SUPPLY AGREEMENT NO. 1266

Sodium Permanganate Solution

THIS **Sodium Permanganate Solution Supply Agreement** ("Agreement") is entered into by and between the City of Corpus Christi, a Texas home-rule municipal corporation ("City") and Carus Corporation ("Supplier"), effective upon execution by the City Manager or the City Manager's designee ("City Manager").

WHEREAS, Supplier has bid to provide Sodium Permanganate Solution in response to Request for Bid No. **1266** ("RFB"), which RFB includes the required scope of work and all specifications and which RFB and the Supplier's bid response are incorporated by reference in this Agreement as Exhibits 1 and 2, respectively, as if each were fully set out here in its entirety.

NOW, THEREFORE, City and Supplier agree as follows:

1. **Scope.** Supplier will provide Sodium Permanganate Solution 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.

2. **Term.** This Agreement is for 24 months. The parties may mutually extend the term of this Agreement for up to two additional 24-month periods ("Option Period(s)"), provided, the parties do so in writing and prior to the expiration of the original term or the then-current Option Period. The City's extension authorization must be executed by the City Manager or designee.

3. **Compensation and Payment.** The total value of this Agreement is not to exceed $3,407,859.00, subject to approved extensions and changes. Payment will be made for goods delivered and accepted by the City within 30 days of acceptance, subject to receipt of an acceptable invoice. All pricing must be in accordance with the attached Bid/Pricing Schedule, as shown in Attachment B, the content of which is incorporated by reference into this Agreement as if fully set out here in its entirety.

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:

Name: Diana Zertuche-Garza
Department: Utilities
Phone: (361) 826-1827
Email:dianaG@cctexas.com

5. **Insurance.** Before performance can begin under this Agreement, the Supplier 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.

6. **Purchase Release Order.** For multiple-release purchases of products to be provided by the Supplier 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 Supplier 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 Supplier until such time as the products are delivered and accepted by the City.

7. **Inspection and 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 Supplier, 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 Supplier within 30 days of receipt of City's invoice.

8. **Warranty.** The Supplier 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 Supplier warrants that it has clear title to the products and that the products are free of liens or encumbrances. In addition, the products purchased under this Agreement shall be warranted by the Supplier 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 the Bid/Pricing Schedule 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.** Supplier will 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 agent, servant or employee of the Supplier be considered an employee of the City.

12. **Subcontractors.** Supplier may use subcontractors in connection with the work performed under this Agreement. When using subcontractors, however, the Supplier must obtain prior written approval from the Contract Administrator if the subcontractors were not named at the time of bid. In using subcontractors, the Supplier is responsible for all their acts and omissions to the same extent as if the subcontractor and its employees were employees of the Supplier. All requirements set forth as part of this Agreement, including the necessity of providing a COI in advance to the City, are applicable to all subcontractors and their employees to the same extent as if the Supplier and its employees had performed the work.

13. **Amendments.** This Agreement may be amended or modified only by written change order signed by both parties. Change orders may be used to modify quantities as deemed necessary by the City.

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 Supplier covenants to pay payroll taxes, Medicare taxes, FICA taxes, unemployment taxes and all other related 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, 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
Title: Contracts/Fund Administrator
Address: 13101 Leopard Street,Corpus Christi, TX 78410
Fax: (361) 826-4488

IF TO SUPPLIER:
Carus Corporation
Attn: Susan Buchanan
Title: VP, CFO
Address: 315 Fifth Street, Peru , IL 61354
Fax: (815) 224-6697

17. ***SUPPLIER 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 SUPPLIER OR RESULTS FROM THE NEGLIGENT ACT, OMISSION, MISCONDUCT, OR FAULT OF THE SUPPLIER OR ITS EMPLOYEES OR AGENTS. SUPPLIER MUST, AT ITS OWN EXPENSE, INVESTIGATE ALL CLAIMS AND DEMANDS, ATTEND TO THEIR SETTLEMENT OR OTHER DISPOSITION, DEFEND ALL ACTIONS BASED THEREON WITH COUNSEL 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 SUPPLIER UNDER THIS SECTION SHALL SURVIVE THE EXPIRATION OR EARLIER TERMINATION OF THIS AGREEMENT.***

18. **Termination.**

(A) The City Manager may terminate this Agreement for Supplier's failure to perform the work specified in this Agreement or to keep any required insurance policies in force during the entire term of this Agreement. The Contract Administrator must give the Supplier written notice of the breach and set out a reasonable opportunity to cure. If the Supplier has not cured within the cure period, the City Manager may terminate this Agreement immediately thereafter.

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

19. **Assignment.** No assignment of this Agreement by the Supplier, 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 Supplier 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.

20. **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.

21. **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;
C. the bid solicitation document including any addenda (Exhibit 1); then,
D. the Supplier's bid response (Exhibit 2).

22. **Certificate of Interested Parties.** Supplier 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.

23. **Governing Law.** This Agreement is subject to all federal, State, and local laws, rules, and regulations. 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.

24. **Entire Agreement.** This Agreement constitutes the entire agreement between the parties concerning the subject matter of this Agreement and supersedes all prior negotiations, arrangements, agreements and understandings, either oral or written, between the parties.

(SIGNATURE PAGE FOLLOWS)

SUPPLIER

Signature: David J Kuzy

Printed Name: David J Kuzy

Title: CEO

Date: September 27, 2017

CITY OF CORPUS CHRISTI

Signature: Maria Pedraza

Printed Name: Maria Pedraza

Title: Procurement Manager

Date: 11.1.17

Attached and Incorporated by Reference:
Attachment A: Scope of Work
Attachment B: Bid/Pricing Schedule
Attachment C: Insurance Requirements
Attachment D: Warranty Requirements

ATTEST: Rebecca Huerta
REBECCA HUERTA
CITY SECRETARY

Incorporated by Reference Only:
Exhibit 1: RFB No. 1266
Exhibit 2: Supplier's Bid Response

M2017-172 AUTHORIZED BY COUNCIL 10/31/17
SECRETARY

Attachment A - Scope of Work

4.1 General Requirements

The Supplier shall provide Sodium Permanganate Solution as outlined in this Scope of Work to be used at the City of Corpus Christi Water and Wastewater Treatment Plants. This chemical is used for algae control in water and must conform to all the requirements of this specification.

4.2 Scope of work

The Supplier shall provide with every delivery a chemical analysis for each chemical shipment, and the chemical analysis must include the percentage of assay, specific gravity and pH.

MATERIAL REQUIREMENTS:

The Sodium Permanganate Solution delivered under this agreement will meet the following specifications:

Item	Weight
Assay 39.5 - 41.0%	as NaMn04
pH	5.0 – 8.0
Specific gravity	1.36 – 1.39

Certified by the National Sanitation Foundation (NSF) to ANSI/NSF Standard 60 for drinking water treatment chemicals-health effects.

The product should meet the AWWA Standard B603-03; EN: 15482-2007.

4.3 Delivery and Weighing Requirements

1. The Supplier will be responsible for unloading the chemical. The Supplier shall provide any special equipment necessary for unloading, up to and including, hoses, connections, compressors, etc.
2. The Supplier must provide an affidavit of compliance to the City of Corpus Christi stating that at the time of delivery the chemical furnished

under the release order complies with all applicable requirements of this specification.

3. City of Corpus Christi Plant Supervisors, or their designee, may take a sample of any chemical shipment for testing prior to unloading of the chemical. In addition, approximately every three (3) months during the supply agreement, the City will take a random sample of the chemical upon delivery. This sample will be sent to an independent laboratory chosen by the City, and tested for all items outlined in the product specifications.

4. The Plant Supervisor may reject any chemical shipments that contain a concentration of any component outside the allowable concentration range as specified in the product specifications.

5. Deliveries of Sodium Permanganate solution must be by drivers thoroughly trained and familiar with the related hazards, safety measures, and spill cleanup procedures for sodium permanganate solution. All spills and leakage, regardless of size must be properly and immediately cleaned up by Supplier's personnel. The Supplier shall be required to respond to any and all such emergencies within eight (8) hours of being notified.

6. The Supplier shall allow two (2) hours "unloading time" for each chemical shipment, starting from the time the load enters the plant site to the time the unloading of the chemical shipment is completed. Unloading of the chemical is complete when unloading apparatus is disconnected from storage facilities and secured, and a designated City of Corpus Christi representative has signed all delivery tickets for each respective load. Any unloading time in excess of two (2) hours which is directly attributable to the City will be paid for at the unit price bid for "Unloading Delays," rounded and prorated to the nearest quarter hour. This amount shall be included with the invoice for payment for that particular load of chemical.

7. Shipment(s) will be delivered in approximately 36,000 lb. lots. Each chemical shipment must be weighed on a state certified truck scale located within the city limits of Corpus Christi before delivery to and after unloading at the water treatment plants.

8. The Supplier shall be responsible for mailing a legible copy of each chemical shipment weight "ticket" to the respective City of Corpus Christi Water Supervisor within 5 business days of delivery of the chemical. Payments to the Supplier will not be processed unless this requirement is met.

9. Deliveries shall be made between 8:00 a.m. and 5:00 p.m., Monday through Sunday, excluding holidays, unless specific arrangements are made otherwise.

10. Orders will be placed by telephone or email. The Supplier will deliver the amount of Sodium Permanganate solution ordered within twenty-four (24) hours of order placement. No minimum or maximum purchase of Sodium Permanganate Solution is guaranteed by the City within the duration of the contract.

4.4 Deliveries will be made to the following location:

O.N. Stevens Water Treatment Plant, 13101 Leopard St., Corpus Christi, TX 78410

4.5 Other Requirements

1. All materials supplied must comply with all requirements and standards of the Occupational Safety and Health Act (OSHA). All appropriate markings shall be in place before delivery. Items not meeting OSHA specifications will be refused.

2. The Supplier shall base its billing and quantity for each chemical shipment on "local" certified weight tickets for the delivery of Sodium Permanganate Solution.

3. The Supplier must submit the chemical analysis, weight ticket, and bill of lading with each invoice.

4. Prior to initial use of the Sodium Permanganate solution, and annually thereafter, the Supplier shall conduct a minimum of two (2) training seminars for the City's operating personnel on the application and control of the Sodium Permanganate solution, and shall include the following:
    a. Basic chemical properties of the Sodium Permanganate solution
    b. Safety training

c. Equipment operation/set up
d. Safety Data Sheet

4.6 Supplier Quality Control and Superintendence

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 - Bid Price/Schedule

CITY OF CORPUS CHRISTI
BID FORM
PURCHASING DIVISION
RFB No. 1266
Sodium Permanganate Solution

Date: September 18, 2017

Bidder: Carus Corporation

Authorized Signature: Susan Buchanan

Susan Buchanan/VP, CFO

1. **Refer to "Instructions to Bidders" and Contract Terms and Conditions before completing bid.**
2. **Quote your best price for each item.**
3. **In submitting this bid, Bidder certifies that:**
   a. the prices in this bid have been arrived at independently, without consultation, communication, or agreement with any other Bidder or competitor, for the purpose of restricting competition with regard to prices.
   b. Bidder is an Equal Opportunity Employer, and the Disclosure of Interest information on file with City's Purchasing office, pursuant to the Code of Ordinances, is current and true.
   c. Bidder is current with all taxes due and company is in good standing with all applicable governmental agencies.
   d. Bidder acknowledges receipt and review of all addenda for this RFB.
4. **Bidders must not write over or revise the bid form. Bidders will be considered Non-Responsive if the bid form is modified.**

Item	Description	UNIT	QTY	Unit Price	Total Price
1	40 % Solution Sodium Permanganate	Lbs.	1,456,350	$1.17	$1,703,929.50
2	Unloading Delay	HR	25	N/A	$0.00
Total					$1,703,929.50

Attachment C - Insurance Requirements

SUPPLIER'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 Risk Manager and Assistant Director, Office of Strategic Management, two (2) copies of Certificates of Insurance with applicable policy endorsements showing the following minimum coverage by an insurance company(s) acceptable to the Risk Manager or designee. **The City must be listed as an additional insured for the General Liability and Auto Liability policies, and a waiver of subrogation is required on all applicable policies. 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**
30-day advance written notice of cancellation, non-renewal, material change or termination required on all certificates and policies.	**Bodily Injury and Property Damage** Per occurrence - aggregate
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 $2,000,000 Aggregate
BUSINESS AUTOMOBILE LIABILITY 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 This Exhibit $500,000 / $500,000 / $500,000
Pollution Liability (Including Cleanup and remediation	$1,000,000 Per Incident Limit $1,000,000 Aggregate

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.

Attachment D – Warranty Requirements

No warranty requirements for this supply agreement; Section 8. Warranty is null for this supply agreement.

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

Complete Nos. 1 - 4 and 6 if there are interested parties.
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

OFFICE USE ONLY
CERTIFICATION OF FILING

Certificate Number:
2017-264112

Date Filed:
09/21/2017

Date Acknowledged: 11/2/2017

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.
Carus Corporation
Peru, IL United States

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.
City of Corpus Christi

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.
749
Manufacture and delivery sodium permanganate

4 Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
		Controlling	Intermediary
Kuzy, David J.	Peru, IL United States	X	
Buchanan, Susan	Peru, IL United States	X	

5 Check only if there is NO Interested Party. ☐

6 AFFIDAVIT

I swear, or affirm, under penalty of perjury, that the above disclosure is true and correct.

OFFICIAL SEAL
SHELLEY A BURR
NOTARY PUBLIC - STATE OF ILLINOIS
MY COMMISSION EXPIRES 04 11 18

AFFIX NOTARY STAMP / SEAL ABOVE

Susan Buchanan
Signature of authorized agent of contracting business entity

Sworn to and subscribed before me, by the said Susan Buchanan, this the 27th day of September, 20 17, to certify which, witness my hand and seal of office.

Shelley A Burr — Shelley A. Burr — Notary Public
Signature of officer administering oath — Printed name of officer administering oath — Title of officer administering oath