpus Christi
Attn: Accounts Payable
P.O. Box 9277
Corpus Christi, Texas 78469-9277

- 4. Contract Administrator.** The Contract Administrator designated by the City is responsible for approval of all phases of performance and operations under this Agreement, including deductions for non-performance and authorizations for payment. The City's Contract Administrator for this Agreement is as follows:

Diana Zertuche-Garza
Corpus Christi Water
(361) 826-1827
DianaZ@cctexas.com

5. Insurance; Bonds.

(A) Before performance can begin under this Agreement, the Contractor must deliver a certificate of insurance ("COI"), as proof of the required insurance coverages, to the City's Risk Manager and the Contract Administrator. Additionally, the COI must state that the City will be given at least 30 days' advance written notice of cancellation, material change in coverage, or intent not to renew any of the policies. The City must be named as an additional insured. The City Attorney must be given copies of all insurance policies within 10 days of the City Manager's written request. Insurance requirements are as stated in Attachment C, the content of which is incorporated by reference into this Agreement as if fully set out here in its entirety.

(B) No bonds are required for this Agreement.

- 6. Purchase Release Order.** For multiple-release purchases of products to be provided by the Contractor over a period of time, the City will exercise its right to specify time, place and quantity of products to be delivered in the following

manner: any City department or division may send to Contractor a purchase release order signed by an authorized agent of the department or division. The purchase release order must refer to this Agreement, and products will remain with the Contractor until such time as the products are delivered and accepted by the City.

7. Inspection and Acceptance. City may inspect all products supplied before acceptance. Any products that are delivered but not accepted by the City must be corrected or replaced immediately at no charge to the City. If immediate correction or replacement at no charge cannot be made by the Contractor, a replacement product may be bought by the City on the open market and any costs incurred, including additional costs over the item's bid price, must be paid by the Contractor within 30 days of receipt of City's invoice.

8. Warranty.

(A) The Contractor warrants that all products supplied under this Agreement are new, quality items that are free from defects, fit for their intended purpose, and of good material and workmanship. The Contractor warrants that it has clear title to the products and that the products are free of liens or encumbrances.

(B) In addition, the products purchased under this Agreement shall be warranted by the Contractor or, if indicated in Attachment D by the manufacturer, for the period stated in Attachment D. Attachment D is attached to this Agreement and is incorporated by reference into this Agreement as if fully set out here in its entirety.

9. Quality/Quantity Adjustments. Any quantities indicated on Attachment B are estimates only and do not obligate the City to order or accept more than the City's actual requirements nor do the estimates restrict the City from ordering less than its actual needs during the term of the Agreement and including any Option Period. Substitutions and deviations from the City's product requirements or specifications are prohibited without the prior written approval of the Contract Administrator.

10. Non-Appropriation. The continuation of this Agreement after the close of any fiscal year of the City, which fiscal year ends on September 30th annually, is subject to appropriations and budget approval specifically covering this Agreement as an expenditure in said budget, and it is within the sole discretion of the City's City Council to determine whether or not to fund this Agreement. The City does not represent that this budget item will be adopted, as said determination is within the City Council's sole discretion when adopting each budget.

11. Independent Contractor. Contractor shall perform the work required by this Agreement as an independent contractor and will furnish such products in its own manner and method, and under no circumstances or conditions will any

employee, representative, or agent of the Contractor be considered an employee of the City.

12. **Subcontractors.** In providing the products, Contractor shall not enter into subcontracts or utilize the services of subcontractors.
13. **Amendments.** This Agreement may be amended or modified only in writing and executed by an authorized representative of each party, and City Council approval may be required. Unit price changes, pursuant to Section 3 of this Agreement, are intended to occur as outlined in that section and are an exception to the required signed writing by both parties.
14. **Waiver.** No waiver by either party of any breach of any term or condition of this Agreement waives any subsequent breach of the same.
15. **Taxes.** The Contractor covenants to pay payroll taxes, Medicare taxes, FICA taxes, unemployment taxes, and all other applicable taxes. Upon request, the City Manager shall be provided proof of payment of these taxes within 15 days of such request.
16. **Notice.** Any notice required under this Agreement must be given by fax, hand delivery, or certified mail, postage prepaid, return receipt requested, and is deemed received on the day faxed or hand-delivered or on the third day after postmark if sent by certified mail. Notice must be sent as follows:

IF TO CITY:

City of Corpus Christi
Attn: Diana Zertuche-Garza
Contract/Funds Administrator
13101 Leopard Street, Corpus Christi, Texas 78410
(361) 826-1827
Fax: (361) 826-4495

IF TO CONTRACTOR:

Chemtrade Chemicals US, LLC
Attn: Christine LaSala
Price & Bid Specialist
90 East Halsey Road, Suite 200 Parsippany, NJ 07054
(973) 515-0900
Fax: (973) 515-4461

17. ***Contractor shall fully indemnify, hold harmless and defend the City of Corpus Christi and its officers, employees and agents (“Indemnitees”) from and against any and all liability, loss, claims, demands, suits, and causes of action of whatever nature, character, or description on***

account of personal injuries, property loss, or damage, or any other kind of injury, loss, or damage, including all expenses of litigation, court costs, attorneys' fees and expert witness fees, which arise or are claimed to arise out of or in connection with a breach of this Agreement or the performance of this Agreement by the Contractor or results from the negligent act, omission, misconduct, or fault of the Contractor or its employees or agents. Contractor must, at its own expense, investigate all claims and demands, attend to their settlement or other disposition, defend all actions based thereon with counsel reasonably satisfactory to the City Attorney, and pay all charges of attorneys and all other costs and expenses of any kind arising or resulting from any said liability, damage, loss, claims, demands, suits, or actions. The indemnification obligations of Contractor under this section shall survive the expiration or earlier termination of this Agreement.

18. Termination.

(A) The City may terminate this Agreement for Contractor's failure to comply with any of the terms of this Agreement. The City must give the Contractor written notice of the breach and set out a reasonable opportunity to cure. If the Contractor has not cured within the cure period, the City may terminate this Agreement immediately thereafter.

(B) Alternatively, the City may terminate this Agreement for convenience upon 30 days' advance written notice to the Contractor. The City may also terminate this Agreement upon 24 hours advance written notice to the Contractor for failure to pay or provide proof of payment of taxes as set out in this Agreement.

19. Owner's Manual and Preventative Maintenance. Contractor agrees to provide a copy of the owner's manual and/or preventative maintenance guidelines or instructions if available for any equipment purchased by the City pursuant to this Agreement. Contractor must provide such documentation upon delivery of such equipment and prior to receipt of the final payment by the City.

20. Limitation of Liability. The City's maximum liability under this Agreement is limited to the total amount of compensation listed in Section 3 of this Agreement. In no event shall the City be liable for incidental, consequential or special damages.

21. Assignment. No assignment of this Agreement by the Contractor, or of any right or interest contained herein, is effective unless the City Manager first gives written consent to such assignment. The performance of this Agreement by the Contractor is of the essence of this Agreement, and the City Manager's right to

withhold consent to such assignment is within the sole discretion of the City Manager on any ground whatsoever.

- 22. Severability.** Each provision of this Agreement is considered to be severable and, if, for any reason, any provision or part of this Agreement is determined to be invalid and contrary to applicable law, such invalidity shall not impair the operation of nor affect those portions of this Agreement that are valid, but this Agreement shall be construed and enforced in all respects as if the invalid or unenforceable provision or part had been omitted.
- 23. Order of Precedence.** In the event of any conflicts or inconsistencies between this Agreement, its attachments, and exhibits, such conflicts and inconsistencies will be resolved by reference to the documents in the following order of priority:
- A. this Agreement (excluding attachments and exhibits);
 - B. its attachments; then,
 - C. Its exhibits, if any.
- 24. Certificate of Interested Parties.** Contractor agrees to comply with Texas Government Code Section 2252.908, as it may be amended, and to complete Form 1295 "Certificate of Interested Parties" as part of this Agreement if required by said statute.
- 25. Governing Law.** Contractor agrees to comply with all federal, Texas, and City laws, rules, and regulations in the performance of this Agreement. The applicable law for any legal disputes arising out of this Agreement is the law of the State of Texas, and such form and venue for such disputes is the appropriate district, county, or justice court in and for Nueces County, Texas.
- 26. Public Information Act Requirements.** This paragraph applies only to agreements that have a stated expenditure of at least \$1,000,000 or that result in the expenditure of at least \$1,000,000 by the City. The requirements of Subchapter J, Chapter 552, 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.
- 27. Entire Agreement.** This Agreement constitutes the entire agreement and understanding between the parties concerning the subject matter of this Agreement, and it supersedes all prior negotiations, arrangements, agreements, and understandings, either oral or written, between the parties.

SIGNATURE PAGE FOLLOWS

CONTRACTOR

Signature: _____

Printed Name: _____

Title: _____

Date: _____

CITY OF CORPUS CHRISTI

Josh Chronley
Assistant Director of Finance - Procurement

Date: _____

APPROVED AS TO LEGAL FORM:

Assistant City Attorney Date

- Attached and Incorporated by Reference:**
 Attachment A: Scope of Work
 Attachment B: Pricing Schedule
 Attachment C: Insurance and Bond Requirements
 Attachment D: Warranty Requirements

Attachment A - (as of 10/27/22)

1.1 General Requirements/Background Information

It is the intent of this specification to describe liquid aluminum sulfate to be used for as a primary coagulant. Coagulants cause very fine particles to clump together into larger particles that will either settle out in the sedimentation basins or will be removed by the filters.

The annual requirement for Liquid Aluminum sulfate is 22,000 wet tons using an Aluminum Sulfate solution based on a solution that contains 8.0 percent as Al₂O₃.

1.2 Product Specifications

Liquid Aluminum Sulfate must contain water soluble aluminum of not less than 4.23 % nor more than 4.5 % as Al or, not less than 8.0 % nor more than 8.5 % as Al₂O₃; contains no substances in quantities capable of producing deleterious or injurious effects on the health of those consuming water that has been properly treated with it; contains total iron, as Fe₂O₃ of not more than 0.35%; contains insoluble matter of not more than 0.2%; does not contain Arsenic in excess of 1.00 mg/kg.

A. Water treating chemicals must conform to:

1. American National Standards Institute/National (ANSI) Sanitation Foundation Institute Standard for Drinking Water Treatment Chemical - Health Effects, ANSI/NSF 60.
2. American National Standards Institute/American Water Works Association standard for Aluminum Sulfate (Liquid) ANSI/AWWA B403-69.
3. The liquid aluminum sulfate solution shall be watery clear white to clear in color and shall not have any hue (red, green, yellow, blue, black, or brown).
4. Per AWWA requirements the liquid aluminum sulfate solution shall have a total organic carbon (TOC) content of 30 mg/L or less.
5. The liquid aluminum sulfate solution shall be free from all odors.
6. Any deviation from the following shall be grounds for returning the material to the supplier at their cost. Also, a sample shall be sent to the ANSI/NSF standard 60 certification agency for testing to verify that the material does meet this standard.

- A. Shipment shall be in approximately 4,000-gallon tank truck lots.
- B. Each chemical shipment must be weighed by local certified weighers before delivery to and after unloading at the O.N. Stevens Water Treatment Plant. The truck driver must promptly deliver chemical shipment weight "ticket" or legible copies to the City of Corpus Christi, Contract Administrator, 13101 Leopard St., Corpus Christi, Texas 78469-9277.
- C. Deliveries will be made Monday through Friday, 8 A. M. to 5 P. M. **only**, unless an emergency arises, then the Contract Administrator may approve after hour deliveries.
- D. The supplier must provide a chemical analysis for each chemical shipment, and the chemical analysis must include the Al₂O₃ percentage, specific gravity, pH, Fe mg/liter, turbidity NTU and **attach a copy of the form for providing the chemical analysis.**
- E. The City will take a sample of each chemical shipment prior to unloading of the chemical. Any chemical shipment that has an odor or a hue (red, green, yellow, blue, black, or brown) will be rejected. Amber green is acceptable.
- F. If any chemical shipment has a total organic carbon (TOC) content of more than 30 mg/l or any other contaminants, the Supplier must: remove all chemical from the tank into which the chemical with more than 30mg/l TOC or any other contaminants was unloaded; clean the tank and properly dispose of all removed chemical; and provide a new chemical shipment at its sole cost.

Billing/Invoicing

The Supplier must base billing and pay quantity for each chemical shipment on "local" certified weight tickets for delivery of Liquid Aluminum Sulfate. The City may reject any chemical shipments containing less than 8.0 percent or more than 8.5 percent as not meeting specifications for Al₂O₃.

- A. The Contractor shall submit an itemized invoice for payment, which shall include the following:
 - 1. Service Agreement No. and/or Purchase Order No.
 - 2. Ship to: Location Name and Address
 - 3. Ordered by: Supply Name
 - 4. Product Description
 - 5. Quantity, Unit Price and Total Price
- B. The Contractor shall mail the original invoice to the address below and email a copy to CCWAccountsPayable@cctexas.com.

City of Corpus Christi
Attn: Accounts Payable – City Hall
P.O. Box 9277
Corpus Christi, TX 78469-9277

Ownership

- A. City's ownership of the Liquid Aluminum Sulfate begins, upon completion of unloading of the chemical at the O. N. Stevens Water Treatment Plant.

1.3 Supplier Quality Control

The Supplier shall establish and maintain a complete Quality Control Program that is acceptable to the Contract Administrator to assure that the requirements of the Contract are provided as specified. The Supplier will also provide supervision of the work to insure it complies with the contract requirements.

Attachment B – Pricing Schedule

Liquid Aluminum Sulfate Solution

ITEM NO.	DESCRIPTION	UNIT PRICE	AMOUNT
1	Liquid Aluminum Sulfate Solution – O.N. Stevens Water Treatment Plant	Wet Tons	\$3,354,500.00*
2	Unloading Delay – max hours: <u>50</u>	\$75.64/Hr	\$ 3,782.00
	TOTAL AMOUNT		\$3,358,282.00**

* Unit price, as of the date of execution of this Agreement by the Supplier, is \$166.21 per wet ton. Depending on market conditions and supply chain issues, the current unit price per wet ton may be subsequently decreased or increased, subject to the requirements stated in the Agreement and in accordance with the terms and conditions pertaining to price adjustments.

** The total amount represents the maximum allowed expenditure through the initial year of this Agreement, with the parties' mutual understanding that no minimum quantity nor dollar amount of product is required to be purchased.

COMPANY:

NAME OF PERSON AUTHORIZED TO SIGN

ADDRESS:

CITY / STATE/ZIP:

PHONE:

EMAIL:

FAX:

DATE:

SIGNATURE:

TITLE:

Attachment C- Insurance Requirements

CONTRACTOR'S LIABILITY INSURANCE

1. Contractor must not commence work under this agreement until all insurance required herein has been obtained and approved by the City's Risk Manager or designee. Contractor must not allow any subcontractor to commence work until all similar insurance required of the subcontractor has been so obtained.

2. Contractor must furnish to the City's Risk Manager and Contract Administrator, one (1) copy of Certificates of Insurance with applicable policy endorsements showing the following minimum coverage by an insurance company(s) acceptable to the City's Risk Manager. The City must be listed as an additional insured for the General Liability and Auto Liability policies **by endorsement**, and a waiver of subrogation **endorsement** is required on GL, AL and WC if applicable. **Endorsements** must be provided with Certificate of Insurance. Project name and/or number must be listed in Description Box of Certificate of Insurance.

TYPE OF INSURANCE	MINIMUM INSURANCE COVERAGE
Commercial General Liability including: 1. Commercial Broad Form 2. Premises – Operations 3. Products/ Completed Operations 4. Contractual Liability 5. Independent Contractors 6. Personal Injury- Advertising Injury	\$1,000,000 Per Occurrence
AUTO LIABILITY (including) 1. Owned 2. Hired & Non-owned 3. Rented & Leased	\$1,000,000 Combined Single Limit
WORKERS' COMPENSATION (All States Endorsement if Company is not domiciled in Texas) Employer's Liability	Statutory and complies with Part II of Exhibit. \$500,000 / \$500,000 / \$500,000
POLLUTION LIABILITY	\$1,000,000 Per occurrence

3. In the event of accidents of any kind related to this project, Consultant must furnish the Risk Manager with copies of all reports of such accidents within 10 days of the accident.

Additional Requirements –

1. Applicable for paid employees, Contractor must obtain workers' compensation coverage through a licensed insurance company. The coverage must be written on a policy and endorsements approved by the Texas Department of Insurance. The workers' compensation coverage provided must be in an amount sufficient to assure that all workers' compensation obligations incurred by the Contractor will be promptly met. An All States endorsement shall be required if consultant is not domiciled in the State of Texas.
2. Contractor shall obtain and maintain in full force and effect for the duration of this Contract, and any extension hereof, at Contractor's sole expense, insurance coverage written on an occurrence basis, by companies authorized and admitted to do business in the State of Texas and with an A.M. Best's rating of no less than A- VII.
3. Contractor shall be required to submit replacement Certificate of Insurance to City at the address provided below within 10 days of any change made by the Contractor or as requested by the City. Contractor shall pay any costs incurred resulting from said changes. All notices under this Article shall be given to City at the following address:

City of Corpus Christi
Attn: Risk Management
P.O. Box 9277
Corpus Christi, TX 78469-9277

4. **Contractor agrees that with respect to the above required insurance, all insurance policies are to contain or be endorsed to contain the following required provisions:**
 - List the City and its officers, officials, employees, and volunteers, as additional insureds by endorsement with regard to operations, completed operations and activities of or on behalf of the named insured performed under contract with the City, with the exception of the workers' compensation policy.
 - Provide for an endorsement that the "other insurance" clause shall not apply to the City of Corpus Christi where the City is an additional insured shown on the policy;
 - Workers' compensation and employers' liability policies will provide a waiver of subrogation in favor of the City; and

- Provide 30 calendar days advance written notice directly to City of any cancellation, non-renewal, material change or termination in coverage and not less than ten calendar days advance written notice for nonpayment of premium.
5. Within five calendar days of a cancellation, non-renewal, material change or termination of coverage, Contractor shall provide a replacement Certificate of Insurance and applicable endorsements to City. City shall have the option to suspend Contractor's performance should there be a lapse in coverage at any time during this contract. Failure to provide and to maintain the required insurance shall constitute a material breach of this contract.
 6. In addition to any other remedies the City may have upon Contractor's failure to provide and maintain any insurance or policy endorsements to the extent and within the time herein required, the City shall have the right to order Contractor to stop work hereunder, and/or withhold any payment(s) which become due to Consultant hereunder until Contractor demonstrates compliance with the requirements hereof.
 7. Nothing herein contained shall be construed as limiting in any way the extent to which Contractor may be held responsible for payments of damages to persons or property resulting from Contractor's or its subcontractor's performance of the work covered under this contract.
 8. It is agreed that Contractor's insurance shall be deemed primary and non-contributory with respect to any insurance or self-insurance carried by the City of Corpus Christi for liability arising out of operations under this contract.
 9. It is understood and agreed that the insurance required is in addition to and separate from any other obligation contained in this agreement

2021 Insurance Requirements

Ins. Req. Exhibit **1-B**

Purchase Contracts – Supply Agreements – Equipment Leases

Hazardous Chemicals Delivered to City

05/10/2021 Risk Management – Legal Dept.

Attachment D - Warranty Requirements

"No manufacturer's warranty required for this Agreement."