



**Project Specifications and Contract Documents**  
**For**  
**Calcium Hypochlorite Chlorine Tablets**

**MAYOR AND COUNCIL:**

Greg Mengarelli, Mayor  
Billie Orr, Mayor Pro Tem  
Steve Blair, Council Member  
Phil Goode, Council Member  
Cathey Rusing, Council Member  
Alexa Scholl, Council Member  
Steve Sischka, Council Member

**CITY CLERK:**

Sarah Siep

**PUBLIC WORKS DIRECTOR:**

Craig Dotseth

## Notice Inviting Bids

### Calcium Hypochlorite Chlorine Tablets

**DESCRIPTION:** The City of Prescott (City) is requesting bids for the purchase of Calcium Hypochlorite Chlorine Tablets for use at the City's Well Sites. The contract shall be for a period of three (3) years with an opportunity to renew for two (2) additional one (1) year terms. At each time of contract renewal the successful bidder(s) may include a cost adjustment equal to the preceding 12 month 'All Items' Consumer Price Index (CPI) as determined by the US Department of Labor, Bureau of Labor Statistics.

**MANDATORY PRE-BID CONFERENCE:** In light of the current COVID-19 pandemic the City of Prescott will NOT conduct a Pre-Bid meeting. Therefore all questions shall be submitted to [scott.mcclinton@prescott-az.gov](mailto:scott.mcclinton@prescott-az.gov); the deadline for questions shall be 5:00pm on September 25th, 2020. The questions and responses will be published on or before October 2nd, 2020 at noon.

**BID OPENING: Thursday, October 8<sup>th</sup>, 2020 at 2:00pm.** City Council Chambers 201 S. Cortez Street, Prescott, Arizona 86303

In accordance with local and State law, sealed bids will be received by the Office of the City Clerk at 201 S. Cortez Street, Prescott, Arizona 86303, until 2:00pm on the date specified above, for the services specified herein. Bids will be opened and read aloud at the above noted date, time and location. Any bid received at or after 2:00pm on the referenced date will be returned unopened.

The City of Prescott reserves the right to accept or reject any or all bids, and/or some or all of the alternates bid, and waive any informality deemed in the best interest of the City and to reject the bids of any persons who have been delinquent or unfaithful in any contract with the City.

Copies of the Project Specifications and Contract Documents are available for inspection at the Public Works Department, or may be obtained free of charge on the City's website at <http://www.prescott-az.gov/business-development/purchasing/bid-listings/>.

**PUBLISH: September 13<sup>th</sup> & September 20<sup>th</sup>, 2020**

## Notice Inviting Bid Table of Contents

### Calcium Hypochlorite Chlorine Tablets

The City of Prescott is soliciting bids for the Dry Calcium Hypochlorite Chlorine Tablets. Sealed bids shall be opened on **Thursday, October 8th at 2:00pm** at the time and place indicated in Section 2.2.

### Table of Contents

Notice Inviting Bids.....	2
1.0 Bid Specifications/Scope of Work .....	4
2.0 Bid Process Requirements.....	5
3.0 General Contract Terms and Conditions .....	7
4.0 Standard Bid Information.....	12
5.0 Instructions for Submittal Forms .....	13
6.0 Review of Bid Submittals and Contractors .....	13
GENERAL SERVICES CONTRACT .....	14
Form A – Bid Response Cover Sheet .....	20
Form B - Price Sheet.....	22
Form C – Bid Certification .....	23
Form D – Non-Collusion Certificate .....	24
Form E – Bidder Qualifications, Representations and Warranties .....	25

## 1.0 Bid Specifications/Scope of Work

### 1.1 Introduction:

It is the intent of the City of Prescott (City) to enter into a contract(s) for the purchase of 3-inch Dry Calcium Hypochlorite Chlorine Tablets as manufactured by PPG Accu-Tab or Approved Equal for use at the City's Well Sites. The contract(s) shall be for a period of three (3) years with an opportunity to renew for two (2) additional one (1) year terms. At each time of contract renewal the successful bidder(s) will include a cost adjustment equal to the preceding 12-month 'All Items' Consumer Price Index (CPI) as determined by the US Department of Labor, Bureau of Labor Statistics with a maximum increase or decrease of 3%.

### 1.2 Current Usage:

Current City usage is approximately **3,000 lbs** of dry calcium hypochlorite chlorine tablets per month. This quantity will not be guaranteed by award of contract but is City's best estimate as to current needs.

### 1.3 Tablet Specifications:

Tablet Size: 3-inch  
Calcium Hypochlorite Percentage: 68%  
Other Active Ingredients: None

### 1.4 Storage & Delivery:

The City can store a maximum of two (2) pallets due to storage constraints and degradation issues. Therefore, bi-weekly releases/deliveries will be required by the successful bidder(s). Orders must be received by the City no more than **seven (7) Calendar Days** after order placement.

#### Delivery Address:

City of Prescott  
c/o Scott McClinton  
251 N. State Route 89  
Chino Valley, AZ 86323

### 1.5 NSF Approval:

The City's preferred brand of calcium hypochlorite tablets are PPG Accu-Tabs. Any other proposed tablet must demonstrate the ability to function and maintain the system's NSF-60 certification with the City's Accu-Tab chlorinator units. Any bid received with a proposed tablet that, in the City's sole opinion, does not maintain the system's NSF-60 certification may be immediately disqualified.

## 2.0 Bid Process Requirements

### 2.1 Communications with the City:

All communications regarding this bid must be directed in writing to the City of Prescott Public Works Department. Unless authorized by the Public Works Director, no other City official or employee is empowered to speak for the City with respect to this bid. Bidders are advised that the City shall not be bound by information, clarifications, or interpretations from other City officials or employees. Bidders are cautioned against contacting any City official or employee other than the Buyer for this bid. Failure to observe this requirement may be grounds for rejection of Bidder's bid. The City's Contact for this bid is:

Scott McClinton, Water Superintendent  
City of Prescott  
Utilities Division  
E-mail: [scott.mcclinton@prescott-az.gov](mailto:scott.mcclinton@prescott-az.gov)

### 2.2 Schedule

#### 2.2.1 Bid Advertisement:

**Sunday, September 13<sup>th</sup> & September 20<sup>th</sup>**

#### 2.2.2 Bid Opening:

**Thursday, October 8<sup>th</sup> at 2:00 P.M.**

City of Prescott  
Council Chambers  
201 S. Cortez Street  
Prescott, Arizona

### 2.3 Questions and Requests for Addenda

Bidders who have questions about or suggestions for changes to this bid may direct them to the City's Contact in writing by e-mail. Questions not submitted in writing by e-mail shall not be acknowledged by the City. Questions submitted after the deadline for questions shall not be acknowledged by the City. Failure by a Bidder to request clarification of any inadequacy, omission or conflict shall not relieve the Bidder of the responsibility of being in compliance with the bid.

**Deadline for Questions: Friday, September 25<sup>th</sup> at 5:00pm**

### 2.4 City Answers and Addenda

Changes to this bid will be made only by addenda issued by the CITY'S Contact. It is the bidder's responsibility to check for any addenda prior to submitting a bid. All addenda

issued by the City shall become a part of the specifications of this bid, and will be made part of the resulting agreement.

**Deadline for Issuance of Addenda: Friday, October 2<sup>nd</sup> at 12:00pm**

Addenda will be posted on the City's website with the corresponding solicitation when/if they become available.

2.5 Delivery of Bids

Sealed bids must be received at the City Clerk's office no later than the date and time listed in Section 2.2.2. The bids will be opened and read publicly in the Council Chambers at that time.

If the bid is delivered by the U.S. Postal Service, the bid should be addressed to:

City of Prescott  
Council Chambers  
201 S. Cortez Street  
Prescott, Arizona

Bidder shall enclose bid in a sealed envelope. The envelope should identify the Bidder's **Name, Mailing address, Title ('Calcium Hypochlorite Chlorine Tablets'), and the Time and Date of opening.** The City shall not consider late bids, telegraphic (fax) or telephone bids. Bidder is solely responsible for ensuring that bids are delivered on time. Delays caused by any delivery service, including the U.S. Postal Service, will not be grounds for an extension of the deadline for receipt of bids. Bids received after the deadline will be returned unopened.

2.6 Cost of Bids

The City shall be not be liable for any costs incurred by Bidder in the preparation and submittal of a bid(s) in response to the bid or in the participation of any part of the acquisition process.

2.7 Errors in Bids

Bidder is responsible for all errors or omission in their bids, and any such errors or omission will not serve to diminish their obligations to the City.

2.8 Withdrawal of Bids

A bid may be withdrawn by written request of the Bidder prior to the bid due date and time listed in Section 2.2. No bid may be withdrawn for a period of 120 calendar days after the bid due date and time.

2.9 Changes in Bids

Prior to the bid due date and time listed in Section 2.2, a Bidder may make changes to its bid provided the change is initialed and dated by the Bidder. Corrections and/or modifications received after the closing time specified will not be accepted.

#### 2.10 Rejection of Bids

The City reserves the right to reject any and all bids and to waive any immaterial defects and irregularities in bids.

#### 2.11 Disposition of Bids

All materials submitted in response to the bid, including samples, shall become the property of the City upon delivery to the City.

#### 2.12 Incorporation of bid and Response in Agreement

This bid, including all attachments and addenda, and all promises, warranties, commitments and representations in the successful bid shall be binding and shall become obligations of the agreement.

#### 2.13 Protests

Any protest of a notice that a bid is non-responsive must be filed by 5:00 p.m. on the third business day after such notification. All such protests shall be in writing, contain a complete statement of the grounds for protest, and be filed with the Public Works Department, 433 N. Virginia St, Prescott, AZ 86301. Protesting parties must demonstrate as part of their protest that they made every reasonable effort within the schedule and procedures of this bid to resolve the basis of their protest during the bid process, including asking questions, seeking clarifications, requesting addenda, and otherwise alerting the City to perceived problems so that corrective action could be taken prior to the selection of the Apparent Successful Bidder(s). The City will not consider any protest based on items which could have been or should have been raised prior to the deadline for submitting questions or requesting addenda. The filing of a protest shall not prevent the City from executing an agreement with any other bidder.

#### 2.14 Bid Submittal

Bid must be sealed and the envelope must clearly indicate the information as described in Section 2.5. Bidder must fully complete and submit the following documents:

- Bid Form A – Bidder Response Cover Sheet
- Bid Form B – Price Sheet
- Bid Form C – Bid Certification
- Bid Form D – Non-Collusion Certificate
- Bid Form E – Bidder Qualifications, Representations and Warranties

### **3.0 General Contract Terms and Conditions**

3.1. Entire Agreement: This contract, including all attachments referenced herein, constitutes the entire agreement between the City and the Contractor. The City's Notice Inviting Bid (NIB), all addenda to the NIB, and the Contractor's response to the NIB are explicitly included in this contract. Where there is any conflict among or between any of these documents, the controlling document shall be the first listed in the following sequence: the most recently issued Contract amendment; the Contract; the most recently issued addendum to the City's NIB; the City's NIB; and the Contractor's response to the NIB.

- 3.2. Term: The term of this Contract is for **three (3) years with the option of (2) two, one (1) year extensions** and shall commence on the date that all parties have signed the same and shall expire as stated within the Contract. The bid price will be adjusted at each time of renewal based on the annual CPI, with a maximum 3% increase or decrease, to determine the price for each extension of the contract.
- 3.3. Schedule: Unless the Public Works Director requests a change in schedule, the Contractor shall deliver the items or render the services as stated in the Contract. At the City's option, the Contractor's failure to timely deliver or perform may require expedited shipping at the Contractor's expense, or may be cause for termination of the Contract and the return of all or part of the items at the Contractor's expense. If the Contractor anticipates difficulty in meeting the schedule, the Contractor shall promptly notify the Public Works Director of such difficulty and the length of the anticipated delay.
- 3.4. Payment: Invoices will be paid according to early payment discount terms, or if no early payment discount is offered, thirty (30) days after the City's receipt and acceptance of the goods or completion and acceptance of the services. Payment periods will be computed from either the date of delivery of all goods ordered, the completion of all services, or the date of receipt of a correct invoice, whichever date is later. This section is not intended to restrict partial payments that are specified in the contract. No payment shall be due prior to the City's receipt and acceptance of the items identified in the invoice therefore.
- 3.5. Unlawful Overcharges: The Contractor assigns to the City all claims for anti-trust violations and overcharges relating to items purchased by the City.
- 3.6. Price Warranty: The Contractor warrants that the prices for the items sold to the City hereunder are not less favorable than those currently extended to any other customer for the same or similar items in similar quantities. The Contractor warrants that prices shown on this Contract are complete, and that no additional charge of any type shall be added without the City's express written consent.
- 3.7. Warranties: The Contractor warrants that all goods are merchantable, comply with the City's latest drawings and specifications, and are fit for the City's intended use; all goods comply with all applicable safety and health standards established for such products; all goods are properly packaged; and all appropriate instructions or warnings are supplied.
- 3.8. Equal Employment Opportunity: During the term of this Contract, the Contractor agrees as follows: The Contractor will not discriminate against any employee or applicant for employment because of creed, religion, race, color, sex, marital status, sexual orientation, gender identity, political ideology, ancestry, national origin, or the presence of any sensory, mental or physical handicap, unless based upon a bona fide occupational qualification. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their creed, religion, race, color, sex, national origin, or the presence of any sensory, mental or physical handicap. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer, recruitment or recruitment advertising layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

- 3.9. Diversity: The City encourages the Contractor to employ a workforce reflective of the region's diversity.
- 3.10. Discrimination in Contracting: The Contractor shall not create barriers to open and fair opportunities for subcontractors and suppliers in obtaining or competing for contracts and subcontracts as sources of supplies, equipment, construction and services. In considering offers from and doing business with subcontractors and suppliers, the Contractor shall not discriminate on the basis of race, color, creed, religion, sex, age, nationality, marital status, sexual orientation or the presence of any mental or physical disability in an otherwise qualified disabled person.
- 3.11. Record-Keeping: The Contractor shall maintain, for at least 12 months after expiration or earlier termination of the term of this Contract, relevant records and information necessary to document the Contractor's utilization of other businesses as subcontractors and suppliers in this contract and in its overall public and private business activities. The Contractor shall also maintain all written quotes, bids, estimates, or proposals submitted to the Contractor by all businesses seeking to participate as subcontractors or suppliers in the contract. The City shall have the right to inspect and copy such records. If this Contract involves federal funds, the Contractor shall comply with all record-keeping requirements set forth in every applicable federal rule, regulation and statute referenced in the contract documents.
- 3.12. Publicity: The Contractor shall not advertise or publish the fact that the City has contracted to purchase items from the Contractor without the City's prior written approval.
- 3.13. Proprietary and Confidential Information: The Contractor acknowledges that the City is required by law to make its records available for public inspection, with certain exceptions. City staff believe that this legal obligation would not require the disclosure of proprietary descriptive information that contains valuable designs, drawings or formulas. The Contractor, by submission of materials marked proprietary and confidential, nevertheless acknowledges and agrees that the City will have no obligation or any liability to the Contractor in the event that the City must disclose these materials by law.
- 3.14. Indemnification: To the extent permitted by law, the Contractor shall protect, defend, indemnify and hold the City harmless from and against all claims, demands, damages, costs, actions and causes of actions, liabilities, judgments, expenses and attorney fees, resulting from the injury or death of any person or the damage to or destruction of property, or the infringement of any patent, copyright, or trademark, arising out of the work performed or goods provided under this Contract, or the Contractor's violation of any law, ordinance or regulation, except for damages resulting from the sole negligence of the City.
- 3.15. Insurance: The Contractor shall secure and maintain, at all times during the term of this Contract, at its own expense, a policy or policies of insurance known as:
- 3.15.1. **Commercial General Liability** written on an insurance industry standard occurrence form (ISO Form CG 00 01) or equivalent including premises/operations, products/completed operations, personal/advertising injury, contractual liability, and independent contractors liability;

- 3.15.2. If any vehicle is used in the performance of this Contract, a policy of **Business Automobile Liability** written on an insurance industry standard form (ISO Form CA 00 01) or equivalent, including coverage for owned, non-owned, leased or hired vehicles; and
- 3.15.3. If any work under this Contract will be performed by a resident of the state of Arizona, **Worker's Compensation** ("Industrial Insurance") as required by the State of Arizona. The insurance as provided under items 3.19.1 and 3.19.2 above shall be endorsed to include The City of Prescott, its officers, elected officials, employees, agents and volunteers as an **Additional Insured** per ISO form CG2010 11/85 or CG2026 or equivalent, and to not permit reduction or cancellation by the insurer without forty-five (45) days prior written notice to the City. The Contractor's insurance shall be primary as respects the City, and any other insurance maintained by the City shall be excess and non-contributing with the Contractor's insurance.
- 3.16. **Compliance with Law:** The Contractor, at its sole cost and expense, shall perform and comply with all applicable laws of the United States and the State of Arizona; the Charter, Municipal Code, and ordinances of The City of Prescott; and rules, regulations, orders, and directives of their respective administrative agencies and officers.
- 3.17. **Licenses and Similar Authorizations:** The Contractor, at no expense to the City, shall secure and maintain in full force and effect during the term of this Contract all required licenses, permits, and similar legal authorizations, and comply with all related requirements.
- 3.18. **Taxes:** The Contractor shall pay, before delinquency, all taxes, levies, and assessments arising from its activities and undertakings under this Contract; taxes levied on its property, equipment and improvements; and taxes on the Contractor's interest in this Contract.
- 3.19. **Americans with Disabilities Act:** The Contractor shall comply with all applicable provisions of the Americans with Disabilities Act of 1990 (ADA) in performing its obligations under this Contract. In particular, if the Contractor is providing services, programs, or activities to City employees or members of the public as part of this Contract, the Contractor shall not deny participation or the benefits of such services, programs, or activities to people with disabilities on the basis of such disability. Failure to comply with the provisions of the ADA shall be a material breach of, and grounds for the immediate termination of, this Contract.
- 3.20. **Adjustments:** The Public Works Director at any time may make reasonable changes in the place of delivery, installation or inspection; the method of shipment or packing; labeling and identification; and ancillary matters that Contractor may accommodate without substantial additional expense to the City.
- 3.21. **Amendments:** Except for adjustments authorized above, modifications or amendments to the Contract may only be made by a change order or by written document signed by or for both parties. Unless Contractor is otherwise notified, the Public Works Director shall be the City's authorized agent.

- 3.22. Assignment: Neither party shall assign any right or interest nor delegate any obligation owed without the written consent of the other, except Contractor may assign the proceeds of this Contract for the benefit of creditors upon 21 days advance written notice to the City.
- 3.23. Binding Effect: The provisions, covenants and conditions in this Contract apply to bind the parties, their legal heirs, representatives, successors, and assigns.
- 3.24. Waiver: The City's failure to insist on performance of any of the terms or conditions herein or to exercise any right or privilege or the City's waiver of any breach hereunder shall not thereafter waive any other term, condition, or privilege, whether of the same or similar type.
- 3.25. Applicable Law: This Contract shall be construed under the laws of the State of Arizona. The venue for any action relating to this Contract shall be in the Superior Court for Yavapai County, State of Arizona.
- 3.26. Remedies Cumulative: Remedies under this Contract are cumulative; the use of one remedy shall not be taken to exclude or waive the right to use another.
- 3.27. Severability: Any invalidity, in whole or in part, of any provision of this Contract shall not affect the validity of any other of its provisions.
- 3.28. Gratuities: The City may, by written notice to the Contractor, terminate Contractor's right to proceed under this Contract upon one (1) calendar day's notice, if the City finds that any gratuity in the form of entertainment, a gift, or otherwise was offered or given by the Contractor or any agent thereof to any City official, officer or employee.
- 3.29. Termination:
- 3.29.1. For Cause: Either party may terminate this Contract in the event the other fails to perform its obligations as described herein, and such failure has not been corrected to the reasonable satisfaction of the other in a timely manner after notice of breach has been provided to such other party.
- 3.29.2. For Reasons Beyond Reasonable Control of a Party: Either party may terminate this Contract without recourse by the other where performance is rendered impossible or impracticable for reasons beyond such party's reasonable control such as but not limited to an act of nature; war or warlike operations; civil commotion; riot; labor dispute including strike, walkout, or lockout; sabotage; or superior governmental regulation or control.
- 3.29.3. For Public Convenience: The City may terminate this Contract in whole or in part whenever the City determines that such termination is in its best interest (including but not limited to for lack of continuing appropriations). In such a case the Contractor shall be paid for all items accepted by the City.

3.29.4. Notice: Notice of termination shall be given by the party terminating this Agreement to the other not less than ten (10) working days prior to the effective date of termination.

#### **4.0 Standard Bid Information**

- 4.1. Default by Bidder: In case of default by the bidder, the City of Prescott may procure the items or service from other sources and may deduct from any monies due or that may thereafter become due to the bidder the difference between the price named in the contract or purchase order and the actual cost thereof to the City of Prescott. Prices paid by the City shall be considered the prevailing market price at the time such purchase is made. Periods of performance may be extended if the facts as to the cause of delay justify such extension in the opinion of the Public Works Director.
- 4.2. Cash Discounts: In connection with any cash discount specified on this bid, time will be computed from the date of complete delivery of the supplies, equipment or services as specified or from the date correct invoices are received in the City Finance Office if the latter date is later than the date of delivery. For the purpose of earning the discount, payment is deemed to be made on the date of mailing of the City warrant or check.
- 4.3. Warranty: Manufacturer's warranties shall remain in effect. All equipment purchased shall be purchased from one (1) vendor. That one vendor shall be fully responsible for all warranty performance relating to any part or component of the purchased equipment. The vendor's responsibility shall include all warranty involving sub-contractors. The vendor shall supply a warranty on all parts and workmanship from the initial delivery date. The vendor shall guarantee further that the equipment to be supplied complies with all applicable regulations.
- 4.4. Litigation: The parties hereto expressly covenant and agree that in the event of a dispute arising from this Agreement, each of the parties hereto waives any right to a trial by jury. In the event of litigation, the parties hereby agree to submit to a trial before the Court. Neither party shall be entitled to an award of attorneys' fees, either pursuant to the Contract or another other state or federal statute.
- 4.5. Cooperative Use of Contract: This contract may be extended for use by other municipalities, school districts and government agencies in the State of Arizona with the approval of the contracted vendor. Any such usage by other entities must be in accordance with the statutes, codes, ordinances, charter and/or procurement rules and regulations of the respective government agency. The City shall be notified by the Vendor, in writing, when the City's contract is being utilized for cooperative purchase.
- 4.6. Brand Names: Brand names are only used for reference to indicate character or quality desired unless otherwise indicated.

## 5.0 Instructions for Submittal Forms

Bidder shall complete and include the following with their bid to be deemed complete and responsive:

- 5.1. **Form A - Bid Response Cover Sheet:** Bidder shall complete and submit Form A as the first page of the bid package.
- 5.2. **Form B - Price Sheet:** Bidder shall provide Unit Bid Cost and Total Bid Price. Bidder shall complete, sign, and submit Form B.
- 5.3. **Form C - Bid Certification:** Bidder shall certify that the bid will be valid for at least 90 days after submission. Bidder may be asked to extend this certification. Bidder shall complete, sign, and submit Form C.
- 5.4. **Form D - Non-Collusion Certificate:** Bidder shall complete, sign, and submit Form D.
- 5.5. **Form E - Bidder Qualifications, Representations and Warranties:** Bidder shall complete and submit Bid Form E. Bidder shall provide additional information as required.

## 6.0 Review of Bid Submittals and Contractors

- 6.1 The City reserves the right to inspect any of Bidder's facilities and equipment after the bid due date and time listed in Section 2.2. The Bidder shall make such facilities and equipment available for the City's inspection within eight business hours of the City's request. The City may require additional information concerning a Bidder's facilities, equipment, personnel, and procedures. The Bidder shall supply such information within the time noted in the City's request.
- 6.2 The City shall consider awarding agreements only to responsible Bidders. Responsible Bidders are those that have, in the sole judgment of the City, the financial ability, character, reputation, resources, skills, capability, reliability, and business integrity necessary to perform the requirements of the agreement.
- 6.3 In determination of responsibility, the City may consider all information available to the City, whether specifically provided by the Bidder in response to this bid or other information otherwise available to the City in evaluating the responsibility of the Bidder. Such information may include, but is not limited to, experience and history of the City with current and/or prior contracts held by the Bidder with the City or with other agencies, references provided by the Bidder to the City, information provided by the Bidder as part of the bid responses, and information not specifically provided by the Bidder but is otherwise available to the City and has merit in consideration of responsibility, in the opinion of the City. The evaluation of responsibility shall be determined by the City and shall be in the sole opinion of the City. Such evaluation by the City shall be final and not subject to appeal. Furthermore, no agreement will be awarded to a Bidder if any owner of such Bidder has been convicted within the past ten years of a crime involving dishonesty or false statements, or if the Bidder has unsatisfied tax or judgment liens.

Draft Contract



***GENERAL SERVICES CONTRACT***

**Calcium Hypochlorite Chlorine Tablets  
Contract No. 2021-XXX**

THIS AGREEMENT, made and entered into this \*\* day of \*\*, by and between \*\* of the City of \*\*, County of \*\*, State of \*\*, hereinafter designated “Contractor”, and the City of Prescott, a municipal corporation, organized and existing under and by virtue of the laws of the State of Arizona, hereinafter designated “City”.

WITNESSETH: That the said Contractor, for and in consideration of the sum to be paid him by the said City, and of the other covenants and agreements herein contained, and under the penalties expressed in the bonds provided, hereby agrees, for himself, his heir, executors, administrators, successors and assigns as follows:

**ARTICLE I - SCOPE OF WORK:** The Contractor shall furnish any and all labor, materials, equipment, transportation, utilities, services and facilities, required to perform all work for the construction of the project described as City of Prescott: Calcium Hypochlorite Chlorine Tablets, in a good and workmanlike and substantial manner and to the satisfaction of the City through its Contractors and under the direction and supervision of the Public Works Director, or his properly authorized agents and strictly pursuant to and in conformity with the Plans and Specifications prepared by the Contractors for the City, and with such written modifications of the same and other documents that may be made by the City through the Public Works Director or his properly authorized agents, as provided herein.

**ARTICLE II - CONTRACT DOCUMENTS:** The Notice Inviting Bids, Plans, Standards Specifications and Details, Special Conditions, Addenda, if any, and Proposal as accepted by the Mayor and Council per Council Minutes of \*\*, Certificate of Insurance and Contract Amendments, if any, are by this reference made a part of this Contract to the same extent as if set forth herein in full.

**ARTICLE III - TIME OF COMPLETION:** : The contract shall be for a period of three (3) years with an opportunity to renew for two (2) additional one (1) year terms. At each time of contract renewal the successful bidder(s) may include a cost adjustment equal to the preceding 12 month ‘All Items’ Consumer Price Index (CPI) as determined by the US Department of Labor, Bureau of Labor Statistics.

**ARTICLE IV - COMPENSATION:** Contractor shall be paid, pursuant to the provisions as set forth in the Contract documents, the total sum of \*\* dollars and no cents (\$ \*\*000.00) plus any approved contract amendments, for the full and satisfactory completion of all work as set forth in the Project

Specifications and Contract Documents. Retention shall be in accordance with Arizona Revised Statutes Section 34-221.

**ARTICLE V - CONFLICT OF INTEREST:** Pursuant to ARS Section 38-511, the City of Prescott may cancel this contract, without penalty or further obligation, if any person significantly involved in initiating, negotiation, securing, drafting or creating the contract on behalf of the City of Prescott is, at any time while the contract or any extension of the contract is in effect, an employee or agent of any other party to the contract in any capacity or a consultant to any other party of the contract with respect to the subject matter of the contract. In the event of the foregoing, the City of Prescott further elects to recoup any fee or commission paid or due to any person significantly involved in initiating, negotiation, securing, drafting or creating this contract on behalf of the City of Prescott from any other party to the contract, arising as a result of this contract.

**ARTICLE VI - AMBIGUITY:** This Agreement is the result of negotiations by and between the parties. Although it has been drafted by the Prescott City Attorney, it is the result of the negotiations between the parties. Therefore, any ambiguity in this Agreement is not to be construed against either party.

**ARTICLE VII - NONDISCRIMINATION:** The Contractor, with regard to the work performed by it after award and during its performance of this contract, will not discriminate on the grounds of race, color, national origin, religion, sex, disability or familial status in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The Contractor will not participate either directly or indirectly in the discrimination prohibited by or pursuant to Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Section 109 of the Housing and Community Development Act of 1974, the Age Discrimination Act of 1975, the Americans With Disability Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable federal regulations under the Act, and Arizona Governor Executive Orders 99-4, 2000-4 and 2009-09 as amended.

**ARTICLE VIII - INDEPENDENT CONTRACTOR STATUS:** It is expressly agreed and understood by and between the parties that the Contractor is being retained by the City as an independent contractor, and as such the Contractor shall not become a City employee, and is not entitled to payment or compensation from the City or to any fringe benefits to which other City employees are entitled other than that compensation as set forth in Article IV - Compensation above. As an independent contractor, the Contractor further acknowledges that he is solely responsible for payment of any and all income taxes, FICA, withholding, unemployment insurance, or other taxes due and owing any governmental entity whatsoever as a result of this Agreement. As an independent contractor, the Contractor further agrees that he will conduct himself in a manner consistent with such status, and that he will neither hold himself out nor claim to be an officer or employee of the City by reason thereof, and that he will not make any claim, demand or application to or for any right or privilege applicable to any officer or employee of the City, including but not limited to workmen's compensation coverage, unemployment insurance benefits, social security coverage, or retirement membership or credit.

**ARTICLE IX - CITY FEES:** Prior to final payment to the Contractor, the City shall deduct there from any and all unpaid privilege, license and other taxes, fees and any and all other unpaid moneys due the City from the Contractor, and shall apply to those moneys to the appropriate account. Contractor shall provide to the City any information necessary to determine the total amount(s) due.

**ARTICLE X– OTHER WORK IN PROJECT AREA:** The City of Prescott, any other contractors, whether under contract with the City, a third party, and/or utilities, may be working within the project area while this Contract is in progress. The Contractor herein acknowledges that delays and disruptions may, and in all likelihood, will occur due to other work. The Contractor’s bid shall be deemed to have recognized and included costs arising from and associated with other work in the project area disclosed by the Contract Documents or which would be apparent to an experienced contractor exercising due diligence during inspection of the project documents, the question and answer session in the pre-bid process or during site inspection. No payment will be made for any delays or disruptions in the work schedule that are wholly the fault of the contractor, its agents, employees or any of the contractor’s subcontractors. In the event that the contractor encounters delay or disruption in the project schedule due to factors not wholly the fault of the contractor or within the contractors control then the Contract may be adjusted pursuant to the Delay’s and Extension of Time provisions of this Contract and a timely request submitted for Contract Amendment. Failure to submit a timely request for Contract Amendment shall be deemed a waiver of any entitlement to additional compensation.

#### **ARTICLE XI – MISCELLANEOUS**

- A. The parties hereto expressly covenant and agree that in the event of a dispute arising from this Agreement, each of the parties hereto waives any right to a trial by jury. In the event of litigation, the parties hereby agree to submit to a trial before the Court. The Contractor further agrees that this provision shall be contained in all subcontracts related to the project, which is the subject of this Agreement.
- B. The parties hereto expressly covenant and agree that in the event of litigation arising from this Agreement, neither party shall be entitled to an award of attorney fees, either pursuant to the Contract, pursuant to ARS Section 12-341.01 (A) and (B), or pursuant to any other state or federal statute, court rule, case law or common law. The Contractor further agrees that this provision shall be contained in all subcontracts related to the project that is the subject of this Agreement.
- C. Any notices to be given by either party to the other must be in writing, and personally delivered or mailed by prepaid postage, at the following addresses:
- |                       |    |
|-----------------------|----|
| Public Works Director | ** |
| City of Prescott      | ** |
| 433 N. Virginia St.   | ** |
| Prescott, AZ 86301    |    |
- D. This Agreement is non-assignable by the Contractor unless by subcontract, as approved in advance by the City.
- E. This Agreement shall be construed under the laws of the State of Arizona.
- F. This Agreement represents the entire and integrated Agreement between the City and the Contractor and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both the City and the Contractor. Written and signed amendments shall automatically become part of the Agreement, and shall supersede any inconsistent provision therein; provided, however, that any apparent inconsistency shall be resolved, if possible, by construing the provisions as mutually complementary and supplementary.

- G. In the event any provision of this Agreement shall be held to be invalid and unenforceable, the remaining provisions shall be valid and binding upon the parties. One or more waivers by either party of any provision, term, condition or covenant shall not be construed by the other party as a waiver of a subsequent breach of the same by the other party.
- H. INDEMNIFICATION: To the fullest extent permitted by law, the Contractor shall defend, indemnify and hold harmless the City, its agents, representatives, officers, directors, officials and employees from and against all claims, damages, losses and expenses (including but not limited to attorney fees, court costs, and the cost of appellate proceedings), relating to, arising out of, or alleged to have resulted from the acts, errors, mistakes, omissions, work or services of the Contractor, its employees, agents, or any tier of subcontractors in the performance of this Contract, Contractor's duty to defend, hold harmless and indemnify the City, its agents, representatives, officers, directors, officials and employees that arise in connection with any claim, damage, loss or expense that is attributable to bodily injury, sickness, disease, death, or injury to, impairment, or destruction of property including loss of use resulting therefrom, caused by any acts, errors, mistakes, omissions, work or services in the performance of this Agreement including any employee of the Contractor or any tier of subcontractor or any other person for whose acts, errors, mistakes, omissions, work or services the Contractor may be legally liable.
- I. No oral order, objection, claim or notice by any party to the other shall affect or modify any of the terms or obligations contained in this Agreement, and none of the provisions of this Agreement shall be held to be waived or modified by reason of any act whatsoever, other than by a definitely agreed waiver or modification thereof in writing. No evidence of modification or waiver other than evidence of any such written notice, waiver or modification shall be introduced in any proceeding.
- J. INSURANCE: Contractor and subcontractors shall procure and maintain until all of their obligations have been discharged, including any warranty periods under this Contract are satisfied, insurance against claims for injury to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Contractor, his agents, representatives, employees or subcontractors.

The insurance requirements herein are minimum requirements for this Contract and in no way limit the indemnity covenants contained in this Contract.

The City in no way warrants that the minimum limits contained herein are sufficient to protect the Contractor from liabilities that might arise out of the performance of the work under this Contract by the Contractor, his agents, representatives, employees, or subcontractors. Contractor is free to purchase such additional insurance as may be determined necessary.

Additional Insurance Requirements: The policies shall include, or be endorsed to include, the following provisions:

1. On insurance policies where the City of Prescott is named as an additional insured, the City of Prescott shall be an additional insured to the full limits of liability purchased by the Contractor even if those limits of liability are in excess of those required by this Contract.
2. The Contractor's insurance coverage shall be primary insurance and non-contributory with respect to all other available sources.

Notice of Cancellation: With the exception of a ten (10) day notice of cancellation for non-payment of premium, any changes material to compliance with this contract in the insurance policies above shall require a thirty (30) day written notice.

Acceptability of Insurers: Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A-VII, unless otherwise approved by the City of Prescott Risk Management Division. .

Verification of Coverage: Contractor shall furnish the City with certificates of insurance (ACORD form or equivalent approved by the City) as required by this Contract. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

All certificates and any required endorsements are to be received and approved by the City before work commences. Each insurance policy required by this Contract must be in effect at or prior to commencement of work under this Contract and remain in effect for the duration of the contract. Failure to maintain the insurance policies as required by this Contract or to provide evidence of renewal is a material breach of contract.

All certificates required by this Contract shall be sent directly to the Public Works Director at 433 N. Virginia St, Prescott, AZ 86301. The City contract number and project description shall be noted on the certificate of insurance. The City reserves the right to require complete, certified copies of all insurance policies required by this Contract at any time.

Insurance Requirements - Contractor shall provide coverage with limits of liability not less than those stated below. An excess liability policy or umbrella liability policy may be used to meet the minimum liability requirements provided that the coverage is written on a following form basis.

Commercial General Liability – Occurrence Form:

Policy shall include bodily injury, property damage, personal injury, broad form contractual liability coverage.

- General Aggregate \$ 2,000,000
- Products – Completed Operations Aggregate \$ 1,000,000
- Personal and Advertising Injury \$ 1,000,000
- Each Occurrence \$ 1,000,000
- Fire Legal Liability (Damage to Rented Premises) \$ 100,000

The policy shall be endorsed to include the following additional insured language:

"The City of Prescott shall be named as an additional insured with respect to liability arising out of the activities performed by, or on behalf of, the Contractor "

Business Automobile Liability: Bodily Injury and Property Damage for any owned, hired, and/or non-owned vehicles used in the performance of this Contract.

Combined Single Limit (CSL) \$1,000,000

The policy shall be endorsed to include the following additional insured language:

"The City of Prescott shall be named as an additional insured with respect to liability arising out of the activities performed by, or on behalf of the Contractor "

Worker’s Compensation and Employer’s Liability:

Workers’ Compensation	Statutory
Employer’s Liability	
Each Accident -	\$1,000,000

Disease – each employee -	\$1,000,000
Disease – policy limit -	\$1,000,000

Policy shall contain a waiver of subrogation against the City of Prescott for losses arising from work performed by or on behalf of the Contractor.

All insurance required pursuant to this Agreement must be written by an insurance company authorized to do business in the State of Arizona, to be evidenced by a Certificate of Authority as defined in ARS Section 20-217, a copy of which certificate is to be attached to each applicable bond or binder.

Prior to commencing work under this Agreement, the Contractor shall provide City with evidence that it is either a “self-insured employer” or a “carrier insured employer” for Workers’ Compensation as required by ARS 23-901 et seq., or that it employs no persons subject to the requirement for such coverage.

#### K. Contractor Immigration Warranty

Contractor understands and acknowledges the applicability to it of the American with Disabilities Act, the Immigration Reform and Control Act of 1986 and the Drug Free Workplace Act of 1989. The following is only applicable to construction contracts: The Contractor must also comply with A.R.S. § 34-301, “Employment of Aliens on Public Works Prohibited”, and A.R.S. § 34-302, as amended, “Residence Requirements for Employees”.

Under the provisions of A.R.S. § 41-4401, Contractor hereby warrants to the City that the Contractor and each of its subcontractors (“Subcontractors”) will comply with, and are contractually obligated to comply with all Federal Immigration laws and regulations that relate to their employees and A.R.S. § 23-214(A) (hereinafter “Contractor Immigration Warranty”).

A breach of the Contractor Immigration Warranty shall constitute a material breach of this Contract and shall subject the Contractor to penalties up to and including termination of this Contract at the sole discretion of the City.

The City retains the legal right to inspect the papers of any Contractor or Subcontractors employee who works on this Contract to ensure that the Contractor or Subcontractor is complying with the Contractor Immigration Warranty. Contractor agrees to assist the City in regard to any such inspections.

The City may, at its sole discretion, conduct random verification of the employment records of the Contractor and any of subcontractors to ensure compliance with Contractor’s Immigration Warranty. Contractor agrees to assist the City in regard to any random verification performed.

Neither the Contractor nor any Subcontractor shall be deemed to have materially breached the Contractor Immigration Warranty if the Contractor or Subcontractor establishes that it has complied with employment verification provisions prescribed by sections 274A and 274B of the Federal Immigration and Nationality Act and the E-Verify requirements prescribed by A.R.S. § 23-214, Subsection A.

The provisions of this Article must be included in any contract the Contractor enters into with any and all of its subcontractors who provide services under this Contract or any subcontract. “Services” are defined as furnishing labor, time or effort in the State of Arizona by a Contractor or subcontractor. Services include construction or maintenance of any structure, building or transportation facility or improvement to real property.

- L. Israel: Vendor certifies that it is not currently engaged in, and agrees for the duration of this Agreement that it will not engage in a “boycott,” as that term is defined in Ariz. Rev. Stat. § 35-393, of Israel.
- M. In the event of a discrepancy between this Agreement and other documents incorporated into this Agreement this Agreement shall control over such other incorporated documents.
- N. Non-Availability of Funds: Fulfillment of the obligation of the City under this Agreement is conditioned upon the availability of funds appropriated or allocated for the performance of such obligations. If funds are not allocated and available for the continuance of this Agreement, this Agreement may be terminated by the City at the end of the period for which the funds are available. No liability shall accrue to the City in the event this provision is exercised, and the City shall not be obligated or liable for any future payments as a result of termination under this paragraph.

IN WITNESS WHEREOF, two (2) identical counterparts of this Contract, each of which shall for all purposes be deemed an original thereof, have been duly executed by the parties herein above named, on the date and year first above written.

ATTEST: City of Prescott, a municipal corporation

\_\_\_\_\_  
Contractor

\_\_\_\_\_  
Greg L. Mengarelli, Mayor

By: \_\_\_\_\_

Title: \_\_\_\_\_

Attest:

Approved as to Form:

\_\_\_\_\_  
Sarah Siep, City Clerk

\_\_\_\_\_  
Jon M. Paladini, City Attorney

CALCIUM HYPOCHLORITE CHLORINE TABLETS

Please note all that apply:

- Enter Total Bid Price from Form B – Price Sheet..... \$ \_\_\_\_\_
- Delivery Lead Time Upon Receipt of Order:..... \_\_\_\_\_
- Addenda Number(s) Received (if any; or mark N/A) ..... \_\_\_\_\_
- Original Forms A through E included.

Business Name: \_\_\_\_\_

Business Address: \_\_\_\_\_  
\_\_\_\_\_

Business Phone: (\_\_\_\_\_) \_\_\_\_\_

Business Contact: \_\_\_\_\_

Supplier Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

<b>Form B - Price Sheet</b>					
<b>Item No.</b>	<b>Description</b>	<b>Quantity</b>	<b>Unit</b>	<b>Unit Bid Cost</b>	<b>Total Cost</b>
1	3-inch Dry Calcium Hypochlorite Tablets (Approximately 1 Pallet)	1,440	Lbs		\$
				<b>Subtotal:</b>	\$

Freight, Pre-Paid & Allowed, FOB Prescott for a one (1) pallet order: \$ \_\_\_\_\_

Vendor proposed lbs/pallet (If different from 1,440 lbs/pallet): \_\_\_\_\_ lbs/pallet

*Sales Tax Rate: No Sales Tax on Chlorine, Bulk per Private Taxpayer Ruling LR01-001.*

Total Bid Price (including Freight, if applicable) .....\$ \_\_\_\_\_

\_\_\_\_\_ Dollars

(Total Bid Price, Written Words)

\_\_\_\_\_  
Signature of Company Official

\_\_\_\_\_  
Date Signed

\_\_\_\_\_  
Title

\_\_\_\_\_  
Email Address

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Phone Number

\_\_\_\_\_  
Address

\_\_\_\_\_  
City/State

\_\_\_\_\_  
Zip Code

**Form C – Bid Certification**

Bidder Name: \_\_\_\_\_

The undersigned Bidder hereby certifies as follows:

C.1 That he/she has read The City of Prescott’s bid documents, its appendices and attachments, and the following Addenda, and to the best of his/her knowledge, has complied with the mandatory requirements stated therein.

Addendum	Issue Date
_____	_____
_____	_____

C.2 That he/she has had opportunity to ask questions regarding the bid, and that such questions having been asked, have been answered by the City.

C.3 That the Bidder’s bid consists of the following:

1. Form A – Bid Response Cover Sheet
2. Form B – Price Sheet
3. Form C – Bid Certification
4. Form D – Non-Collusion Certificate
5. Form E – Bidder Qualifications, Representations and Warranties; Bidder to provide attachment: Attachment – Subcontractor’s List

C.4 The Bidder’s bid is valid for 90 days.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2020

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

**Form D – Non-Collusion Certificate**

Bidder Name: \_\_\_\_\_

The undersigned Bidder hereby certifies as follows:

To the best of his/her knowledge, the person, firm, association, partnership or corporation herein, has not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive pricing in the preparation and submission of a bid to The City of Prescott for consideration in the award of this bid.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2020

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

**Form E – Bidder Qualifications, Representations and Warranties**

Bidder Name: \_\_\_\_\_

The undersigned Bidder hereby certifies as follows:

- E1 Taxes and Liens – Bidder has no unsatisfied tax or judgment lien on record.
- E2 Subcontractors – Bidder submits as Attachment to this Bid Form E, a list of all subcontractors it will use in performing the requirements of the agreement resulting from this bid. A subcontractor is any separate legal entity used to perform requirements of the proposed agreement. The list shall include the firm’s name, contact person and title, mailing address, telephone number, fax number and a description of the service(s) to be subcontracted. Bidder shall also attach a copy of the letter from the subcontractor stating its commitment to perform the services(s) subcontracted.

Bidder is Utilizing Subcontractor(s) to Perform Services (Yes or No) ..... \_\_\_\_\_

If Yes...

Bidder has Included Subcontractor List with Required Information (Yes or N/A)... \_\_\_\_\_

- E3 References – The City will enter into an agreement only with a Bidder(s) having a reputation of satisfactory performance. The Bidder’s ability to provide timely service; knowledgeable, conscientious, and courteous staff; reasonable care and skill; invoicing consistent with contract pricing, etc., are important to the City. Bidder provides information for two clients, other than the City of Prescott, that presently contract with Bidder for similar goods or services:

Reference #1:

Firm Name: \_\_\_\_\_

Address: \_\_\_\_\_

Contact Person: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Project Description: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Reference #2:

Firm Name: \_\_\_\_\_

Address: \_\_\_\_\_

Contact Person: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Project Description: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Note: The bid evaluators may contact the customer references, as well as any other customers or customer employees including The City of Prescott. A Bidder with unsatisfactory references may have its bid rejected.

- E4 Bidder's Examination – Bidder has made its own examination, investigation and research regarding the requirements of the bid including but not limited to the work to be done, services to be performed, any conditions affecting the work and services, the type and quantity of labor, equipment and facilities necessary to perform. Bidder fully understands the character of the work and services, the manner in which payment is to be made, the terms and conditions of the draft agreement (see Appendix C), and the bid. Bidder acknowledges and agrees that it has satisfied itself by its own examination, investigation and research, and that it will make no claim against the City because of erroneous estimates, statements, or interpretations made by City. Bidder hereby proposes to furnish all materials, equipment, and facilities, and to perform all labor which may be required to do the work within the time required and upon the terms and conditions provided in the draft agreement and the bid, and at the prices as bid.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2020

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title