

**AGREEMENT
FOR
EQUIPMENT / SUPPLIES**

THIS AGREEMENT FOR EQUIPMENT / SUPPLIES PROCUREMENT is made this 1st of October, 2021, and entered into by and between the City of Meridian, a municipal corporation organized under the laws of the State of Idaho, hereinafter referred to as "CITY", 33 East Broadway Avenue, Meridian, Idaho 83642, and Univar Solutions, hereinafter referred to as "SUPPLIER", whose business address is 1804 N. 20th St. Nampa, ID 83687.

INTRODUCTION

Whereas, the City has a need for services involving the procurement of POLYMER CHEMICAL; and

WHEREAS, the Supplier is specially trained, experienced and competent to perform and has agreed to provide such services;

NOW, THEREFORE, in consideration of the mutual promises, covenants, terms and conditions hereinafter contained, the parties agree as follows:

TERMS AND CONDITIONS

1. Equipment / Supply Specifications & Requirements:

1.1 SUPPLIER shall supply the equipment and/or supplies to the City upon execution of this Agreement and receipt of the City's written notice to proceed, all items, and comply in all respects, as specified in the document titled "Supply Specifications & Requirements" a copy of which is attached hereto as Attachment "A" and incorporated herein by this reference, together with any amendments that may be agreed to in writing by the parties.

1.2 The Supplier shall provide services and work under this Agreement consistent with the requirements and standards established by applicable federal, state and city laws, ordinances, regulations and resolutions. The Supplier represents and warrants that it will perform its work in accordance with generally accepted industry standards and practices for the profession or professions that are used in performance of this Agreement and that are in effect at the time of performance of this Agreement. Except for that representation and any representations made

or contained in any proposal submitted by the Supplier and any reports or opinions prepared or issued as part of the work performed by the Supplier under this Agreement, Supplier makes no other warranties, either express or implied, as part of this Agreement.

2. Consideration

2.1 The Supplier shall be compensated on a per pound basis (Not-To-Exceed **\$250,000.00**) as provided in Attachment B “Payment Schedule” attached hereto and by reference made a part hereof.

2.2 The Supplier shall provide the City with a detailed monthly statement detailing all deliveries for the month, which the City will pay within 30 days of receipt of a correct invoice and approval by the City. The City will not withhold any Federal or State income taxes or Social Security Tax from any payment made by City to Supplier under the terms and conditions of this Agreement. Payment of all taxes and other assessments on such sums is the sole responsibility of Supplier.

2.3 Except as expressly provided in this Agreement, Supplier shall not be entitled to receive from the City any additional consideration, compensation, salary, wages, or other type of remuneration for services rendered under this Agreement., including , but not limited to, meals, lodging, transportation, drawings, renderings or mockups. Specifically, Supplier shall not be entitled by virtue of this Agreement to consideration in the form of overtime, health insurance benefits, retirement benefits, paid holidays or other paid leaves of absence of any type or kind whatsoever.

3. Term:

3.1 This agreement shall become effective upon execution by both parties, and shall expire upon (a) completion of the agreed upon work, (b) September 30, 2027 or (c) unless sooner terminated as provided below or unless some other method or time of termination is listed in Attachment A.

3.2 Should Supplier default in the performance of this Agreement or materially breach any of its provisions, City, at City’s option, may terminate this Agreement by giving written notification to Supplier.

3.3 Should City fail to pay Supplier all or any part of the compensation set forth in Attachment B of this Agreement on the date due, Supplier, at the Supplier’s option, may terminate this Agreement if the failure is not remedied by the City within thirty (30) days from the date payment is due.

3.4 This Agreement shall terminate automatically on the occurrence of any of the following events: a) Bankruptcy of insolvency of either party; b) Sale of Supplier's business; or c) Death of Supplier.

3.5 FUNDING

The amounts beyond the 2022 fiscal year have not yet been appropriated by the City. Contractor may NOT expend more than the amount specified and approved for a specific fiscal year. Any and all additional expenditures beyond the current fiscal year MUST be approved by City Council and memorialized by a written amendment or change order to this Agreement. Agreement is contingent upon budget approval for each fiscal year.

4. Termination:

4.1 If, through any cause, SUPPLIER, its officers, employees, or agents fails to fulfill in a timely and proper manner its obligations under this Agreement, violates any of the covenants, agreements, or stipulations of this Agreement, falsifies any record or document required to be prepared under this agreement, engages in fraud, dishonesty, or any other act of misconduct in the performance of this contract, or if the City Council determines that termination of this Agreement is in the best interest of CITY, the CITY shall thereupon have the right to terminate this Agreement by giving written notice to SUPPLIER of such termination and specifying the effective date thereof at least fifteen (15) days before the effective date of such termination. SUPPLIER may terminate this agreement at any time by giving at least sixty (60) days notice to CITY.

4.2 In the event of any termination of this Agreement, all finished or unfinished documents, data, and reports prepared by SUPPLIER under this Agreement shall, at the option of the CITY, become its property, and SUPPLIER shall be entitled to receive just and equitable compensation for any work satisfactorily complete hereunder.

4.3 Notwithstanding the above, SUPPLIER shall not be relieved of liability to the CITY for damages sustained by the CITY by virtue of any breach of this Agreement by SUPPLIER, and the CITY may withhold any payments to SUPPLIER for the purposes of set-off until such time as the exact amount of damages due the CITY from SUPPLIER is determined. This provision shall survive the termination of this agreement and shall not relieve SUPPLIER of its liability to the CITY for damages.

5. Independent Supplier:

5.1 In all matters pertaining to this agreement, SUPPLIER shall be acting as an independent supplier, and neither SUPPLIER nor any officer, employee or agent of SUPPLIER will be deemed an employee of CITY. Except as expressly provided in Attachment A, Supplier has no authority or responsibility to exercise any rights or power vested in the City and

therefore has no authority to bind or incur any obligation on behalf of the City. The selection and designation of the personnel of the CITY in the performance of this agreement shall be made by the CITY.

5.2 Supplier, its agents, officers, and employees are and at all times during the term of this Agreement shall represent and conduct themselves as independent suppliers and not as employees of the City.

5.3 Supplier shall determine the method, details and means of performing the work and services to be provided by Supplier under this Agreement. Supplier shall be responsible to City only for the requirements and results specified in this Agreement and, except as expressly provided in this Agreement, shall not be subjected to City's control with respect to the physical action or activities of Supplier in fulfillment of this Agreement. If in the performance of this Agreement any third persons are employed by Supplier, such persons shall be entirely and exclusively under the direction and supervision and control of the Supplier.

6. Indemnification and Insurance:

6.1 SUPPLIER shall indemnify and save and hold harmless CITY from and for any and all losses, claims, actions, judgments for damages, or injury to persons or property and losses and expenses and other costs including litigation costs and attorney's fees, arising out of, resulting from, or in connection with the performance of this Agreement by the SUPPLIER, its servants, agents, officers, employees, guests, and business invitees, and not caused by or arising out of the tortuous conduct of CITY or its employees. SUPPLIER shall maintain, and specifically agrees that it will maintain, throughout the term of this Agreement, liability insurance, in which the CITY shall be named an additional insured in the minimum amounts as follow: General Liability One Million Dollars (\$1,000,000) per incident or occurrence, Automobile Liability Insurance One Million Dollars (\$1,000,000) per incident or occurrence and Workers' Compensation Insurance, in the statutory limits as required by law.. The limits of insurance shall not be deemed a limitation of the covenants to indemnify and save and hold harmless CITY; and if CITY becomes liable for an amount in excess of the insurance limits, herein provided, SUPPLIER covenants and agrees to indemnify and save and hold harmless CITY from and for all such losses, claims, actions, or judgments for damages or injury to persons or property and other costs, including litigation costs and attorneys' fees, arising out of, resulting from , or in connection with the performance of this Agreement by the Supplier or Supplier's officers, employs, agents, representatives or subcontractors

and resulting in or attributable to personal injury, death, or damage or destruction to tangible or intangible property, including use of. SUPPLIER shall provide CITY with a Certificate of Insurance, or other proof of insurance evidencing SUPPLIER'S compliance with the requirements of this paragraph and file such proof of insurance with the CITY at least ten (10) days prior to the date Supplier begins performance of it's obligations under this Agreement. In the event the insurance minimums are changed, SUPPLIER shall immediately submit proof of compliance with the changed limits. Evidence of all insurance shall be submitted to the City Purchasing Agent with a copy to Meridian City Accounting, 33 East Broadway Avenue, Meridian, Idaho 83642.

6.2 Any deductibles, self-insured retention, or named insureds must be declared in writing and approved by the City. At the option of the City, either: the insurer shall reduce or eliminate such deductibles, self-insured retentions or named insureds; or the Supplier shall provide a bond, cash or letter of credit guaranteeing payment of losses and related investigations, claim administration and defense expenses.

6.3 To the extent of the indemnity in this contract, Supplier's Insurance coverage shall be primary insurance regarding the City's elected officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the City or the City's elected officers, officials, employees and volunteers shall be excess of the Supplier's insurance and shall not contribute with Supplier's insurance except as to the extent of City's negligence.

6.4 The Supplier's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

6.5 All insurance coverages for subcontractors shall be subject to all of the insurance and indemnity requirements stated herein.

6.6 The limits of insurance described herein shall not limit the liability of the Supplier and Supplier's agents, representatives, employees or subcontractors.

- 7. Notices:** Any and all notices required to be given by either of the parties hereto, unless otherwise stated in this agreement, shall be in writing and be deemed communicated when mailed in the United States mail, certified, return receipt requested, addressed as follows:

City of Meridian
Procurement Agent
33 E. Broadway Avenue
Meridian, Idaho 83642

Univar Solutions
Attn: Wes Richards
1804 N 20th St
Nampa, ID 83687
Phone: 208-391-1850
Email wes.richards@univarsolutions.com

Either party may change their address for the purpose of this paragraph by giving written notice of such change to the other in the manner herein provided.

9. **Attorney Fees:** Should any litigation be commenced between the parties hereto concerning this Agreement, the prevailing party shall be entitled, in addition to any other relief as may be granted, to court costs and reasonable attorneys' fees as determined by a Court of competent jurisdiction. This provision shall be deemed to be a separate contract between the parties and shall survive any default, termination or forfeiture of this Agreement.
10. **Time is of the Essence:** The parties hereto acknowledge and agree that time is strictly of the essence with respect to each and every term, condition and provision hereof, and that the failure to timely perform any of the obligations hereunder shall constitute a breach of, and a default under, this Agreement by the party so failing to perform.
11. **Assignment:** It is expressly agreed and understood by the parties hereto, that SUPPLIER shall not have the right to assign, transfer, hypothecate or sell any of its rights under this Agreement except upon the prior express written consent of CITY.
12. **Discrimination Prohibited:** In performing the Work required herein, SUPPLIER shall not unlawfully discriminate in violation of any federal, state or local law, rule or regulation against any person on the basis of race, color, religion, sex, national origin or ancestry, age or disability.
13. **Reports and Information:**
 - 13.1 At such times and in such forms as the CITY may require, there shall be furnished to the CITY such statements, records, reports, data and

information as the CITY may request pertaining to matters covered by this Agreement.

13.2 Supplier shall maintain all writings, documents and records prepared or compiled in connection with the performance of this Agreement for a minimum of four (4) years from the termination or completion of this or Agreement. This includes any handwriting, typewriting, printing, photo static, photographic and every other means of recording upon any tangible thing, any form of communication or representation including letters, words, pictures, sounds or symbols or any combination thereof.

14. **Audits and Inspections:** At any time during normal business hours and as often as the CITY may deem necessary, there shall be made available to the CITY for examination all of SUPPLIER'S records with respect to all matters covered by this Agreement. SUPPLIER shall permit the CITY to audit, examine, and make excerpts or transcripts from such records, and to make audits of all contracts, invoices, materials, payrolls, records of personnel, conditions of employment and other data relating to all matters covered by this Agreement.
15. **Publication, Reproduction and Use of Material:** No material produced in whole or in part under this Agreement shall be subject to copyright in the United States or in any other country. The CITY shall have unrestricted authority to publish, disclose and otherwise use, in whole or in part, any reports, data or other materials prepared under this Agreement.
16. **Compliance with Laws:** In performing the scope of work required hereunder, SUPPLIER shall comply with all applicable laws, ordinances, and codes of Federal, State, and local governments.
17. **Quantities:** The quantity listed in Exhibit A are estimates only, based upon current known requirements, and not a guarantee to purchase and are subject to increase or decrease within the contract period. Any increase or decrease will be governed by the same terms and conditions of this Agreement.
18. **Construction and Severability:** If any part of this Agreement is held to be invalid or unenforceable, such holding will not affect the validity or enforceability of any other part of this Agreement so long as the remainder of the Agreement is reasonably capable of completion.
19. **Waiver of Default:** Waiver of default by either party to this Agreement shall not be deemed to be waiver of any subsequent default. Waiver or breach of any provision of this Agreement shall not be deemed to be a waiver of any other or subsequent breach, and shall not be construed to

be a modification of the terms of this Agreement unless this Agreement is modified as provided above.

20. **Advice of Attorney:** Each party warrants and represents that in executing this Agreement. It has received independent legal advice from its attorney's or the opportunity to seek such advice.
21. **Entire Agreement:** This Agreement contains the entire agreement of the parties and supersedes any and all other agreements or understandings, oral or written, whether previous to the execution hereof or contemporaneous herewith.
22. **Order of Precedence:** The order or precedence shall be this contract agreement, the Invitation for Bid document, and successful bid document.
23. **Applicable Law:** This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Idaho, and the ordinances of the City of Meridian.
24. **Public Records:** Pursuant to Idaho Code Section 9-335, et seq., information or documents received from the Supplier may be open to public inspection and copying unless exempt from disclosure. The Supplier shall clearly designate individual documents as "exempt" on each page of such documents and shall indicate the basis for such exemption. The City will not accept the marking of an entire document as exempt. In addition, the City will not accept a legend or statement on one (1) page that all, or substantially all, of the document is exempt from disclosure. The Supplier shall indemnify and defend the City against all liability, claims, damages, losses, expenses, actions, attorney fees and suits whatsoever for honoring such a designation or for the Supplier's failure to designate individual documents as exempt. The Supplier's failure to designate as exempt any document or portion of a document that is released by the City shall constitute a complete waiver of any and all claims for damages caused by any such release.
25. **Approval Required:** This Agreement shall not become effective or binding until approved by the City of Meridian.

CITY OF MERIDIAN

BY: _____
KEITH WATTS, PROCUREMENT MANAGER

Dated: _____

UNIVAR SOLUTIONS


BY: Joseph P. Starauway

Dated: September 16th, 2021

Approved as to Form

CITY ATTORNEY

Attachment A

Supply Specifications & Requirements

- a. The polymer shall be the following, or an approved equal in quality and performance:
 - Minimum Sludge Cake Solids: 17.0%
 - Minimum Solids Recovery: 98.5% Note: Centrate Total Suspended Solids Concentration must be less than 300 mg/L.
- b. The successful bidder shall demonstrate compliance with the performance requirements herein.
- c. Polymer must dissolve easily and completely in potable water within 10 minutes, in concentrations up to 0.5% by weight.
- d. The polymer price shall be “per pound- polymer” delivered. The bid price shall also include the cost of container return services.
- e. Polymer concentration shall not be less than 33%. The bid must also contain the weight of polymer per US gallon. This information will be used to calculate cost based on liquid quantity of polymer.

Delivery of Polymer

- f. Polymer shall be delivered by the Bidder to the City of Meridian Wastewater Treatment Facility:
 - 3401 N Ten Mile Road, Meridian, Idaho 83646.

All shipping and delivery charges shall be paid by the Bidder and shall be included in the bid price. The City of Meridian intends to place orders on a quarterly basis. It is estimated that each order will be enough to achieve approximately 350 dry tons of biosolids.

- g. The bid shall be based on shipments of one-ton containers (Tote-Bin, IBC). The amount of polymer required is estimated to be equivalent to the amount needed to achieve 1,500 to 1,800 dry tons of biosolids per year.
- h. In no event shall polymer delivery take longer than five (5) business days from winning bidder’s receipt of City’s polymer order.

- i. Deliveries shall be made between 8:30 a.m. and 4:30 p.m., Monday through Friday, excluding holidays.
- j. The winning bidder shall aid in optimizing the settings on the City's polymer blending/mixing units when required. The bid prices shall include the cost of up to three evaluations at the City's treatment plant during the year.
- k. The winning bidder shall promptly provide personnel necessary to assist in the proper application of their product.
- l. The prices in the winning bidder's bid shall be fixed for each twelve-month term of the Contract.
- m. Polymer shall perform as stated in the Invitation for Bid during the entire term of the Contract and failure to comply will be just cause for City's termination of the Contract.
- n. Due to the large number of polymers available and the complexity of applications, the City reserves the right to purchase test quantities of polymer to continue testing (beyond the full-scale test) for the most economical application and delay award until a clear winner is determined.
- o. The City reserves the right to discontinue the use of the dewatering centrifuge (and associated polymer purchase) and to employ alternate methods of sludge conditioning, dewatering, and/or disposal.
- p. The City reserves the right to purchase alternate polymer from the winning bidder, should an alternate polymer better meet the City's needs.
- q. It is the Bidder's responsibility to visit the site and conduct on-site (bench-scale) testing of products to select the best product for evaluation. The Bidder will also be responsible for knowing the type of polymer make-up equipment at the site to ensure their product is compatible with the existing feed equipment.
- r. After the bid opening the City will contact bidders to arrange for the full scale testing of the proposed polymers. The Bidder will supply, at no charge to the City, a one-day supply (8 hours of run-time) of polymer to treat approximately 60,000 gallons of sludge for a full-scale performance evaluation. The polymer supplied for full scale testing must be the polymer that is used in determining the bid price.

Full scale testing will begin on July 19, 2021 and conclude by August 20, 2021. It is the responsibility of all Bidders submitting bids to have products on-site for testing purposes no later than 4:30 pm on July 16, 2021. Any product received after this date may not be considered.

Bidders will be allowed one day (no more than 8 hours) to set-up and test their polymer during full scale operation. No adjustments will be allowed to the Centrifuge other than polymer dose during the set-up/testing period. Following the maximum 8-hour set-up/testing period, or when bidder declares they are ready, full scale evaluation shall begin (this may be the next day). The centrifuge shall be started in automatic mode and ran for a period of not less than three hours. City staff will measure polymer usage and centrifuge performance hourly for at least three hours. During the evaluation period NO adjustments to any equipment will be allowed. Any adjustments to any equipment during this period may be deemed immediate grounds for dismissal of the product.

Only products that meet or exceed the minimum requirements set forth in this document, as demonstrated in the full-scale performance evaluations and specified herein, will be considered for award. Due to the time it will take to complete the full-scale testing, award of the supply contract may not occur until 4-6 weeks after bid opening.

s. By submitting a product for testing, the Bidder acknowledges that it is able to supply this product, at the same performance quality and manufacturing specifications, at the volume necessary to fulfill the terms/length of the annual contract. Lab samples will be checked against future deliveries of product to ensure performance-based standards. The Bidder will be required to produce, at the City's request, retained samples of product batches delivered. An MSDS sheet must accompany each shipment and a certificate of analysis stating the total solids, bulk viscosity, and dilute viscosity. The City reserves the right to conduct lab analysis on each load delivered to verify the certificate of analysis.

t. In the event the Bidder discontinues manufacturing the product supplied, or changes the manufacturing process, it is the Bidder's responsibility to inform the City of these changes and to supply, at no additional cost to the City, a product with equal or superior performance than the product previously supplied at no more than the annual contract price.

u. In the event of a drop-in performance without a notification of change by the Bidder and with no significant changes in plant process, the sludge/polymer interaction will be documented and compared with the original sludge/polymer interaction. It will be the Bidder's responsibility to remove any polymer whose performance or specifications are deemed substandard by the City. Failure to do so may result in termination of the annual contract.

- u. By submitting a product for testing, the Bidder acknowledges that it is able to supply this product, at the same performance quality and manufacturing specifications, at the volume necessary to fulfill the terms/length of the annual contract. Lab samples will be checked against future deliveries of product to ensure performance-based standards. The Bidder will be required to produce, at the City's request, retained samples of product batches delivered. An MSDS sheet must accompany each shipment and a certificate of analysis stating the total solids, bulk viscosity, and dilute viscosity. The City reserves the right to conduct lab analysis on each load delivered to verify the certificate of analysis.
- v. In the event the Bidder discontinues manufacturing the product supplied, or changes the manufacturing process, it is the Bidder's responsibility to inform the City of these changes and to supply, at no additional cost to the City, a product with equal or superior performance than the product previously supplied at no more than the annual contract price.
- w. In the event of a drop in performance without a notification of change by the Bidder and with no significant changes in plant process, the sludge/polymer interaction will be documented and compared with the original sludge/polymer interaction. It will be the Bidder's responsibility to remove any polymer whose performance or specifications are deemed substandard by the City. Failure to do so may result in termination of the annual contract.

Attachment B

PAYMENT SCHEDULE

TASK	DESCRIPTION		AMOUNT / LB
A.	<u>Praestol K274FLX - crosslinked Cationic Emulsion (includes delivery & container return service)</u>		<u>\$1.87</u>

Travel expenses will be paid at no more than the City of Meridian's Travel and Expense Reimbursement Policy.