



Shannon Chemical Corp.
P.O. Box 376 Malvern, PA 19355 • Phone: (610) 363-9090 • Fax: (610) 524-6050

August 24, 2023

Town of Highland Beach
3616 S. Ocean Boulevard
Highland Beach, FL 33487

Attention: David Richards; Water Plant Superintendent

David,

Please accept this letter as **SHANNON CHEMICAL CORPORATION'S** approval and acceptance allowing the Town of Highland Beach to piggyback off the City of Marco Island contract for the fiscal year 2023-2024.

SHANNON CHEMICAL CORPORATION will supply the Town of Highland Beach with phosphate at a firm delivered price of \$2.47/#.

Respectfully,
SHANNON CHEMICAL CORPORATION

Daniel C. Flynn
President

City of Marco Island Florida



CONTRACT 2022-031-8:

Water and Wastewater Treatment Chemicals

Citric Acid ($C_6H_8O_7$) liquid
Phosphoric Acid 75% (H_3PO_4 corrosion inhibitor)

September 19, 2022

SHANNON CHEMICAL CORPORATION
P.O. Box 376
Malvern, PA 19355
Phone: (610) 363-9090

AND

CITY OF MARCO ISLAND
50 Bald Eagle Drive
Marco Island, Florida 34145
Phone: (239) 389-5000

SERVICE AGREEMENT

WATER AND WASTEWATER TREATMENT CHEMICALS

THIS AGREEMENT, made and entered into this 19th day of September, 2022, by and between SHANNON CHEMICAL CORPORATION, hereinafter called the "Contractor," and the City of Marco Island, Florida, a political subdivision of the State of Florida, Collier County, hereinafter called the "City."

WITNESSETH

1. **CITY APPROVAL OF BID/AGREEMENT:** The attached Contractor's bid (Exhibit "A") for ITB #2022-031 Water and Wastewater Treatment Chemicals, dated 8/19/2022, has been approved for contract award.

2. **COMMENCEMENT:** This is an annual contract for the initial two (2)-year term commencing on or about October 1, 2022, with an option to renew for an additional two (2) two (2)-year terms. After each contract period, price adjustment is allowed. However, price increases are limited to the Consumer Price Index for All Urban Consumers (CPI-U) increases for the South Region Size B/C as reported for October to September of each year.

3. **STATEMENT OF WORK:** Water and Wastewater Treatment Chemicals as defined and specified in the bidding documents.

4. **COMPENSATION:** The City shall compensate the contractor for the satisfactory performance of work based solely on the services provided as may be ordered by the City from time to time during the term of this Agreement. Payments to the contractor for work completed shall be made in accordance with the bid unit price(s):

Citric Acid (C₆H₈O₇) liquid - \$22.37/gal DELIVERED

Phosphoric Acid 75% (H₃PO₄ corrosion inhibitor) -\$27.17/gal DELIVERED

5. **NOTICES:** All notices from the City to the Contractor shall be deemed duly served if mailed by registered or certified mail to the Contractor at the following address:

Daniel C. Flynn
Vice President - Operations
SHANNON CHEMICAL CORPORATION
P.O. Box 376
Malvern, PA 19355

All notices from the Contractor to the City shall be deemed duly served if mailed by registered or certified mail to the City at the following address:

Lina Upham
Purchasing and Risk Manager
Deputy City Clerk
City of Marco Island

50 Bald Eagle Drive
Marco Island, Florida 34145

The Contractor and the City may change the above mailing address at any time upon giving the other party written notification. All notices under this Agreement must be in writing.

6. **NO PARTNERSHIP:** Nothing herein contained shall create, or be construed as creating, a partnership between the City and the Contractor. Moreover, nothing stated in this Agreement shall be interpreted to indicate in any way that the Contractor is an agent of the City of Marco Island.

7. **PERMITS; LICENSES; TAXES:** In compliance with Section 218.80, F.S., all City permits necessary for the prosecution of the work shall be obtained by the Contractor. Payment of fees for all such permits issued by the City shall be processed internally by the City. All non-City permits necessary for the prosecution of the work shall be procured and paid for by the Contractor. The Contractor shall also be solely responsible for payment of any and all taxes levied on the Contractor. In addition, the Contractor shall comply with all rules, regulations and laws of the City of Marco Island, Collier County, the State of Florida, and the U.S. Government now in force or hereafter adopted. The Contractor further agrees to comply with all laws governing the responsibility of an employer with respect to persons directly or indirectly employed by the Contractor.

8. **NO IMPROPER USE:** The Contractor will not use, nor cause or permit any employee or subcontractor to use or occupy in any manner whatsoever, City or private facilities or properties for any improper, immoral or offensive purpose, or for any purpose in violation of any federal, state, county or municipal ordinance, rule, order or regulation, or of any governmental rule or regulation now in effect or hereafter enacted or adopted. In the event of such violation by the Contractor the City, or its authorized representative, shall deem such conduct on the part of the Contractor to be objectionable or improper. Accordingly, the City shall have the right to suspend this Agreement with Contractor in full or in part. Should the Contractor fail to correct any noted violation, conduct, or practice to the satisfaction of the City within twenty-four (24) hours after receiving notice of such violation, conduct, or practice, such suspension shall continue until the violation is cured. The Contractor further agrees not to commence operations during the suspension period until the violation has been corrected to the satisfaction of the City. The City reserves the right to immediately terminate this Agreement for the foregoing actions or inactions by the Contractor.

9. **TERMINATION:** Either party may terminate this Agreement without cause upon thirty (30) days written notice to the other. Should the Contractor be deemed or found to have failed to perform services herein in a professional manner satisfactory to the City in accordance with standards of practice in the industry, and/or the terms and requirements of this Agreement, the City may terminate said Agreement immediately for cause. Moreover, the City may terminate this Agreement for convenience with a seven (7) day written notice to the Contractor. The City shall be the sole judge of non-performance or cause.

10. **NO DISCRIMINATION:** The Contractor agrees not to discriminate against or upon employees or subcontractors as to race, sex, color, creed or national origin.

11. **INSURANCE:** All entities wishing to perform work for the City of Marco Island will be required to comply with the following minimum insurance requirements.

- COMMERCIAL GENERAL LIABILITY LIMITS (MUST INCLUDE CONTRACTUAL LIABILITY) \$ 2,000,000 AGGREGATE
\$ 1,000,000 EACH OCCURRENCE
\$ 1,000,000 PRODUCTS-OMP/OP
\$ 1,000,000 PERS & ADV INJURY
- AUTOMOBILE LIABILITY \$ 1,000,000 COMBINED SINGLE LIMIT
(INCLUDE HIRED AND NON-OWNED LIABILITY)
- WORKER'S COMPENSATION STATUTORY
- EMPLOYER'S LIABILITY \$ 1,000,000 EACH ACCIDENT
\$ 1,000,000 DISEASE-POLICY LIMIT
\$ 1,000,000 DISEASE-EACH EMPLOYEE

□ THE CITY OF MARCO ISLAND, FLORIDA MUST BE NAMED AS AN ADDITIONAL INSURED UNDER THE GENERAL LIABILITY POLICY. CONTRACTOR'S AND/OR SUBCONTRACTOR'S GENERAL LIABILITY SHALL BE ON A PRIMARY AND NON-CONTRIBUTORY BASIS.

(1) The City of Marco Island City Council shall be named as an Additional Insured and the policy shall be endorsed that such coverage shall be primary to any similar coverage carried by the Owner.

(2) This policy shall include contractual liability coverage to contemplate the indemnity provisions of this agreement.

(3) Contractor shall ensure that all subcontractors comply with the same insurance requirements that he is required to meet. The same contractor shall provide the City with certificates of insurance meeting the required insurance provisions.

(4) The City of Marco Island must be named as **"ADDITIONAL INSURED"** on the Insurance Certificate for Commercial General Liability.

(5) The City of Marco Island shall be named as the Certificate Holder. NOTE: The "Certificate Holder" should read as follows:

The City of Marco Island
Attn: Risk Manager
50 Bald Eagle Drive
Marco Island, Fl 34145

(6) Thirty (30) Days Cancellation Notice is required.

12. **INDEMNIFICATION:** The Contractor, in consideration of One Hundred Dollars (\$100), the receipt and sufficiency of which is accepted through the signing of this Agreement, shall hold harmless and defend the City of Marco Island and its agents and employees from all suits and actions, including attorneys fees, and all costs of litigation and judgments of any name and description arising out of or incidental to the performance of this Agreement or Work performed hereunder. This provision shall also apply to any claims brought against the City by any employee of the named Contractor, the Contractors' subContractor or sub-subContractor, or anyone directly or indirectly employed by any of them. The Contractor's obligation under this provision shall not be limited in any way by the agreed upon contract price as listed in Section 4 above, or the Contractor's

limit of, or lack of, sufficient insurance protection. The first One Hundred Dollars (\$100) of money received on the contract price herein is considered as payment of this obligation by the City.

This section does not pertain to any incident arising from the sole negligence of the City of Marco Island.

13. **ADMINISTRATION OF AGREEMENT:** This Agreement shall be fully administered by the City Manager or his designee on behalf of the City. The Contractor shall only receive and act upon orders and directives issued by the City Manager, his designee, or the City's Purchasing and Risk Manager/Deputy City Clerk.

14. **COMPONENT PARTS OF THIS AGREEMENT:** This Agreement consists of, by reference, the Contract Bidding Documents for: **Water and Wastewater Treatment Chemicals, ITB# 2022-031** and the Contractor's Bid submittal, attached, and thus made a formal part of the binding Agreement between the City and the Contractor.

15. **OFFER EXTENDED TO OTHER ENTITIES:** The City of Marco Island encourages and agrees to the successful bidder/proposer extending the pricing, terms and conditions of this solicitation or resultant contract to other governmental entities at the discretion of the successful bidder/proposer.

16. **SUBJECT TO APPROPRIATION:** It is further understood and agreed by and between the parties herein that this Agreement is subject to the continuation of appropriation of funds by the City Council of the City of Marco Island.

17. **ACCESS TO RECORDS AND AUDIT CLAUSE:** All records, books, documents, papers and financial information (the "Records") that result from the Contractor providing services to the City under this Agreement shall be the property of the City. The City Manager or his designee shall, during the term of this Agreement and for a period of three (3) years from the date of termination of this Agreement, have access to and the right to examine and audit any Records of the Contractor involving transactions related to this Agreement.

18. **PUBLIC RECORDS:** Contractor agrees to keep and maintain public records in Contractor's possession or control in connection with Contractor's performance under this Agreement. Contractor additionally agrees to comply specifically with the provisions of Section 119.0701, Florida Statutes.

Contractor shall ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed, except as authorized by law, for the duration of the Agreement, and following completion of the Agreement until the records are transferred to City. Upon request from City custodian of public records, Contractor shall provide City with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided by Chapter 119, Florida Statutes, or as otherwise provided by law.

Unless otherwise provided by law, any and all records, including but not limited to reports, surveys, and other data and documents provided or created in connection with this Agreement are and shall remain the property of City.

Upon completion of this Agreement, transfer, at no cost, to the City all public records in possession of Contractor or keep and maintain public records required by City to perform the service. If Contractor transfers all public records to City upon completion of this Agreement, Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If Contractor keeps and maintains public records upon completion of this Agreement, Contractor shall meet all applicable requirements for retaining public records. All records stored electronically by Contractor shall be delivered to City, upon request from the City's Custodian of Records, in a format that is compatible with the City's information technology systems.

Any compensation due to Contractor shall be withheld until all records are received as provided herein.

Contractor's failure or refusal to comply with the provisions of this section shall result in the immediate termination of this Agreement by City.

Section 119.0701(2)(a), Florida Statutes

IF CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS.

Custodian of Public Records: MIKE SCHEFFIELD, CITY CLERK
Mailing address: 50 Bald Eagle Drive, Marco Island, FL 34145
Telephone number: 239-389-5010
Email: msheffield@cityofmarcoisland.com

19. **ANTI-LOBBYING:** Contractor warrants that it has not paid or agreed to pay any company or person other than a bona fide employee working solely for Contractor any fee, commission, percentage fee, gifts or any other considerations contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, the Owner shall have the right to cancel this Agreement without liability. This provision shall not apply to Contractor's retention of an attorney on a non-contingent fee basis for purposes of negotiating this Agreement.

20. **SEVERABILITY:** Should any provision of the Agreement be determined by a court to be unenforceable; such a determination shall not affect the validity or enforceability of any other section or part thereof.

21. **ORDER OF PRECEDENCE:** In the event of any conflict between or among the terms of any of the Contract Documents, the terms of the Construction Agreement and the General Terms and Conditions shall take precedence over the terms of all other Contract Documents. To the extent any conflict in the terms of the Contract Documents cannot be resolved by application of the Construction Agreement and the General Terms and Conditions, the conflict shall be resolved by imposing the more strict obligation under the Contract Documents upon Contractor.

22. GOVERNING LAW, JURISDICTION AND VENUE: The Agreement shall be interpreted under, and its performance governed by, the laws of the State of Florida. The parties submit to the jurisdiction of any Florida state or federal court in any action or proceeding arising out of, or relating to, this Agreement. Venue for any action to enforce this Agreement shall be in Collier County, Florida.

23. SAFETY, GOVERNMENTAL COMPLIANCE AND HAZARDOUS MATERIALS: Contractor shall be responsible for safety of its operations and its employees and shall take all reasonable safety precautions with respect to its Work. Contractor in addition to its own standards shall comply with all safety policies and procedures initiated by Contractor for the Project, including Contractor's policy regarding drugs, alcohol and controlled substances, and shall comply with all applicable laws, ordinances, rules, regulations and orders of any public authority for the safety of persons or property, including, but not limited to, the Federal Occupational Safety and Health Act (OSHA). Contractor shall immediately notify City of any injury to any of the Contractor's employees. Contractor shall require its personnel to attend any safety meetings the City might conduct and direct Contractor to attend.

Contractor agrees that in performing its Work, it will not create, use or dispose of any hazardous chemicals or substances in an unlawful or hazardous manner and shall be solely responsible for the lawful, proper and safe handling, storage and removal of all hazardous wastes, chemicals and substances which are introduced to the site, or removed from the site, by Contractor's operations. The term "hazardous wastes, chemicals or substances" shall mean those materials and substances prohibited, proscribed, or the use of which is controlled by any agency of the federal government or the applicable state or local agency having jurisdiction of such matters. In the event Contractor encounters material reasonably believed to be hazardous wastes, chemicals or substances, Contractor shall immediately stop work in the area affected and report such condition to City in writing. Contractor shall comply with all federal, state and local regulations dealing with the use, storage or disposal of all hazardous wastes, chemicals and substances. Contractor shall be responsible for any and all claims and damages resulting from its use, handling, storage, removal and disposal of such hazardous wastes, chemicals or substances from the Project, and will indemnify, defend and hold City harmless from any and all liability associated with such use, handling, storage, removal and disposal including all associated attorney's fees and costs and costs of all cleanup operations wherever and whenever required by any governmental authority or City.

24. SCRUTINIZED COMPANIES: Contractor certifies that it and its subContractors are not on the Scrutinized Companies that Boycott Israel List. Pursuant to Section 287.135, F.S., the City may immediately terminate this Agreement at its sole option if the Contractor or its subContractors are found to have submitted a false certification; or if the Contractor, or its subContractors are placed on the Scrutinized Companies that Boycott Israel List or is engaged in the boycott of Israel during the term of the Agreement.

If this Agreement is for more than one million dollars, the Contractor certifies that it and its subContractors are also not on the Scrutinized Companies with Activities in Sudan, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria as identified in Section 287.135, F.S. Pursuant to Section 287.135, F.S., the City may immediately terminate this Agreement at its sole option if the Contractor, its affiliates, or its subContractors are found to have submitted a false certification; or if the Contractor, its affiliates, or its subContractors are placed on the Scrutinized Companies with Activities in Sudan List,

or Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria during the term of the Agreement.

The Contractor agrees to observe the above requirements for applicable subcontracts entered into for the performance of work under this Agreement.

As provided in Subsection 287.135(8), F.S., if federal law ceases to authorize the above-stated contracting prohibitions then they shall become inoperative.

25. **E-VERIFY:** Contractors providing service to the City are required to comply with all state and federal employment laws. This includes, but is not limited to, laws resulting from the Immigration and Reform and Control Act of 1986, wherein all employers are required to verify the identity and employment eligibility of all employees. The Department of Homeland Security, U.S. Citizenship and Immigration Services require employees and employers to complete Form I-9 and the employer must examine evidence of identity and employment eligibility within three business days of the date employment begins. Non-compliant Contractors will be subject to contract sanctions, up to and including contract termination.

[The Remainder of This Page Intentionally Left Blank; Signature Page Follows]

IN WITNESS WHEREOF, the parties have executed this Agreement on the latest date(s) indicated below.

ATTEST:

CONTRACTOR:
SHANNON CHEMICAL CORPORATION

Kevin Flynn
Corporate Secretary/Witness Secretary

[Signature]

2nd Witness (If Not Incorporated)

BY: Daniel C. Flynn, President

ITS: _____

President (If Incorporated)

Date: 09/21/22

[Corporate Seal]



ATTEST:

OWNER:
CITY OF MARCO ISLAND, FLORIDA

BY: Michael J. Sheffield
Michael J. Sheffield, City Clerk

BY: Michael A. McNeess
Michael A. McNeess, City Manager

Date: 10/6/22

Approved as to form and legal sufficiency for the use and reliance of the City of Marco Island only.

BY: Alan L. Gabriel
Alan L. Gabriel, City Attorney

Water and Wastewater Treatment Chemicals

Contract#2022-031-8

Exhibit "A"

Contractor's bid for ITB #2022-031 Water and Wastewater Treatment Chemicals, dated 8/19/2022, is hereby incorporated by reference.